


COVENANTS CLUSTER SEWER SYSTEM


20030908000596670 Pg 1/4 20.00
Shelby Cnty Judge of Probate, AL
09/08/2003 10:09:00 FILED/CERTIFIED

KNOW ALL MEN BY THESE PRESENTS: that in consideration of Ten and 00/100 dollars (\$10.00) and other good and valuable consideration, in hand paid by **COMMUNITY ENVIRONMENTAL SYSTEMS, INC.**, "Grantee" herein, the receipt whereof is acknowledged, and of the covenants and conditions set forth herein we the Owners of the subject real property, **DesignMark Builders, LLC**, as the owner of the subject Lots, herein referred to as "Grantor" or "Owner" or "Lot Owner", do hereby covenant, agree and bind ourselves and our heirs, personal representatives, successors and assigns, to each covenant and agreement set forth herein, in and for the following described real property, situated in Shelby County, Alabama, to-wit:

Lot 240, Bent River Commons Third Sector, as recorded at Map Book 25, Page 147 in the Office of the Judge of Probate, Shelby County, Alabama; and, Lots 243-A and 244-A, BENT RIVER COMMONS THIRD SECTOR FIRST ADDITION as recorded in Map Book 30, page 31, in the office of the Judge of Probate of Shelby County, Alabama; and, Lots 250 and 251 BENT RIVER COMMONS SECTOR TWO SECOND ADDITION as recorded in Map Book 30 page 144, in the office of the Judge of Probate of Shelby County, Alabama.

RECITALS

As used herein "Lot" shall refer to each of the above the above describes parcels of real property.

As used herein the terms "Grantee", "Utility" or "Grantee Utility" shall each mean Community Environmental Systems, Inc.

As used herein "Property" shall refer to all parcels of real property served by the Cluster System.

The Utility's sanitary sewer system being installed or installed in the above-described Property is herein referred to as the "Cluster System".

These Covenants shall be binding upon the Grantor and the Grantee, and their respective successors, assigns, and their heirs, executors or personal representatives.

These Covenants shall be governed by, and construed in accordance with, the laws of the State of Alabama.

The use of one gender shall include all other genders, the use of singular shall include the plural, and the use of the plural shall include the singular, all as may be appropriate to the context in which they are used.

Should any provision of these Covenants be deemed unenforceable by a court of competent jurisdiction, that determination will not affect the enforceability of the remaining portions.

COVENANTS

1. The Utility hereby notices Grantor and each of Grantor's heirs, personal representatives, successors and assigns as purchaser or owner of the Lot to connected to the Cluster System owned and operated, or to be owned and operated by Grantee Utility, that prior to the connection of the Lot to the Cluster System or the construction of a residence or other structure upon the Lot an individual plot plan must be, and will be, submitted by the Lot Owner to the Shelby County Health Department with the proposed location of underground utility lines, driveways, sewage lines, septic tank, house and other structures, location of all surface waters, water storage or flood easements, existing or proposed wells and all setbacks per Onsite Rules Chapter 420-3-1. The plan must be drawn to scale, show all drainage plans and other applicable information required by 420-3-1-.17.

2. No part of the Onsite Sewer System or the Utility's Cluster System for the Lot may be covered or used until the Shelby County Health Department is afforded an opportunity to inspect the system per 420-3-1-.20. No major

modification shall be made onsite without the prior approval of the design engineer with conference with the Shelby County Health Department.

3. Any installation of any component of the Lot's Onsite Sewer System or of the Cluster System to be situated in the Public Right-of-Way shall be submitted to, and approved by, the governmental authority having jurisdiction over the Right-of-Way, and any line or component of the Lot's Onsite Sewer System or Cluster System situated in an easement, not a non-exclusive easement, shall be submitted to and approved by the appropriate dominant and subservient tenancies of that easement.

4. Prior to discharging into the Cluster System, the Lot Owner or its heirs, personal representatives, successors or assigns must enter into a written sewer service contract with the Grantee Utility setting forth the terms and conditions upon which the sewer service will be provided by the Utility. Once a sewer service contract is entered into between the Utility and the Lot Owner, the regular monthly or annual sewer service fee shall commence upon the first to occur of; the issuing of a Certificate of Occupancy by the appropriate Governmental Authority, or the connection is made for permanent water and electricity utility service to the Lot.

5. The Lot Owner shall have installed, or cause to be installed, the components of the Onsite Sewer System along with any connection to the Cluster System at no expense to the Utility, including but not limited to; (a) a watertight septic tanks that is approved by the Utility and the Governmental Authority having jurisdiction thereof, (b) a filter at the septic tank of a type that is approved by the Utility and the Governmental Authority having jurisdiction thereof, (c) a sewer service out-fall line from the septic tank to the point of connection to the common sewer line of the Cluster System, (d) any pumps or force mains required to discharge effluent from the septic tank to the Cluster System sewer lines, and (e) a lockable shut off valve on the Lot side of the water meter to which the Utility is hereby granted access for the purpose of shutting off the water service to the Lot for any breach of the sewer service agreement between the Utility and the Lot Owner.

6. The Grantee Utility retains exclusive right to extend sewers lines beyond the limits of the Property and Cluster System to serve other real property so long as such extensions cause no additional expense to the Grantor.

7. Grantor Lot Owner grants Grantee Utility, or its agents, contractors, sub-contractors and their personnel access over and across the Lot to inspect, test maintain, repair, replace or remove the Onsite or Cluster System components situated thereon. Lot owner acknowledges and agrees that the Lot's septic tank should be pumped every third year or such other interval of time as shall be required by the appropriate governmental authority. Lot Owner instructs and grants Utility or its personnel, contractors or subcontractors access to timely pump the Lot's septic tank. Lot Owner agrees to reimburse the Utility the cost to timely pump the Septic tank plus fifteen percent (15%) administrative cost.

8. All sewer lines installed in public Right-of-Way, whether by the Grantor or its contractors, the Utility or the Lot Owner, shall comply with the standards, directives and regulations of the Governmental Authority having jurisdiction over such Right-of-Way, regardless of whether the Right-of-Way has been dedicated or is proposed to be dedicated.

9. In all future conveyance documents, including but not limited to any deed and mortgage(s), for the Lot the subject to these covenants, shall be conveyed subject to the following covenants running with the land, whether by reference to the recording of this instrument, or by setting forth therein substantially the following language:

"The real property herewith conveyed, herein referred to as the "Lot" is subject to an agreement between, Community Environmental Systems, Inc., herein referred to as the "Utility", and the Shelby County Department of Health, for the Utility or its successors and assigns to provide sewage disposal service for the subject Lot in consideration of a sewer service fee due to and established by the Utility and subject to change from time to time at the sole discretion of the Utility pursuant to the regulations of the State of Alabama if applicable. The sewer service fee is payable annually or monthly by the Lot Owner in advance to the Utility for such services. The Lot Owner does hereby for himself/herself/themselves/itself and for his/hers/theirs/its heirs, personal representatives, successors and assigns covenant to timely pay said sewer fee and for himself/herself/themselves/itself and for his/her/its heirs, personal representatives, successors and assigns, further acknowledges that the failure to timely pay said fee shall result in a lien on the subject Lot enforceable

according to the laws of the State of Alabama, and the possible termination of water and/or sewer service to the Lot.

' In the event of any breach of the sewer service agreement between the Utility or the Lot Owner, or in the event any sewer fee or charges due Utility from the Lot Owner remains unpaid for thirty (30) calendar days, the purchaser/owner/grantee, as the case may be, of the subject real property does for himself/herself/themselves/itself and for his/hers/theirs/its heirs, personal representatives, successors and assigns grant unto the Utility the absolute right to shut off the water and/or the sewer service to the subject Lot with ten (10) days prior written notice to the Lot Owner. The Lot Owner shall hold the Utility harmless from any loss, claim, cost, expense, judgment, legal expenses, damage injury or illness arising from the Utility shutting off the water or sewer service to the Lot; and the Lot Owner shall defend and hold harmless the Utility from all such loss, claim, cost, expense, judgment, legal expenses, damage, injury or illness arising from the Utility shutting off the water or sewer service to the Lot.

'Until such time as a Governmental Authorities having jurisdiction, or a court of competent jurisdiction, shall terminate the Utility's exclusive right to provide the sewer service, the Lot Owner agrees that the Utility has the exclusive right to provide sewer service to the subject property. Lot Owner agrees to pay all cost and legal expenses of Utility arising from Utility enforcing its exclusive right to provide the Lot Owner sewer service for the subject Lot."

10. Upon acceptance by the Grantee Utility of any or all of the components of the Onsite components of Cluster System, whether from the Grantors or from a subsequent owner of the Lot connected to, or to be connected to, the Cluster System, or his/her/their/its heirs, personal representatives, successors or assigns, the Utility or its successors or assigns, shall hold such party harmless from any damage or financial loss and shall defend all claims brought against it arising from the operation, maintenance, repair, permit(s), license(s) or compliance with statutes or regulations of any Governmental Authority which shall now, or in the future, have jurisdiction over such matters involving any portion or component of the Cluster System once title to which has been accepted by the Utility.

TO HAVE AND TO HOLD to said Grantee, its successors and assigns forever.

IN WITNESS OF THESE PRESENTS, the said Grantors and Grantee, by its duly authorized officers, do hereby agree and covenant for themselves and their successors, assigns, and their heirs, personal representatives, successors and assigns they have hereunto set their hands and seals, this 17th day of July, 2003.


GRANTORS:

DesignMark Builders, LLC

By: 
Its: 

GRANTEE:

COMMUNITY ENVIRONMENTAL SYSTEMS, INC.:

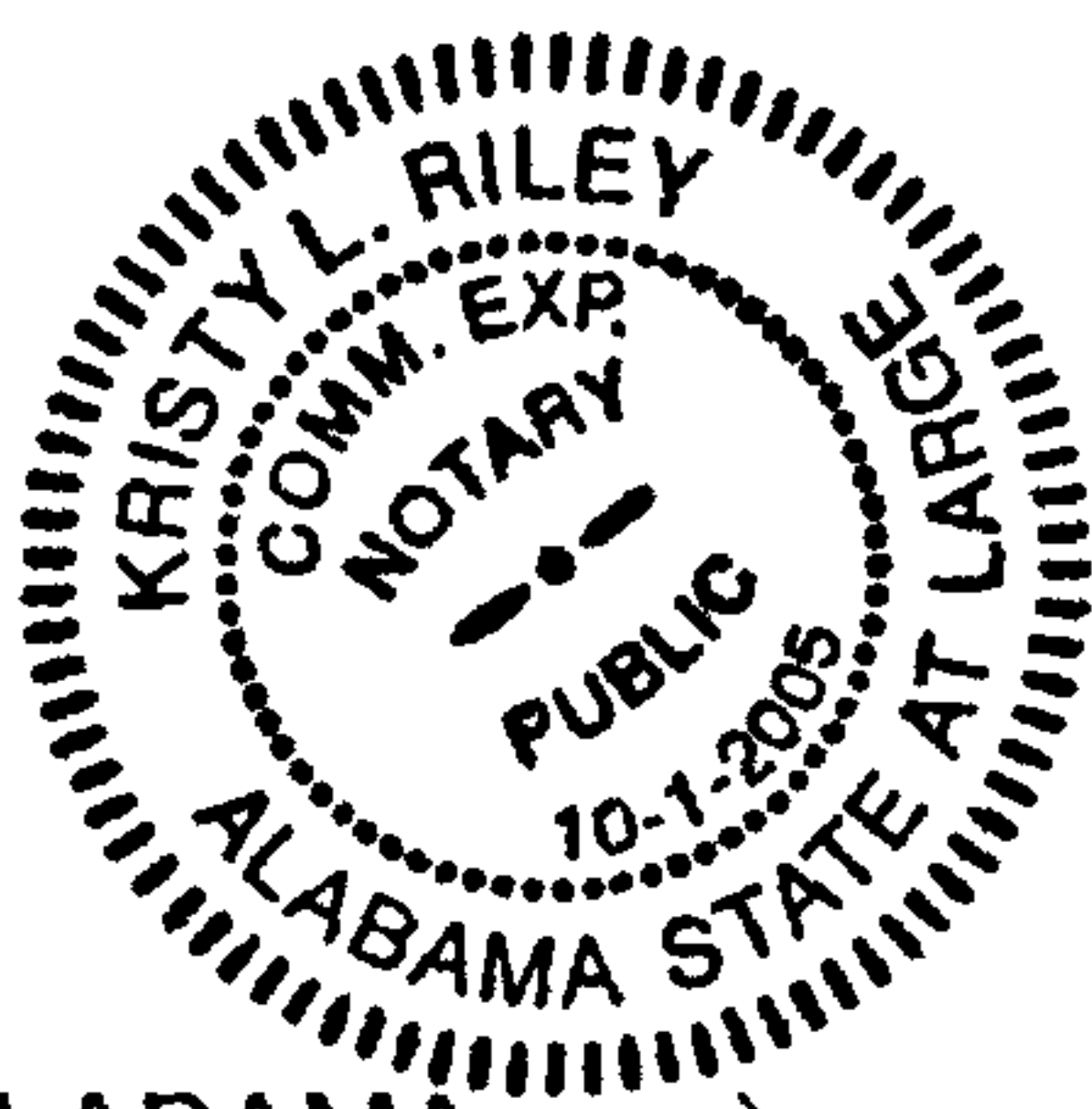
By: 
Its: V.P.

ACKNOWLEDGMENTS

STATE OF ALABAMA)
JEFFERSON COUNTY)

Before me, Kristy L. Riley, a Notary Public for said County, in said State,
hereby certify that Mark L. Marlow, whose name is signed to the foregoing, as
Manager of **DesignMark Builders, LLC**, and who is known to me, acknowledged
before me on this day, that, being informed of the contents of the conveyance he voluntarily
executed same on this the day the same bears date.

Given under my hand and official seal this 17th day of July, 2003.

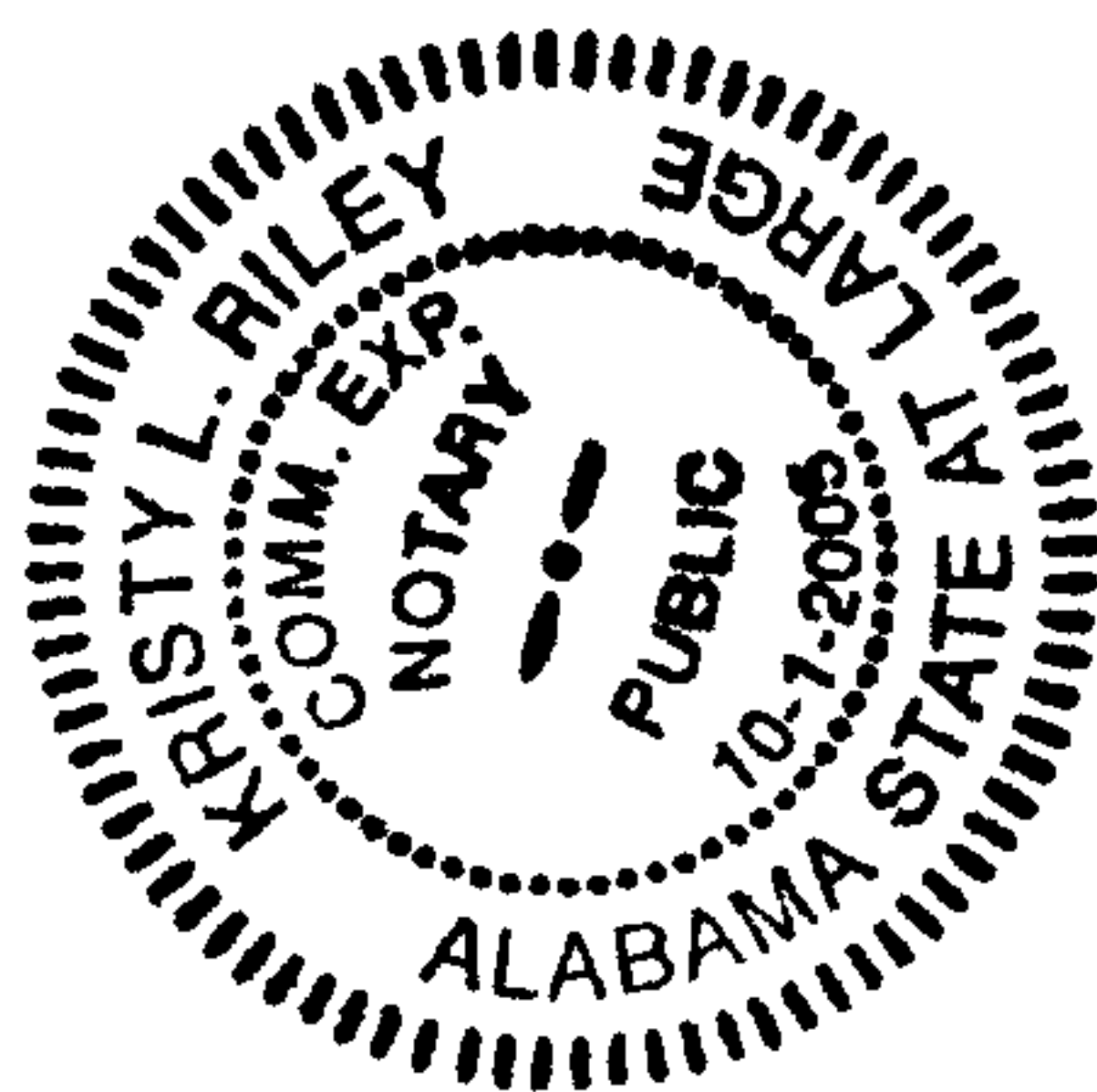


Kristy L. Riley
NOTARY PUBLIC
My Commission Expires 10-1-05

STATE OF ALABAMA)
JEFFERSON COUNTY)

Before me, Kristy L. Riley, a Notary Public for said County, in said State,
hereby certify that Donald Guthrie, whose name is signed to the foregoing as
Vice President of **COMMUNITY ENVIRONMENTAL SYSTEMS, INC.**, and who is
known to me, acknowledged before me on this day, that, being informed of the contents of the
conveyance he voluntarily executed same on this the day the same bears date.

Given under my hand and official seal this 17th day of July, 2003.



Kristy L. Riley
NOTARY PUBLIC
My Commission Expires 10-1-05