

TRANSITION AGREEMENT

This TRANSITION AGREEMENT ("**Agreement**"), effective as of February 1, 2008 (the "Effective Date"), is made and entered into by and among **THE WOODLANDS TOWNSHIP**, a political subdivision of the State of Texas duly created and operating pursuant to Chapter 289, Acts of the 73rd Texas Legislature, Regular Session, 1993, as amended (the "Act"), acting herein by and through its Board of Directors and pursuant to a resolution duly adopted by said Board of Directors and pursuant to the authority contained in the Act ("the Township"), **THE WOODLANDS COMMUNITY ASSOCIATION, INC.**, a Texas non-profit corporation ("WCA"), **THE WOODLANDS ASSOCIATION, INC.**, a Texas non-profit corporation ("TWA"), **THE WOODLANDS COMMERCIAL OWNERS ASSOCIATION, INC.**, a Texas non-profit corporation ("WCOA"), **THE WOODLANDS COMMUNITY SERVICE CORPORATION**, a Texas non-profit corporation ("WCSC"), **THE WOODLANDS RECREATION CENTERS, INC.**, a Texas non-profit corporation ("WRC"), and **THE WOODLANDS FIRE DEPARTMENT, INC.**, a Texas non-profit corporation ("WFD"). The WCOA, WCA and TWA shall each be individually referred to as an "Association" and collectively referred to as the "Associations." The WRC, WCSC and WFD shall each be individually referred to as a "Service Company" and collectively referred to as the "Services Companies." Each signatory hereto shall be individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, a Memorandum of Understanding, last dated as of October 17, 2007 (the "MOU"), was executed by the Parties providing that, among other items, a definitive written agreement by and among the Parties would be undertaken after approval by the voters of all propositions submitted at the November 6, 2007 election held within and for the Township, with such definitive written agreement to be concluded prior to February 1, 2008; and

WHEREAS, the registered voters voting in such election approved all three propositions submitted at such election, including confirmation of the expansion of the boundaries of the Township, authorization of the reorganization and election of the Board of Directors of the Township, and authorization of the levy of an ad valorem tax by the Township; and

WHEREAS, the stated mutual objectives of the Parties under the MOU and this Agreement are to:

- take reasonable next steps toward avoiding annexation by the City of Houston and preserving local voter control over governance;
- accomplish a seamless consolidation of the functions and services provided by the Parties into a single, community-wide governmental organization; and
- fund, by the most efficient and cost effective means to the taxpayers of the community, services while:
 - preserving and continuing the current high level and quality of such functions and services by

- utilizing existing personnel, management, programs and structures, and
- ensuring continuity of management and elected leadership; and

WHEREAS, pursuant to the MOU, the Parties agreed that this definitive Agreement would contain, among other matters, the following general terms and conditions:

- As detailed in Section II. below, the transfer of the Associations' assets in trust or escrow to WCSC, WFD and WRC on or before the Effective Date, with such assets to be held in trust by WCSC, WFD and WRC until December 31, 2011;
- As detailed in Section II.F. below, assignment of the Associations' covenants responsibilities, contracts and all other operational rights and obligations to the Township, with a delayed effective date of January 1, 2010;
- As detailed in Section IV. below, establish contracts between the Township and the WFD for services for the calendar year 2009;
- As detailed in Sections III.A.2. and VI.A. below, implement changes in the WFD Board composition for the calendar year 2008;
- As detailed in Section IV. below, establish contracts between the Township and the WFD, WCSC and WRC for services for calendar year 2010 and calendar year 2011;
- As detailed in Sections III.A.5. and VI.A. below, implement changes in WCSC and WRC Board composition;
- As detailed in Sections IV. and V.E. below, make conforming amendments to the Mutual Benefits Agreement necessitated by this Agreement;
- As detailed in Section I.A.7. and 20. below, exclude from the assets transferred to the Township: (a) cash assets held by the WCA in excess of debt requirements, (b) other cash reserves of WCA; and (c) the real property and improvements (including an office building) of WCA located at 2201 Lake Woodlands Drive; and
- As detailed in Section III.B. below, the Township shall appoint to the WCSC, WFD and WRC Boards only those Township Directors: (a) who have been elected; or (b) who were elected to any Association Board and appointed to the Township Board.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, it is agreed by the Parties as follows:

I. INTRODUCTION

A. **Supplemental Definitions** - In addition to the terms and phrases defined elsewhere in this Agreement, the following terms and phrases used in this Agreement shall have the meanings assigned to them below:

1. **Adverse Action**. Means any act or proceeding initiated, continued, underwritten, financed, sponsored or undertaken by, on behalf of, or in the name of any Party, including (i) mediation, litigation, lobbying or seeking or advocating a legislative, judicial or executive action, decision or determination of invalidity, un-enforceability or impossibility of performance of all or any portion of this Agreement, (ii) seeking to terminate this Agreement, or (iii) seeking to engage in a duplication of functions prohibited by Section IV.H. of this Agreement, provided however, such term does not mean litigation brought by a Party in good faith to enforce this Agreement or to recover damages for breach of this Agreement after complying the requirement of pre-litigation mediation set out in Section IX.B.

2. **Board**. Means, when used with respect to any Party, the governing body of such Party.

3. **Budget**. Means, when used with respect to any Party, the approved and adopted operating, capital and debt service budget of such Party for the calendar year 2008 on the Effective Date hereof, as set forth and included in the Due Diligence Materials, but with the modifications and exclusions required by Sections IV.A. and IV.D.5. hereof, as same is updated, amended, approved and adopted by such Party for a subsequent calendar year in conformity with the provisions of this Agreement.

4. **Conveyance Document**. Means the instrument of transfer, conveyance, assignment, acceptance and assumption attached hereto as Exhibit A.

5. **Covenants**. Means (i) the Covenants Restrictions, Easements, Charges and Liens of The Woodlands filed of record at Film Code No. 908-01-1585 of the Official Public Records of Real Property of Montgomery County, Texas, and (ii) the Covenants Restrictions, Easements, Charges and Liens of The Woodlands recorded at Volume 841, Page 297 of the Deed Records of Montgomery County, Texas, and filed for record in File Nos. 9014247 and 9024117 of the Real Property Records of Montgomery County, Texas, and (iii) the Declaration of Covenants and Restrictions of the Woodlands Commercial Association filed for record in File No. 9357930 of the Real Property Records of Montgomery County, Texas, and all other like covenants executed and recorded from time to time annexing additional lands to the lands encumbered by the covenants and restrictions referenced above.

6. Due Diligence Materials. Means the documents and materials described in Section VIII.C. hereof and Exhibit F hereto.

7. Excluded Assets. Means the real property (being 3.6 acres of land more or less), office building and improvements, personal property and fixtures located at 2201 Lake Woodlands Drive, and all related licenses and privileges, and all cash and cash equivalents and related investments and investment income, proceeds of sale, rents, fees and income of WCA, after allowances for debt requirements, if any, and the requirements of Section IV. of this Agreement, and as of the date of this Agreement, and unless otherwise expressly provided herein or agreed in writing by the Parties, also means assets of any type and character, including those that would otherwise be described as Transferred Assets, which are hereafter acquired or earned by any or all of the Associations or the Service Companies, but which arise out of, consist of or relate to Excluded Functions.

8. Excluded Functions. Means, as of the date of this Agreement, and unless otherwise expressly provided herein or agreed in writing by the Parties hereto, any service, function, program or improvement hereafter performed, provided, funded or undertaken by, for or on behalf of any or all of the Associations or the Service Companies, including Adverse Actions, but not including Transferred Functions.

9. Excluded Liabilities. Means, as of the date of this Agreement, any liability of any type or character, including those that would otherwise be described as Transferred Liabilities, which are hereafter created by or against any or all of the Associations or the Service Companies, but which arise out of or relate to Excluded Assets or Excluded Functions and do not arise out of or relate to any or all of the Transferred Matters.

10. Excluded Matters. Means Excluded Assets, Excluded Functions and Excluded Liabilities.

11. Financial Assets. Means all funds, accounts, receivables, instruments, earnings, retained earnings, revenues, income, claims, causes of action and profits, and other similar or related monetary or financial asset of each Association and all of the Associations, whether now or hereafter owned or acquired, which arises out of or relates to the Transferred Matters, save and except Non-Financial Assets and Excluded Assets.

12. Financial Liabilities. Means all payment obligations, debts, loans, notes, bonds, accounts payable, taxes, fees, assessments, liens, mortgages, encumbrances, installment payments, rentals, fees, principal, interest, penalties or other amounts payable or to become payable pursuant to or by reason of any of the foregoing, any other related contract, lease, lease/purchase agreement or other related, valid and enforceable agreement or arrangement, or by operation of law, or any other payment obligation or monetary or financial claim, cause of action or other liability of each Association and all of the Associations, whether now or hereafter existing, asserted or due, which arises out

of or relates to the Transferred Matters, save and except Non-Financial Liabilities and Excluded Liabilities.

13. Interim Funding Agreement. Means the Interim Funding Agreement among the Township, the Associations and WFD, effective November 16, 2007.

14. Material or material. Means, when used in Section IV. hereof with reference to a Budget or Plan, any amendment during the course of such Budget or Plan year, which would increase the total Budget or Plan for such year by more than one percent (1%).

15. MBA. Means the First Amended Mutual Benefit Agreement by and among the Associations, WCSC, WFD and The Woodlands Land Development Company, L.P., dated as of July 1, 1998, as amended by a First Amended Mutual Benefits Agreement by and among the same parties, dated as of July 1, 2003, a true, full and correct copy of which is included in the Due Diligence Materials.

16. Non-Financial Assets. Means all real, personal and mixed property and associated improvements and appurtenances related to real property, along with fixtures, easements, licenses, privileges, contracts, leases, concessions, entitlements, contracts for deed, lease/purchase agreements, and all other rights, titles and interests of each Association and all of the Associations in any manner associated with same, whether now or hereafter owned or acquired, which arises out of or relates to the Transferred Matters, save and except Financial Assets and Excluded Assets.

17. Non-Financial Liabilities. Means all performance obligations, commitments, covenants and responsibilities pursuant to or by reason of any deed, contract, lease, lease/purchase agreement or other related, valid and enforceable agreement or arrangement, or by operation of law, or any other performance obligation or related claim, cause of action or other liability of each Association and all of the Associations, whether now or hereafter existing, asserted or due, which arises out of or relates to the Transferred Matters, save and except Financial Liabilities and Excluded Liabilities.

18. Plan. Means, when used with respect to any Party, the approved five-year plan of such Party on the Effective Date hereof, as set forth and included in the Due Diligence Materials, but with the modifications and exclusions required by Sections IV.A. and V.D.5. hereof, as same is updated, amended, approved and adopted in conformity with the provisions of this Agreement.

19. Public Emergency. Means a profound and continuing condition of public emergency or calamity which poses an imminent threat to public safety, health or security of the residents or property owners of one or more of the Associations, or an extraordinary and unforeseen loss, damage, failure, breakage, destruction or disruption of

any essential asset, property, improvement, service or function, which requires an immediate and material alteration of the scope and level of services or funding being provided or furnished by one or more of the Parties.

20. Restrictions. Means the applicable (i) restrictions on transfer, (ii) reservations of rights to the Associations, (iii) reversionary rights of the Associations and (iv) fiduciary duties and obligations set forth and contained in 5.0 and 6.0 of the Conveyance Document.

21. Revenues. Means any fees, charges, rentals, concessions or other income received or receivable by one or more of the Associations or the Service Companies arising out of or related to one or more of the Transferred Matters.

22. Service Agreements. Means the several Service Agreements by and between each of the Associations and each of the Service Companies in full force and effect as of February 1, 2008, including the Facilities Operation Agreement by and among WCSC, WRC, WCA, TWA and WCOA, with an effective date of January 1, 2007, true, full and correct copies of which are included in the Due Diligence Materials.

23. Township Property Tax Implementation Date. Means the later of December 31, 2009, or December 31 of the calendar year in which the Township's Board adopts a written order fixing the rate and amount of and levying an ad valorem tax on all taxable property within the Township sufficient to satisfy its funding obligations hereunder.

24. Transferred Assets. Means the Financial Assets and the Non-Financial Assets, save and except any rights or interests in any manner associated with the Covenants, the MBA, the Service Agreements and the Excluded Assets.

25. Transferred Functions. Means, as of the date of this Agreement, all services, functions, programs and improvements now or previously provided by, through or on behalf of each of the Associations and all of the Associations by, through, under or pursuant to the Covenants, the MBA and the Service Agreements, including those budgeted, planned, scheduled and intended to have been provided pursuant to the Budgets and Plans, and including any rights or interests in any manner associated with the Covenants, the MBA and the Service Agreements, but save and except the Excluded Functions.

26. Transferred Liabilities. Means the Financial Liabilities and Non-Financial Liabilities, save and except any rights or interests in any manner associated with the Covenants, the MBA, the Service Agreements and the Excluded Liabilities.

27. Transferred Matters. Means Transferred Assets, Transferred Functions and Transferred Liabilities.

B. **Purpose and Interpretation.** The purposes of this Agreement are set forth in the Recitals hereto. Consistent with such stated purposes, the Parties intend and desire by this Agreement to (i) consolidate in the Service Companies the personnel, organizational, professional, management and equipment resources of the Service Companies and the assets, properties, equipment and resources of the Associations, (ii) facilitate the efficient and effective use, conservation and application of such consolidated resources by the Service Companies, (iii) preserve and protect the rights of the Associations in and to such consolidated assets pending full performance of this Agreement, (iv) modify membership on the Boards of the WCSC, WFD and WRC to reflect the funding obligations of the parties hereunder and to ensure continuity of leadership, and (v) provide a continuing and reliable source of funding for the operations of the Service Companies. To such ends, this Agreement shall be liberally construed to effectuate such purposes.

II. TRANSFERS; ACCEPTANCES; ASSUMPTIONS

A. **WFD Representations; Transfers; Acceptances; Assumptions.** WFD hereby represents and warrants to the other Parties that it holds good and sufficient title in and to all assets and properties necessary and proper for performing its obligations hereunder and under the Service Agreements and the Interim Funding Agreement. By execution and delivery of this Agreement and the Conveyance Document, the Associations agree to and do hereby transfer, assign and convey to WFD all of the portions of the Transferred Liabilities as relate to or arise out of the operations of WFD or the performance of its obligations hereunder or under the MBA or the Service Agreements, but subject to the Restrictions. Subject to compliance by the Township and the Associations with their respective funding obligations hereunder, WFD hereby accepts and assumes all liability and responsibility for the Transferred Liabilities so transferred, assigned and conveyed to WFD.

B. **WRC Representations; Transfers; Acceptances; Assumptions.** WRC hereby represents and warrants to the other Parties that it holds good and sufficient title in and to all assets and properties necessary and proper for performing its obligations hereunder and under the Service Agreements. By execution and delivery of this Agreement and the Conveyance Document, the Associations agree to and do hereby transfer, assign and convey to WRC all of the portions of the Transferred Liabilities as relate to or arise out of the operations of WRC or the performance of its obligations hereunder or under the MBA or the Service Agreements, but subject to the Restrictions and effective only as of the date specified in the Conveyance Document. Subject to compliance by the Township and the Associations with their respective funding obligations hereunder, WRC hereby accepts and assumes all liability and responsibility for the Transferred Liabilities so transferred, assigned and conveyed to WRC.

C. **WCSC Transfers; Acceptances; Assumptions.** By execution and delivery of this Agreement and the Conveyance Document, the Associations agree to and do hereby transfer, assign and convey to WCSC all of the Transferred Assets and all remaining portions of the Transition Agreement

Transferred Liabilities, but subject to the Restrictions and effective only as of the date(s) specified in the Conveyance Document. Subject to compliance by the Township and the Associations with their respective funding obligations hereunder, WCSC hereby accepts and assumes all liability and responsibility for the Transferred Assets and Transferred Liabilities so transferred, assigned and conveyed to WCSC.

D. **Subsequent Events.** The Parties agree that from and after the Effective Date of this Agreement, all subsequent titles, obligations, responsibilities and liabilities arising out of or related to the Non-Financial Assets and Non-Financial Liabilities, or the performance by the Service Companies of their obligations and responsibilities thereunder, shall be taken, held, incurred and vested and shall remain in the Service Companies, but subject to the Restrictions as if same were taken, held, incurred and vested pursuant to an instrument of conveyance substantially identical in form and substance as the Conveyance Document attached as Exhibit A hereto, except that all subsequent titles, obligations, responsibilities and liabilities arising out of or related to the Financial Assets and Financial Liabilities shall remain vested in the Associations until the Township Property Tax Implementation Date.

E. **Service Companies as Fiduciaries.** As set forth in the Restrictions, each Service Company acknowledges and agrees that with respect to the Transferred Assets and Transferred Liabilities described and conveyed, transferred and assigned therein and in this Agreement, it shall act as a fiduciary representative and agent for the Associations and the Township unless and until expiration of this Agreement.

F. **Township Transfers; Acceptances; Assumptions.** For and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration delivered and/or paid to the Associations by the Township, including without limitation, the undertakings and agreements of the Township herein and in the Conveyance Document, and by execution and delivery of this Agreement and the Conveyance Document, but with an effective date only as of the Township Property Tax Implementation Date, as provided herein and in the Conveyance Document, each of the Associations does hereby transfer, convey, assign and deliver unto the Township, as a "Successor Entity" under the Covenants, all of the Transferred Functions, including without limitation, all of the Covenants, the MBA and the Service Agreements, and all rights, duties, powers, authority, obligations and responsibilities of each Association and all of the Associations by, through, under or pursuant to same.

Subject only to compliance by the other Parties with their respective obligations hereunder and under the Conveyance Document, the Township hereby accepts and assumes all liability and responsibility for such portion of the Transferred Functions, assigned and conveyed to the Township.

G. **Reservation of Rights.** Notwithstanding the foregoing provisions of this Section II, the Associations have reserved and shall have, hold and retain the rights and authorities to direct and manage all or portions of the Transferred Matters, for the time period, in the manner

and subject only to the express terms and conditions included in the Restrictions and in Section V. of this Agreement.

H. **Termination; Reversion.** This Agreement shall be terminated only in the following events:

1. **Final Judgment.** On the effective date of a final, non-appealable judgment of any court of competent jurisdiction to the effect that this Agreement is terminated for breach or default hereunder or that any provision of this Agreement that is essential to substantial accomplishment of the stated purposes of this Agreement is invalid, unenforceable or impossible of performance.

2. **Failure of Ad Valorem Tax Levy.** On December 31, 2011, if by such date the Township shall not have levied an ad valorem tax in compliance with its funding obligations hereunder.

3. **Mutual Agreement.** On any date specified by mutual written agreement of all of the Parties.

In the event of termination, and as provided herein and in the Conveyance Document: (i) the Transferred Assets and Liabilities of WCSC shall revert to the Associations, as their respective interests shall appear on the Effective Date hereof, and unless otherwise mutually agreed in writing among the Associations and WCSC, all other assets and liabilities of WCSC subsequently taken, held, incurred or vested in or by WCSC pursuant to the terms of this Agreement and the Conveyance Document shall be transferred, conveyed and assigned to the Associations, and shall be accepted and assumed by the Associations, in proportion and relation to the aggregate amounts funded to WCSC hereunder by each Association (without regard to any funding which may have been provided to WCSC hereunder by the Township); (ii) the Transferred Assets and Liabilities of both WFD and WRC shall remain vested in WFD and WRC; (iii) the transfer, conveyance and assignment to the Township of the Transferred Functions shall not become effective and shall be null and void; and (iv) unless otherwise mutually agreed in writing among the Parties, both the Associations and the Township shall continue funding of the Budgets and Plans of WFD and WRC from the assessments and the sales and use tax proceeds committed hereunder. The provisions of Section (iv) of the immediately preceding sentence shall survive the termination of this Agreement and shall continue in full force and effect until May 29, 2014.

III. OVERALL TIMELINE AND CONDITIONS

A. **Overall Timeline** - Subject to the conditions set forth herein, the Parties hereto agree to take all necessary and reasonable steps to assure that each of the following actions are taken in and by the time frame set forth below in support of the transition provided for pursuant to this Agreement:

1. May, 2008 - Election of Five At-Large Township Board Positions. The Township shall take all necessary steps to prepare for and hold an election in May, 2008, for all registered voters in the Township for five (5) at-large positions to serve on the Board of the Township.

2. June, 2008 – Appointments to WFD Board. On or prior to June 30, 2008, the Township and the Associations shall each take all necessary action (in conformity with the amendments to the WFD corporate documents, as provided in Section VI.A. hereof) to make appointments to the WFD Board to serve until successors are appointed:

- 1 member – WCA appointment
- 1 member – TWA appointment
- 1 member – WCOA appointment
- 4 members – Township appointments

3. July through September, 2008 –WFD Budget and Plan for Calendar Year 2009. Beginning July 1, 2008, the WFD staff and management shall develop updates to the WFD Budget and Plan for providing Fire and Emergency Services (as defined in the Interim Funding Agreement) for the calendar year 2009 which are consistent with the scope and level of services included in the 2008 Budget and Plan and this Agreement. The Township and WFD shall take all reasonable and necessary action to approve and adopt such 2009 Budget and Plan on or prior to September 30, 2008.

4. July through November, 2008 – Identification of Legislative Issues. Beginning on July 1, 2008, the Township and the Associations agree to address and consider resolving issues regarding tax abatements, covenant assignment and enforcement, fire service contracting, contractual assignment issues and other matters as deemed necessary by mutual agreement.

5. June, 2009 – WFD, WCSC and WRC Board Appointments - On or prior to June 30, 2009, the Township and the Associations shall each take all necessary action (in conformity with the amendments to the WFD, WCSC and WRC corporate documents as provided in Section VI.A. hereof) to make the following appointments to the WFD, WCSC and WRC Boards to serve until December 31, 2010, or until their successors are appointed:

WFD

- 1 member – WCA appointment
- 1 member – TWA appointment
- 1 member – WCOA appointment
- 4 members – Township appointments

WCSC

1 member – WCA appointment
1 member – TWA appointment
1 member – WCOA appointment
4 members – Township appointments

WRC

1 member – WCA appointment
1 member – TWA appointment
3 members – Township appointments

6. September, 2009 – Consideration of 2010 Budgets, Plans and Funding. The Township Board and the WCSC, WFD and WRC Boards shall consider updating their respective Budgets and Plans for calendar year 2010 to provide services in accordance with the requirements of this Agreement. Upon approval of such Budgets and Plans, and subject to the conditions provided for in Section III.C. below, the Township Board shall levy a sufficient ad valorem tax and sales and use tax for the Township's 2010 budget year, as provided in Section IV.C., and each Association shall implement only such assessments for calendar year 2010 and thereafter, if any, as may be necessary, in the sole discretion of each Association, for funding of Excluded Matters. The Township and WFD, WCSC and WRC, respectively, shall take all reasonable and necessary action to approve and adopt such Budgets and Plans prior to September 30, 2009.

7. January 1, 2010 – Implementation of Reporting Changes. On January 1, 2010, the WCSC, WFD and WRC shall continue operations and services pursuant to Service Agreements, but with the WCSC President/General Manager reporting directly to the Township Board (on behalf of the WCSC, WFD and WRC Boards) and attending meetings of the Township Board as the official representative of the WCSC, WFD and WRC.

8. May, 2010 - Election of Four At-Large Township Board Positions. The Township shall take all necessary steps to prepare for and hold an election in May, 2010, for all registered voters in the Township for four (4) at-large positions on the Board of the Township, being the election of two (2) new at-large Township Board positions and the re-election of two (2) at-large Township Board positions.

9. September, 2010 – Consideration of 2011 Budgets and Plans. The Township Board and the WCSC, WFD and WRC Boards shall consider Budgets and Plans for calendar year 2011 to provide services in accordance with the requirements of this Agreement. Upon approval of such Budgets and Plans, the Township shall levy a sufficient ad valorem tax and sales and use tax for the Township's 2011 budget year. The Township and WFD, WCSC and WRC, respectively, shall take all reasonable and

necessary action to approve and adopt such Budgets and Plans prior to September 30, 2010.

10. January, 2011 – Township Makes All Appointments to WCSC, WFD and WRC Boards. In conformity with the amendments to the WFD, WCSC and WRC corporate documents, as provided in Section VI.A. hereof, the Township and the WCSC, WFD and WRC Boards may take such actions as may be deemed necessary and proper to enable the Township to make appointments of all members of the WCSC, WFD and WRC Boards to serve until their successors are appointed.

11. September, 2011 - Consideration of Continuing Contracts, Dissolution and/or Direct Employment. The Township Board shall consider service requirements, Budgets, Plans and extensions of the Service Agreements, or dissolution of WCSC, WFD and/or WRC, and/or direct employment of staff of the Service Companies for the 2012 calendar year and subsequent years.

B. **Restrictions on Township Appointments.** It is expressly agreed and understood that all appointments made by the Township to any of the WFD, WCSC or WRC Board positions will be only persons (i) who have been elected to the Township Board, or (ii) who were elected to any Association Board and appointed to the Township Board.

C. **Condition Precedent to Timeline.** It is expressly hereby agreed and understood that the Township will not levy an ad valorem tax unless and until the Township offers to business owners then having tax abatement agreements with both WCOA and Montgomery County and/or Harris County, Texas, tax abatement agreements with the Township comparable in remaining terms and duration to those with Montgomery County and/or Harris County. If legislation is not passed authorizing the Township to offer such abatement agreements and if such abatement agreements are not so offered on or prior to June 30 of a given year, beginning in calendar year 2009, then the levy of the ad valorem tax by the Township in such year for providing funding for the following calendar year shall be postponed, and all implementation dates outlined in Section III. above (beginning in June, 2009 and beyond, as detailed in Sections III.A.5. through III.A.11. above) shall be extended by one full year for each year that the levy of the ad valorem property tax is postponed, but in no event shall the Township Property Tax Implementation Date be postponed beyond December 31, 2011. In the case of such a postponement, all funding and service obligations hereunder shall likewise be extended, and it is hereby expressly agreed and understood that the funding obligations of the Parties hereunder shall continue in effect, as provided herein for the calendar year 2009, including the commitment of sales and use tax funding by the Township and assessment funding by the Associations to maintain adequate funding and cash flow for the Service Companies.

IV.
SERVICES AND FUNDING

A. **Budgets and Plans.** The Parties acknowledge and agree that the Budgets and the Plans provide for a scope and level of services and funding that are consistent with past practices and standards of service delivery, anticipated future needs for services and the service standards and requirements of the MBA and the Service Agreements, and that in the absence of a Public Emergency, such Budgets and Plans (i) shall serve as a basis for defining the scope and level of services and funding required of the Parties during the term of this Agreement, (ii) shall not be amended or revised in any material respect, and (iii) shall be updated, approved and adopted by the Boards of the appropriate Parties, as provided herein, on or before November 30 of each calendar year during the term of this Agreement, consistent with the scope and level of services and funding contained in the current Budgets and Plans, after taking into account required adjustments for increases or decreases in revenues available and expenses required to deliver such scope and level of services. The Parties agree that no Budget or Plan and no funding obligation of any Party hereunder shall include the costs of initiating, continuing or pursuing any Adverse Action unless required pursuant to an order or judgment of a court of competent jurisdiction.

B. **Funding.** The Township has previously entered into the Interim Funding Agreement to provide funding for the WFD Budget and Plan for the calendar year 2008. By mutual agreement of the Parties, as provided in Section III.C. herein, the Township will not undertake to levy an ad valorem tax before September 1, 2009, and will not have significant ad valorem tax proceeds available for funding of the Budgets and Plans before January 1, 2010. The Parties also acknowledge and agree that the sales and use tax proceeds to become available to the Township for such purposes will be limited to a partial year of collections in calendar year 2008 and are expected by the Parties to be fully sufficient in calendar year 2009 only for funding the WFD Budget and Plan. Accordingly, until the levy and collection of ad valorem taxes by the Township, it will be necessary for the Associations to impose and collect assessments sufficient to fund the balance of such Budgets and Plans.

C. **Funding of Services and Operations.** The Parties acknowledge that adequate provision has been made for funding of the Transferred Matters for the calendar year 2008 in conformity with the MBA, the Service Agreements, the Budgets and the Plans by and through the Interim Funding Agreement and the imposition of assessments for 2008 by the Associations. Except as modified herein, the defined terms in the Interim Funding Agreement shall have the same meanings when used in this Agreement. For calendar year 2009, the Township covenants and agrees to pay over to WFD, for the provision of Fire and Emergency Services in such year, and at the times and in the same manner and upon the same conditions as provided in the Interim Funding Agreement, the Township Additional Sales and Use Tax Proceeds and the EDZ Sales and Use Tax Proceeds collected for the calendar year 2009, and the Associations covenant and agree, in conformity with the MBA, the Service Agreements, the Budgets and the Plans, to establish and to timely impose assessments at (a) sufficient rate(s) which, after taking into account projected Revenues for 2009, any beginning fund balances and amounts receivable and

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other available resources and funds, including accounts receivables under the applicable Interim Funding Agreement, but (except as provided in IV.D.5. below), save and except Excluded Assets, will be ample and sufficient to fully fund the Budgets and Plans, as updated, approved and adopted for the calendar year 2009. If the Township Property Tax Implementation Date is postponed, as provided in Section III.C. hereof, the funding obligations of the Township and the Associations hereunder for the calendar year 2009 shall be continued for the calendar years 2010 and 2011, if necessary, with appropriate adjustments for the updated Budgets and Plans for such calendar years. On or after September 1, 2009, and upon satisfaction of the conditions precedent set forth in Section III.C. hereof, but on or before the Township Property Tax Implementation Date, the Township shall levy a sufficient rate of ad valorem tax on all taxable property within the Township which, after taking into account projected Revenues, projected Township Additional Sales and Use Tax Proceeds, EDZ Sales and Use Tax Proceeds, any beginning funds balances and accounts receivable, and other available resources and funds for the ensuing calendar year, will at least be ample and sufficient to fully fund the Budgets and Plans, as updated, approved and adopted for such ensuing calendar year.

D. **Shortages and Surpluses.** The Parties covenant and agree as follows:

1. **Amendments.** In the absence of a Public Emergency, and except as permitted hereunder, no Party will make or approve any material change to the Budgets or Plans for any calendar year for which the Associations are required hereunder to impose assessments for funding Transferred Matters without the express written consent of the Township.

2. **Sales and Use Tax Shortage.** To the extent that the Township Additional Sales and Use Tax Proceeds and the EDZ Sales and Use Tax Proceeds collected and received by the Township for the calendar year 2008 are not sufficient to fully fund the Interim Funding Agreement for such calendar year, the Township shall be responsible for paying to WFD the difference out of any funds lawfully available to the Township for such purposes.

3. **Sales and Use Tax Surplus.** To the extent that the Township Additional Sales and Use Tax Proceeds and the EDZ Sales and Use Tax Proceeds collected and received by the Township for the calendar year 2008 exceed \$6,100,000, or, for any subsequent calendar year including or prior to the Township Property Tax Implementation Date, exceed the amounts required to fully fund the WFD Budget and Plan for such calendar year, or to the extent that actual revenues exceed actual expenses in any such calendar year, when compared to the Budget or Plan for such calendar year, WFD shall retain and hold in reserve the difference for application toward the WFD Budget and Plan for providing Fire and Emergency Services for the next ensuing calendar year.

4. **Other Surpluses.** To the extent that the actual revenues over actual expenditures exceed the budgeted revenues over budgeted expenditures included in the

Budgets or Plans in or for any calendar year for which the Associations are required hereunder to impose assessments for funding Transferred Matters, regardless of cause, each of the Associations shall, nevertheless, fully fund its portion of such approved Budgets and Plans for such calendar year, and such surplus(es) shall be retained and held in reserve by the Service Companies for application toward the Budgets and Plans for the ensuing calendar year.

5. Deficits. So as not to transfer the financial burden of accumulated deficits and shortages to future years and taxpayers, the Parties agree that (i) except for accumulated operating deficits and indebtedness incurred prior to the Effective Date and indebtedness incurred subsequently in the normal course of business to fund the Budgets and Plans of the Service Companies and the Associations, the Parties shall use due diligence and all reasonable care to avoid the incurrence of any deficits or shortages in any Budget or Plan for any calendar year for which the Associations are required hereunder to impose assessments for funding Transferred Matters, and (ii) prior to the Township Property Tax Implementation Date, and to the extent of any cash reserves that were available to any Association as of the Effective Date hereof, including Excluded Assets, each Association shall reserve, set aside and transfer and pay over to the appropriate Service Company or Service Companies out of such cash reserves the amount(s) necessary to liquidate and eliminate any accumulated operating deficit(s) incurred or to be incurred and allocable to such Association for any Budget or Plan year beginning on the Effective Date and ending on such Township Property Tax Implementation Date.

E. Interorganization Payables. To facilitate the consolidation and transition contemplated in this Agreement, and to the extent not completed on the Effective Date, the Associations and the Service Companies agree to use due diligence to promptly eliminate all remaining interorganization payables and receivables by payment or by placement of such payables and receivables on commercially reasonable terms and conditions with third party lenders.

F. Access to Funds by WCSC. The Parties recognize that the authority given to WCSC in the Service Agreements to access and debit the funds and accounts of the Associations cannot be granted by the Township. In lieu thereof, the Township covenants and agrees that for each calendar year after the Township Property Tax Implementation Date, the Township shall deposit and establish and maintain with the Service Companies an advance reserve fund at least equal to two (2) months' estimated operating and debt service expenditures, as set forth in the applicable Budgets and Plans, and that all amounts properly invoiced, charged or billed by the Service Companies to the Township shall be fully paid within twenty (20) calendar days after receipt, without set-off, counterclaim or reduction, and any disputes or discrepancies arising out of the propriety or accuracy of any such invoice, charge or bill shall be promptly resolved by the Parties and, unless otherwise agreed by the Parties, any overpayments by the Township resulting therefrom will be credited against the next ensuing invoice, charge or bill to the Township from the Service Companies.

G. **Capital Reserves.** On or before the Township Property Tax Implementation Date, each of the Associations will consider and determine, in its sole discretion, what portion, if any, of any remaining cash reserves of such Association, after elimination of any accumulated deficits, as required by Section IV.D.5. above, and consistent with past practices, Budgets and Plans, should be designated as a reasonable capital reserve for the Service Companies and will promptly thereafter transfer and assign such designated capital reserve to the appropriate Service Company or Service Companies for use only for such purposes.

H. **Duplication of Functions.** So as to avoid duplication of efforts and taxpayer costs, the Parties agree that except as expressly permitted herein and in the Service Agreements, the Associations will not, directly or indirectly, undertake to perform, provide, finance or furnish all or any portions of the Transferred Functions on and after the Township Property Tax Implementation Date.

V.

COVENANTS, ASSESSMENTS AND OPERATIONAL MATTERS

A. **Transition.** Beginning on the Effective Date, the Parties will begin taking reasonable and necessary steps toward a transition of the activities, and related obligations and liabilities, including but not limited to the provision of services, and the related control of the operations of the Associations to the Township, so that as of the Township Property Tax Implementation Date, the Township will completely fund through ad valorem and sales and use tax levies all of such activities and will have assumed all obligations to provide such services. Until such date, and subject to the specific requirements of this Agreement and the Conveyance Document, it is agreed and understood that the Associations and the Service Companies will continue to have the ongoing rights and obligations, through the operations and actions of their respective Boards, to continue to conduct all required activities and operations of such organizations, in the normal course of business, and in accordance with prior practices, including but not limited to actions which will require the incurrence of debt and the pledging of assets and future assessment dollars, as reasonably required in support of the ongoing operations of the Associations and the Service Companies, as determined to be in the best interests of the members of the Associations if, so long as and to the extent that (except in the event of a Public Emergency) the scope, level, costs and funding of such operations and activities are consistent with the Budgets and Plans. Accordingly, subject only to the foregoing provisions of this Section V.A. and the Conveyance Document, it is expressly agreed and understood that, irrespective of the extent and timing of the assignment and assumption of rights and obligations provided herein or therein, from the Effective Date through the Township Property Tax Implementation Date, the Associations and the Service Companies shall have the ongoing express right and authority to acquire such properties and assets, to levy assessments and to incur such debt and obligations (including the pledge of assessment collections in support thereof), as may reasonably be required and necessary to perform the Transferred Functions in accordance with past practices and in material compliance with the Budgets and the Plans. In such regard, the Parties agree to provide to any third party vendors, contractors, lenders or suppliers any related approvals,

Transition Agreement

acceptances, consents, concurrences and estoppels as may commercially be reasonable and necessary to support such actions.

B. **Covenant Enforcement Requirements and Responsibilities.** The Parties acknowledge and agree that the enforcement and maintenance of the Covenants and related assessments are essential to the economic health and well-being of the community and the Township, and it is agreed and understood that the administrative structure currently in place through the Associations and the Service Companies as of the Effective Date for covenant and assessment enforcement and management will remain in place materially in its same form and will be funded in materially the same manner as currently funded through the entirety of the term of this Agreement.

C. **Village Associations.** The Parties acknowledge and agree that the Village Associations of The Woodlands have played an integral and significant role in providing for grass-roots resident input and representation related to the operations of the Associations and that the provisions of funding and services for the Village Associations, including the holding and administration of elections consistent with past practices, shall be continued by the Parties at substantially the same levels as currently provided by the Associations.

D. **Properties Outside of Township with Covenants.** As of the Effective Date, certain properties located outside the boundaries and taxing authority of the Township, are subject to the Covenants. The Township hereby agrees to continue the provision of required services under the Covenants and any related agreements to such Association members and property owners on and after January 1, 2010, unless and until contractual arrangements with other entities are made for the provision of substantially equivalent services.

E. **Amendment of Mutual Benefits Agreement and Service Agreements.** The Parties hereby agree to amend and revise the term of the Service Agreements to December 31, 2011. Otherwise, the Parties covenant and agree that during the term of this Agreement, and except as amended by this Agreement, the MBA and the Service Agreements shall not be modified, amended, suspended or terminated without the express, written consent of all the Parties.

VI. **ADMINISTRATIVE MATTERS**

A. **Required Amendment of Corporate Documents.** Contemporaneously with the execution and delivery of this Agreement, the resolutions and amendments to the corporate documents of the Service Companies required in support of the obligations and commitments provided for pursuant to this Agreement, in substantially the form attached hereto as Exhibit C, shall be duly adopted, executed and filed. Each of the Parties hereby agrees to take such further and additional corporate action as may be reasonably required during the term of this Agreement to ensure that the intent of the Parties, as provided herein, is met.

B. **Annual Audit.** Within one hundred twenty days (120) days of the end of each calendar year during the term of this Agreement, the Service Companies and the Associations shall coordinate the preparation of all required financial closings of the books and the preparation of financial statements for the Associations and the Service Companies and shall cause independent audits of such books and financial statements for compliance with generally accepted accounting principles to be concluded. The Township shall provide all reasonable and necessary information in support of such process. All reasonable and necessary costs of such annual audits shall be deemed to be a proper cost and expense related to the Transferred Matters and shall be funded as provided herein.

C. **Insurance.** In addition to the insurance coverages it now maintains, and for the period extending through the calendar year of the Township Property Tax Implementation Date, the Township agrees to procure and maintain, at its sole cost and expense, such additional insurance coverages as may reasonably be required with respect to its additional obligations hereunder, and to name the Associations and the Service Companies as additional insureds thereunder. For the period extending through the calendar year of the Township Property Tax Implementation Date, the Associations and the Service Companies agree to continue and keep in place all current insurance coverages with regard to the Transferred Matters and to procure and maintain such additional coverages, if any, as may be reasonably required with respect to the additional obligations of each hereunder, and to name the Township as an additional insured thereunder. For the period beginning with the calendar year after the Township Property Tax Implementation Date and continuing through the date of expiration of this Agreement, or the date of dissolution of any Association, if sooner, the Service Companies shall procure and maintain such insurance coverages as may be reasonable and necessary to adequately protect the Service Companies, the Associations, the Township and their respective Boards, officers, directors and employees from and against the risks of operations hereunder. All reasonable and necessary premiums and costs of continuing and procuring such coverages shall be deemed to be a proper cost and expense related to the Transferred Matters and shall be funded as herein provided. Finally, it is agreed and understood that appropriate "tail" insurance coverage for the period following the expiration of this Agreement, or the date of dissolution of any Association, if sooner, comparable in coverages and limits as that thereafter maintained for the Service Companies and the Township, shall be procured in order to provide reasonable coverage for the Associations and the respective members of their Boards, officers, directors and employees with regard to any potential insurable risks beyond the term of coverage of such prior policies. The terms and conditions of this Section VI.C. shall continue with respect to any Association until five (5) years after the earlier of the expiration of this Agreement, or the dissolution of such Association, and shall survive termination or expiration of this Agreement.

D. **Indemnification.** To the fullest extent provided by law, the Parties do hereby agree to indemnify, defend and hold harmless each other, and the respective members, officers, directors, agents, representatives, advisors and employees of each (each, an "Indemnified Party"), from, against and with respect to any claim, liability, obligation, loss, damage, assessment, judgment, cost or expense (including, without limitation, reasonable attorneys' fees and costs) of any kind or character, incurred or suffered by any such Indemnified Party arising out of or in any Transition Agreement

manner incident, relating or attributable to any: (i) performance or failure to perform any obligation under this Agreement, the Conveyance Document, the Covenants or any Transferred Matter and/or (ii) misrepresentation, breach of warranty, covenant or agreement made or to be performed by such Party pursuant to this Agreement or any certificate, Conveyance Document, other instrument of transfer, Exhibit or other document delivered in connection with this Agreement or the transactions contemplated hereby. The terms and conditions of this Section VI.D. shall continue with respect to any Association and/or Service Company until four (4) years after the earlier of the expiration of this Agreement, or the dissolution of such Association and/or Service Company, and shall survive termination or expiration of this Agreement.

E. **Dissolution.** If, at any time during the calendar year following the Township Property Tax Implementation Date, and continuing for two (2) additional calendar years thereafter, any Association should determine, in its sole discretion, to dissolve, and upon express, written waiver in sufficient recordable form of such Association's remaining reversionary rights or interests, if any, in and to the Transferred Matters and its rights to appoint members to the Boards of the Service Companies, and if such Association shall have met all other of its obligations hereunder and all other requirements of law with regard to dissolution, then upon completion and filing with the remaining Parties of a final audit report with respect thereto, such Association may dissolve and be released as a party hereto and be relieved of any further obligations as a Party hereto. All reasonable and necessary costs and expenses of such final audit report and dissolution shall be deemed to be a proper expense arising out of or related to the Transferred Matters and shall be paid by the Township. The terms and conditions of this Section VI.E. shall survive expiration of this Agreement.

F. **Consents and Approvals.** To the extent that any consent or approval by any Party is required for any conveyance, transfer or assignment described or contemplated herein or in the Conveyance Document, each Party hereby gives and grants such approval and consent. To the extent that any consent or approval by any third party is required for any conveyance, transfer or assignment described or contemplated herein or in the Conveyance Document, each Party agrees to cooperate with the other Parties and to use all reasonable diligence, best efforts and good faith to secure such third party consents or approvals. If such third party consents or approvals are not given, any such transfer, assignment or conveyance cannot be made effective without such third party consents or approvals, the assignee or transferee hereunder or under the Conveyance Document shall, nevertheless, fully and timely perform all rights, duties, powers, authority, obligations and responsibilities for and on behalf of the assignor or transferor thereunder.

G. **Releases.** Each Party agrees to cooperate with the other Parties and to use all reasonable diligence, best efforts and good faith to secure the release of liability and responsibility of the assignor or transferor of any transfer, assignment or conveyance described or contemplated herein or in the Conveyance Document on commercially reasonable and practical conditions. If any such release cannot be so obtained, the assignee or transferee hereunder or under the Conveyance Document shall, nevertheless, fully and timely perform all rights, duties,

powers, authority, obligations and responsibilities for and on behalf of the assignor or transferor thereunder.

VII.

ADDITIONAL TRANSITION MATTERS

A. **Association Abatements.** Attached hereto as Exhibit D is a summary of the current contractual obligations of the Associations with regard to abatement of assessments to current business members of the Associations. The Township does hereby agree with the Associations, that in addition to postponement of the Township Property Tax Implementation Date, as provided in Section III.C. above, (a) prior to the Township Property Tax Implementation Date, the Associations on one hand, and (b) following the Township Property Tax Implementation Date, the Township on the other hand, shall each cooperate and take reasonable and necessary action in support of economic development and growth in the region by the implementation of reasonable abatements on an ongoing basis and shall provide each other with written notice of action taken by the other in such regard.

B. **Funding of Debt Requirements.** Attached hereto as Exhibit E are the scheduled or projected debt service requirements with regard to debt associated with the Transferred Matters that is anticipated will be incurred as of January 1, 2010 and transferred as of the Township Property Tax Implementation Date. By execution hereof, the Parties do hereby acknowledge and agree to their respective responsibilities and obligations to timely and fully secure and fund such debt requirements consistent with the Budgets and Plans, as same may hereafter be updated, approved and adopted, as provided herein and in the Exhibits hereto.

VIII.

REPRESENTATIONS AND WARRANTIES

Each of the Parties hereto does hereby represent and warrant to each of the other Parties as follows:

A. **Due Organization.** Each of the Parties is duly organized, validly existing and in good standing under the laws of the State of Texas, has full power and authority to own its properties and to carry on its business as and where now conducted, and is duly qualified to transact business in the State of Texas.

B. **Authority for Agreement.**

1. Each Party has or will timely have all required corporate, legislative and/or governmental power and authority to (i) enter into this Agreement, (ii) consummate the transactions contemplated hereby, (iii) meet all of such Party's contractual obligations hereunder, and (iv) transfer, convey, assign, accept and assume all of the assets, rights and obligations, as provided hereunder and in the Conveyance Document. This Agreement and the other agreements delivered by the Parties hereto (including all of the Conveyance

Document and the other Exhibits hereto), have been duly authorized, executed and delivered by each of the Parties hereto and constitute the legal, valid and binding obligations of each of such Parties enforceable against each of them in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, moratorium or other similar general laws.

2. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby (including, without limitation, the execution, delivery and performance of this Agreement, the Conveyance Document and the assignments, instruments and other documents delivered pursuant hereto) do not and will not conflict with or result in any violation of, or default under, any provision of the respective Certificates of Incorporation, Bylaws or other corporate or governing documents of any of the Parties, or any mortgage, indenture, lease, agreement or other instrument, permit, franchise, license, judgment, order, decree, statute, law, ordinance, restriction, rule or regulation applicable to any of the Parties.

3. No license, consent, approval, order, authorization, report, registration or declaration of or filing with any governmental agency or third party is required in connection with the execution and delivery of this Agreement or the consummation of any of the transactions contemplated hereby.

C. **Disclosure; Representations or Warranties.** In support of the obligations under this Agreement, the Associations and the Service Companies have provided the Due Diligence Materials described in Exhibit F attached hereto, full and complete copies of which materials are on file in the official public records of the Township.

The Associations and the Service Companies represent and warrant to the Township that, without having undertaken a complete inventory and investigation of all of their books, records and files, (i) the Due Diligence Materials represent good faith efforts on their respective parts to compile and include therein true, complete and correct copies, summaries and disclosures of all material financial and operational aspects of the Transferred Matters, (ii) nothing has come to the attention of the Associations or the Service Companies that would cause any of the Associations or the Service Companies to believe that the Due Diligence Materials are false, inaccurate, incomplete or misleading in any material respect, and (iii) the Due Diligence Materials contain and include true, complete and correct copies of the MBA, the Service Agreements, the Budgets and the Plans, as same have been amended, modified, supplemented or rescinded, directly or indirectly, as of the Effective Date.

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, THE ASSETS, RIGHTS AND OBLIGATIONS OF THE ASSOCIATIONS AND THE SERVICE COMPANIES ARE BEING TRANSFERRED "AS IS" AND "WITH ALL FAULTS", INCLUDING, WITHOUT LIMITATION, ALL LATENT AND PATENT DEFECTS. THE ASSOCIATIONS AND THE SERVICE COMPANIES HAVE NOT MADE AND DO NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES

WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING FITNESS FOR ANY PARTICULAR PURPOSE OR COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES IMMEDIATELY PRECEDING AND IN SECTION II HEREOF, AND INCLUDED IN THE CONVEYANCE DOCUMENT, THE TOWNSHIP HAS NOT RELIED UPON ANY REPRESENTATION, WARRANTY OR OTHER ASSERTION, EITHER ORAL OR WRITTEN, MADE BY ANY OF THE ASSOCIATIONS OR SERVICE COMPANIES, OR THEIR RESPECTIVE EMPLOYEES OR AGENTS, OR BY ANY OTHER PERSON REPRESENTING THEM. THE TOWNSHIP HAS MADE SUCH INSPECTIONS OF THE DUE DILIGENCE MATERIALS, INCLUDING THE AGREEMENTS, FINANCIAL INFORMATION AND MATERIALS PROVIDED THEREIN, AND THE ASSETS AND LIABILITIES OF THE ASSOCIATIONS AND THE SERVICE COMPANIES, AS IT DEEMS APPROPRIATE UNDER THE CIRCUMSTANCES, AND EXCEPT WITH RESPECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES IMMEDIATELY PRECEDING AND IN SECTION II HEREOF, AND INCLUDED IN THE CONVEYANCE DOCUMENT, THE TOWNSHIP AGREES TO RELY SOLELY ON ITS OWN INVESTIGATION TO DETERMINE THEIR CONDITION.

D. **Subsequent Transfers and Disclosures.** Each of the Associations and the Service Companies covenants and agrees that if, at any time prior to the dissolution of such Association or Service Company, it should come to the attention of such Association or Service Company that any asset, function or liability arising out of or relating to the Transferred Matters has not been previously identified, described and/or transferred, as contemplated herein, or that any of the express representations and warranties set forth in Sections II. and VIII.C. hereof, or in the Conveyance Document, are not true, complete or correct in any material respect, such Association or Service Company shall immediately give written notice and full details to the Township of such matter, together with such completion or correction materials as may be appropriate hereunder, and shall promptly transfer, convey and assign such omitted asset, function or liability to the Service Companies or to the Township as appropriate, by an instrument in substantially the form as provided hereunder for the type and character of asset, function or liability in question.

IX. **GENERAL TERMS AND CONDITIONS**

A. **Procedure for Required Legislative Modifications.** The Parties hereto do hereby acknowledge and agree that certain legislative modifications to the enabling legislation for the Township may be required or desirable in order to more fully meet the obligations and intent of the Parties pursuant to this Agreement. The Board of the Township shall consider and take all reasonable and necessary steps to attempt to introduce and pursue passage of such legislation as it deems necessary to meet such obligations and intent.

B. **Notice and Cure; Procedures for Dealing with Resolution of Disputes.** If a Party believes another Party is in default of this Agreement, prior to exercising any remedy, the aggrieved Party shall give written notice of default to all other Parties describing the default in reasonable detail. All other Parties shall have thirty (30) days from the date of the notice in which to cure the default if the default can be cured by the payment of money and a reasonable period not to exceed ninety (90) days to cure the default if the default cannot be cured by the payment of money. If the default is not cured to the reasonable satisfaction of the aggrieved Party prior to the expiration of the applicable cure period, that Party may exercise any remedy available at law or in equity and permitted by this Agreement by reason of the default upon the expiration of the applicable cure period. In the event the Parties cannot reach agreement after good faith efforts to do so pursuant to the preceding procedure with regard to any dispute arising out of or relating to this Agreement, and no less than twenty (20) days following written notice from any Party to all other Parties of such a dispute, the disputing Parties shall submit such matter to mediation within fifteen (15) days of the end of such twenty (20) days period, and such mediation shall take place within thirty (30) days thereof before a mediator with no less than ten (10) years of experience in the handling of disputes involving governmental entities. Only after such mediation has taken place may a Party initiate litigation against any other Party hereto. Each Party to any dispute shall equally share the cost of such mediation.

C. **Governing Law; Jurisdiction.** This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Texas. To the maximum extent permitted by applicable law, and subject to the dispute resolution procedures provided for in Section IX.B. above, the parties hereto hereby submit to the exclusive jurisdiction of the state district courts located in Montgomery County, Texas, as well as to the jurisdiction of all courts from which an appeal may be taken from the aforesaid courts, for the purpose of any suit, action or other proceeding arising out of or with respect to this Agreement and expressly waive any and all objections any of such Parties may have as to venue in any of such courts.

D. **Entire Agreement; Amendments.**

1. **Entire Agreement.** This Agreement, and the schedules, Exhibits, certificates and other agreements and documents referred to herein, shall constitute the entire agreement among the Parties pertaining to the subject matter hereof and shall supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the Parties pertaining to the subject matter hereof.

2. **Amendments.** No amendment, supplement, modification, waiver or termination by mutual agreement of this Agreement shall be implied or be binding unless executed in writing by the Party or Parties to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly therein provided.

E. **Assignment.** It is expressly agreed and understood that the Parties are entering into this Agreement based on the unique authority and skills of each of the Parties and their respective employees, agents and representatives. Therefore, neither this Agreement nor any right, remedy, obligation or liability arising hereunder, or by reason hereof, nor any of the documents executed in connection herewith, may be assigned by any Party without the express, written consent of the other Parties hereto. Nothing contained herein, expressed or implied, is intended to confer upon any person, other than the Parties hereto, and their successors in interest and permitted assignees, any rights or remedies under or by reason of this Agreement unless expressly so stated herein to the contrary.

F. **Headings.** Headings used in this Agreement are for convenience only and are in no way to be construed as part of this Agreement or as a limitation of the scope of the particular Sections to which they refer.

G. **Counterparts.** This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

H. **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be considered to have been duly given when (i) delivered by hand, (ii) sent by telecopier (with a confirmation of receipt), (iii) sent by first class, certified or registered mail, postage prepaid, or (iv) sent by a nationally recognized commercial overnight delivery service with provision for a receipt, postage or delivery charges prepaid, in each case to the appropriate addresses (or to such other addresses and telecopier as a Party may from time to time designate as to itself by notice similarly given to the other Party in accordance with this Section):

If to the Associations or the Service Companies, to:

The Community Associations of The Woodlands, Texas
Attn: President/General Manager
2201 Lake Woodlands Drive
The Woodlands, TX 77380
Telephone: 281-210-3800
Fax: (281) 210-3962

with a copy to:

The Strong Firm, P.C.
10003 Woodloch Forest Dr., Suite 210
The Woodlands, TX 77380
Attn: Mr. Bret L. Strong
Telephone: (281) 367-1222
Facsimile: (281) 210-1361

If to the Township, to:

The Woodlands Township
Attn: President
10001 Woodloch Forest Drive – Suite 600
The Woodlands, TX 77380
Telephone: (281) 363-2447
Fax: (281) 363-1666

with a copy to:

Schwartz, Page & Harding, L.L.P.
Attn: Mr. Michael G. Page
1300 Post Oak Blvd., Ste. 1400
Houston, TX 77056
Telephone: (713) 623-4531
Fax: (713) 623-6143

I. **Expenses.** Each of the Parties shall pay all of the costs that it incurs incident to the preparation, execution and delivery of this Agreement and the performance of any related obligations, whether or not the transactions contemplated by this Agreement shall be consummated.

J. **Survival.** Except as otherwise provided in this Agreement, the covenants, agreements, warranties and representations entered into or made pursuant to this Agreement, shall be continuing and shall survive the expiration of this Agreement.


K. **Drafting Presumption.** This Agreement is the result of extensive negotiations between the Parties, which all were represented by counsel. The Parties acknowledge and agree that in the event that any dispute arises in the interpretation or construction of this Agreement, this Agreement shall not be strictly construed against any Party hereto as a result of such Party having drafted any or all of the Agreement and/or any Exhibit hereto.

L. **Memorandum of Expiration.** A memorandum or similar evidence of the termination or expiration of the term of this Agreement may be executed by any Party and recorded in the Real Property Records of Harris County, Texas, and Montgomery County, Texas, contemporaneously with or promptly following such termination or expiration.

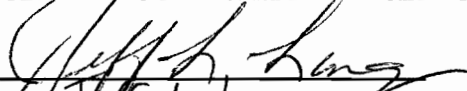
M. **Term.** Unless sooner terminated, as provided in Section II.H. hereof, or unless with respect only to one or more Parties relieved of their obligations hereunder pursuant to Section VI.E. hereof, this Agreement shall be and remain in full force and effect until its expiration at midnight on January 1, 2012.

IN WITNESS WHEREOF, the parties have approved and entered into this Agreement as of the last date entered below, but effective as of the Effective Date.


THE WOODLANDS TOWNSHIP

BY: 
NAME: Nelda Blair
TITLE: Chair
DATE: 2/29/08


THE WOODLANDS COMMUNITY ASSOCIATION, INC.

BY: 
NAME: Jeff L. Long
TITLE: President
DATE: 2/29/08

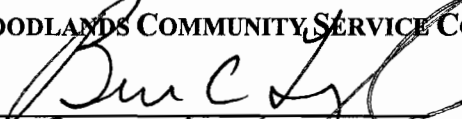
THE WOODLANDS ASSOCIATION, INC.

BY: 
NAME: Joel L. Deratchin
TITLE: President
DATE: 2/29/08

THE WOODLANDS COMMERCIAL OWNERS ASSOCIATION, INC.

BY: 
NAME: Joel L. Deratchin
TITLE: President
DATE: 2/29/08

THE WOODLANDS COMMUNITY SERVICE CORPORATION

BY: 
NAME: Bruce C. Tough
TITLE: Chair
DATE: 2/29/08

THE WOODLANDS RECREATION CENTERS, INC.

BY: *Cheryl Crandall Tangen*
NAME: Cheryl Crandall Tangen
TITLE: President
DATE: 2/27/08

THE WOODLANDS FIRE DEPARTMENT, INC.

BY: *Bruce C. Tough*
NAME: BRUCE C. TOUGH
TITLE: PRESIDENT
DATE: FEB 29, 2008

JOINDER

Solely for the purposes of evidencing its consent and approval to the conveyance, transfer or assignment of each and all of the following contracts and agreements, pursuant to the foregoing Agreement and the Conveyance Document attached thereto as Exhibit A, and only to the extent that such approval and consent of the undersigned is required thereunder, or as a matter of law, to permit such conveyance, transfer or assignment to be or become effective as to the undersigned, The Woodlands Land Development Company, L.P. joins in the execution hereof:

MBA, as defined in the Transition Agreement.

Shenandoah Contract, as defined in the Consent Agreement.

Streetscape Agreements, as defined in the Consent Agreement.

Streetscape Contract, as defined in the Consent Agreement.

Construction Management Agreement between The Woodlands Land Development Company, L.P. and The Woodlands Commercial Owners Association, Inc., dated as of January 19, 2006.

Recreation Facilities Development Agreement between The Woodlands Corporation and The Woodlands Association, Inc., dated as of August 1, 1996, as renewed and extended by that certain Renewal and Amendment of Recreation Facilities Development Agreement between The Woodlands Land Development Company, L.P. and The Woodlands Association, Inc., effective as of July 31, 2001, and by that certain 2nd Renewal of Recreation Facilities Development Agreement between the same parties, effective as of July 31, 2006.

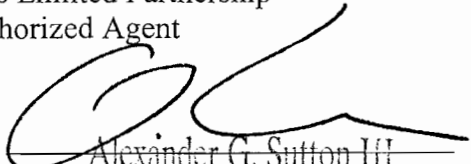
Lease Agreement between The Woodlands Community Association, Inc. and The Woodlands Corporation, dated as of July 27, 1984.

License Agreement between The Woodlands Land Development Company, L.P. and The Woodlands Community Service Corporation, effective as of March 15, 2005, as same may be amended or extended.

THE WOODLANDS LAND DEVELOPMENT
COMPANY, L.P.

A Texas Limited Partnership

By: The Woodlands Operating Company, L.P.,
a Texas Limited Partnership
Its Authorized Agent

By: 
Name: Alexander G. Sutton III
Title: President

EXHIBITS

Exhibits:

- A Deed, Bill of Sale, Assignment, Acceptance and Assumption
- B [Intentionally Omitted]
- C Amended and Restated Bylaws of WCSC, WFD and WRC
- D Association Abatements
- E Debt Servicing Requirements
- F Due Diligence Materials

DEED, BILL OF SALE, ASSIGNMENT, ACCEPTANCE AND ASSUMPTION

THE STATE OF TEXAS	§
	§
COUNTIES OF HARRIS AND MONTGOMERY	§

WHEREAS, this Deed, Bill of Sale, Assignment, Acceptance and Assumption (this "Conveyance") is made and executed in accord with the Transition Agreement (the "Agreement") of even date herewith that was made and entered into by and among The Woodlands Township (the "Township"), The Woodlands Community Association, Inc. ("WCA"), The Woodlands Association, Inc. ("TWA"), The Woodlands Commercial Owners Association, Inc. ("WCOA"), The Woodlands Community Service Corporation ("WCSC"), The Woodlands Fire Department, Inc. ("WFD") and The Woodlands Recreation Centers, Inc. ("WRC"); and

WHEREAS, it is the intent and purpose of WCA, TWA and WCOA (hereinafter sometimes referred to, individually, as an "Association" or "Grantor" or, collectively, as the "Associations" or "Grantors") that this Conveyance provide a means for the orderly and systematic transfer of assets, functions and related liabilities currently owned, held, performed and contracted by or through the Associations to the WCSC, WFD and WRC (hereinafter sometimes referred to, individually, as a "Service Company" or "Grantee" or, collectively, as the "Service Companies" or "Grantees", as fiduciaries of the Associations and the Township, for the interim benefit of the Associations, and for the ultimate benefit of the Township, or to the Township, as provided in the Agreement, while at the same time ensuring a seamless continuation of services and functions during the transition period provided in the Agreement;

NOW, THEREFORE, Grantors make the following conveyances, transfers and assignments, subject to the restrictions, reservations of rights and the reversionary interests set forth in 5.0 below and the fiduciary duties and obligations set forth in 6.0 below::

1.0 DEFINITIONS: As used herein, the following additional terms and phrases shall have the meanings assigned to them below:

- a. **Covenants:** Means (i) the Covenants Restrictions, Easements, Charges and Liens of The Woodlands filed of record at Film Code No. 908-01-1585 of the Official Public Records of Real Property of Montgomery County, Texas, and (ii) the Covenants Restrictions, Easements, Charges and Liens of The Woodlands recorded at Volume 841, Page 297 of the Deed Records of Montgomery County, Texas, and filed for record in File Nos. 9014247 and 9024117 of the Real Property Records of Montgomery County, Texas, and (iii) the Declaration of Covenants and Restrictions of the Woodlands Commercial Association filed for record in File No. 9357930 of the Real Property Records of Montgomery County, Texas, and all other like covenants executed and recorded from time to time annexing additional lands to the lands encumbered by the covenants and restrictions referenced above.

- b.. Excluded Assets. Means the real property (being approximately 3.6 acres of land more or less), office building and improvements located at 2201 Lake Woodlands Drive and all cash, cash equivalents, investments and investment income, rents, fees and income of WCA, after allowances for debt requirements, and the requirements of the Agreement, and as of the date of the Agreement, and unless otherwise expressly provided herein or agreed in writing by the Parties, also means assets of any type and character, including those that would otherwise be described as Transferred Assets, which are hereafter acquired or earned by any or all of the Associations or the Service Companies, but which arise out of, consist of or relate to Excluded Functions.
- c. Excluded Functions. Means, as of the date of the Agreement, and unless otherwise expressly provided herein or agreed in writing by the Parties hereto, any service, function, program or improvement hereafter performed, provided, funded or undertaken by, for or on behalf of any or all of the Associations or the Service Companies, including Adverse Actions, but not including Transferred Functions.
- d. Excluded Liabilities. Means, as of the date of the Agreement, any liability of any type or character, including those that would otherwise be described as Transferred Liabilities, which are hereafter created by or against any or all of the Associations or the Service Companies, but which arise out of or relate to Excluded Assets or Excluded Functions and do not arise out of or relate to any or all of the Transferred Matters.
- e. Excluded Matters. Means Excluded Assets, Excluded Functions and Excluded Liabilities.
- f. Financial Assets. Means all funds, accounts, receivables, instruments, earnings, retained earnings, revenues, income, claims, causes of action and profits and other similar or related monetary or financial assets of each Association and all of the Associations, whether now or hereafter acquired, which arises out of or relates to the Transferred Matters, save and except Non-Financial Assets and Excluded Assets.
- g. Financial Liabilities. Means all payment obligations, debts, loans, notes, bonds, accounts payable, taxes, fees, assessments, liens, mortgages, encumbrances, installment payments, rentals, fees, principal, interest, penalties or other amounts payable or to become payable pursuant to or by reason of any of the foregoing, any other related contract, lease, lease/purchase agreement or other related, valid and enforceable agreement or arrangement, or by operation of law, or any other payment obligation or monetary or financial claim, cause of action or other liability of each Association and all of the Associations, whether now or hereafter existing, asserted or due, which arises out of or relates to the Transferred Matters, save and except Non-Financial Liabilities and Excluded Liabilities.

- h. MBA. Means the First Amended Mutual Benefit Agreement by and among the Associations, WCSC, WFD and The Woodlands Land Development Company, L.P., dated as of July 1, 1998, as amended by a First Amendment to the First Amended Mutual Benefit Agreement by and among the same parties, dated as of July 1, 2003, a true, full and correct copy of which is included in the Due Diligence Materials.
- i. Non-Financial Assets. Means all real, personal and mixed property and associated improvements and appurtenances related to real property, along with fixtures, easements, licenses, privileges, contracts, leases, concessions, entitlements, contracts for deed, lease/purchase agreements, and all other rights, titles and interests of each Association and all of the Associations in any manner associated with same, save and except Financial Assets and Excluded Assets.
- j. Non-Financial Liabilities. Means all performance obligations, commitments, covenants and responsibilities pursuant to or by reason of any deed, contract, lease, lease/purchase agreement or other related, valid and enforceable agreement or arrangement, or by operation of law, or any other performance obligation or related claim, cause of action or other liability of each Association and all of the Associations, whether now or hereafter existing, asserted or due, which arises out of or relates to the Transferred Matters, save and except Financial Liabilities and Excluded Liabilities.
- k. Restrictions. Means the applicable (i) restrictions on transfer, (ii) reservations of rights to the Associations, (iii) reversionary rights of the Associations, and (iv) fiduciary duties and obligations set forth and contained in 5.0 and 6.0 of this Conveyance.
- l. Service Agreements. Means the several Service Agreements by and between each of the Associations and each of the Service Companies in full force and effect as of the February 1, 2008, including the Facilities Operation Agreement by and among WCSC, WRC, WCA, TWA and WCOA, with an effective date of January 1, 2007, true, full and correct copies of which are included in the Due Diligence Materials.
- m. Transferred Assets. Means the Financial Assets and Non-Financial Assets, save and except any rights or interests in any manner associated with the Covenants, the MBA, the Service Agreements, and the Excluded Assets.
- n. Transferred Functions. Means, as of the date of the Agreement, all services, functions, programs and improvements now or previously provided by, through or on behalf of each of the Associations and all of the Associations by, through, under or pursuant to the Covenants, the MBA and the Service Agreements, including those budgeted, planned, scheduled and intended to have been provided pursuant to the Budgets and Plans, and including any rights or interests in any

manner associated with the Covenants, the MBA and the Service Agreements, but save and except the Excluded Functions.

- o. Transferred Liabilities. Means the Financial Liabilities and the Non-Financial Liabilities, save and except any rights or interests in any manner associated with the Covenants, the MBA, the Service Agreements and the Excluded Liabilities.
- p. Transferred Matters. Means Transferred Assets, Transferred Functions and Transferred Liabilities.
- q. WCSC Transferred Assets, Liabilities or Matters. Means, only such portion of the Transferred Assets, Transferred Liabilities or Transferred Matters as shall be conveyed, transferred and assigned to WCSC under or pursuant to the terms hereof.

2.0 CONVEYANCES AND ASSIGNMENTS EFFECTIVE IMMEDIATELY:

Effective as of February 1, 2008, and for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Grantors by the Service Companies, the receipt and sufficiency of which are hereby acknowledged, Grantors have transferred, conveyed, assigned, and delivered unto the Service Companies and do hereby transfer, convey, assign and deliver to the Service Companies, but subject to the Restrictions, each and all of the Non-Financial Assets and Non-Financial Liabilities, as follows:

- a. **TWA CONVEYANCE:** The TWA owns property at various locations, being real, personal and mixed property and associated improvements and appurtenances (including, but not limited to, signs, equipment, playgrounds, parking lots, hardscape, landscape, skate parks, sports courts and sports fields, irrigation systems, benches, tables, fountains, pavilions, fences, bathrooms, buildings, swimming pools, lights, docks, piers, sculptures, art, and or other improvements (herein, "TWA Community Improvements")). TWA does, subject to the Restrictions, hereby transfer, convey, assign and deliver to the WCSC the properties and assets set forth and described in *EXHIBIT A* hereto, inclusive of any TWA Community Improvements; and this Conveyance is intended, along with the other provisions of this Conveyance, to set forth and include all of such Non-Financial Assets of TWA. By way of, and subject to the Restrictions in, this Conveyance, it is TWA's intent to, and TWA does hereby dispose of all of its Non-Financial Assets which it may own, have or possess, of every kind, character and description, and howsoever acquired and wheresoever located. Should any Non-Financial Assets of TWA be discovered at any time which does or may belong to TWA and which is not described in *EXHIBIT A* hereto, or should TWA acquire any Non-Financial Assets after the date of this Conveyance, TWA hereby assigns, conveys, transfers and delivers same to the WCSC, but subject to the Restrictions.
- b. **WCOA CONVEYANCE:** The WCOA owns property at various locations, being real, personal and mixed property and associated improvements and appurtenances (including, but not limited to, signs, equipment, playgrounds,

parking lots, hardscape, landscape, skate parks, sports courts and sports fields, irrigation systems, benches, tables, fountains, pavilions, fences, bathrooms, buildings, pools, lights, docks, piers, sculptures, art, and or other improvements (herein, "WCOA Community Improvements"). WCOA does, subject to the Restrictions, hereby transfer, convey, assign and deliver to the WCSC the properties and assets set forth and described in **EXHIBIT B** hereto, inclusive of any WCOA Community Improvements; and this Conveyance is intended, along with the other provisions of this Conveyance, to set forth and include all of such Non-Financial Assets of WCOA. By way of, and subject to the Restrictions in, this Conveyance, it is WCOA's intent to, and WCOA does hereby dispose of all of its Non-Financial Assets which it may own, have or possess, of every kind, character and description, and howsoever acquired and wheresoever located. Should any Non-Financial Assets of WCOA be discovered at any time which does or may belong to WCOA and which is not described in **EXHIBIT B** hereto, or should WCOA acquire any Non-Financial Assets after the date of this Conveyance, WCOA hereby assigns, conveys, transfers and delivers same to WCSC, but subject to the Restrictions.

- c. **WCA CONVEYANCE:** The WCA owns property at various locations, being real, personal and mixed property and associated improvements and appurtenances (including, but not limited to, signs, equipment, playgrounds, parking lots, hardscape, landscape, skate parks, sports courts and sports fields, irrigation systems, benches, tables, fountains, pavilions, fences, bathrooms, buildings, swimming pools, lights, docks, piers, sculptures, art, and or other improvements (herein, "WCA Community Improvements")). WCA does, subject to the Restrictions, hereby transfer, convey, assign and deliver to the WCSC the properties and assets set forth and described in **EXHIBIT C** hereto, inclusive of any WCA Community Improvements; and this Conveyance is intended, along with the other provisions of this Conveyance, to set forth and include all of such Non-Financial Assets of WCA, SAVE AND EXCEPT FOR Excluded Assets. By way of, and subject to the Restrictions in, this Conveyance, it is WCA's intent to, and WCA does hereby dispose of all of its Non-Financial Assets which it may own, have or possess, of every kind, character and description, and howsoever acquired and wheresoever located, save and except for the Excluded Assets. Should any Non-Financial Assets of WCA be discovered at any time which does or may belong to WCA and which is not described in **EXHIBIT C** hereto, or should WCA acquire any Non-Financial Assets after the date of this Conveyance, save and except for Excluded Assets, WCA hereby assigns, conveys, transfers and delivers same to WCSC, but subject to the Restrictions. It is WCA's express intent to, and hereby does, retain ownership, possession and control over the Excluded Assets.
- d. **CONVEYANCE OF PATHWAYS/EASEMENTS BY GRANTORS:** Grantors individually own and operate pathways (the "Pathways") which may be on land owned by Grantors or on easements, licenses, privileges of Grantors, or land not owned by Grantors. The Pathways are accompanied by a variety of associated improvements which include, but are not limited to, bridges, culverts, handrails,

pathways, signs, sidewalks and/or curbs (collectively "Pathway Improvements"). Grantors do, subject to the Restrictions, hereby transfer, convey, assign and deliver to the WCSC the Pathways depicted in *EXHIBIT D* hereto, and any Pathway Improvements and/or related easements, licenses or privileges that Grantors may have; and this Conveyance is intended, along with the other provisions in this Conveyance, to transfer, subject to the Restrictions, all of Grantors' Pathways, Pathway Improvements and easements, licenses, privileges and other Non-Financial Assets of every kind, character, and description, and wherever situated.

- e. **CONVEYANCE OF IRRIGATION SYSTEMS BY GRANTORS:** Grantors individually own and operate irrigations systems and equipment (the "Irrigation Systems"), which may be on land owned by Grantors or easements, licenses or privileges of Grantors, or land not owned by Grantors. Grantors do, subject to the Restrictions, hereby transfer, convey, assign and deliver to the WCSC the Irrigation Systems depicted in *EXHIBIT E*; and this Conveyance is intended, along with the other provisions in this Conveyance, to transfer, subject to the Restrictions, all of Grantors' Irrigation Systems, and other Non-Financial Assets of every kind, character, and description, and wherever situated.
- f. **TRANSFER AND ASSIGNMENT OF NON-FINANCIAL LIABILITIES:** Grantors have incurred, or may hereafter incur, individually and jointly, Non-Financial liabilities in connection with the Non-Financial Assets. Grantors do, subject to the Restrictions, hereby transfer, assign and deliver to each Service Company all of the portions of the Non-Financial Liabilities as relate to or arise out of the operations of such Service Company or the performance of its obligations hereunder or under the Agreement, or under the Covenants, the MBA or the Service Agreements; and this Conveyance is intended, along with the other provisions of this Conveyance, to transfer all of Grantors' interests in and to the Non-Financial Liabilities of every kind, character, and description.
- g. **CONVEYANCE OF AFTER-ACQUIRED PROPERTY:** Grantors shall, subject to the Restrictions, transfer to the WCSC by gift, deed, assignment, conveyance or other appropriate method, all additional Non-Financial Assets and Non-Financial Liabilities obtained or incurred by Grantors subsequent to the effective date of this Conveyance up to the time of reversion under 5.0 hereof (if such should occur), whether same be real, personal or mixed; and WCSC, by its signature below, hereby agrees to accept and shall accept any such Conveyances of after-acquired Non-Financial Assets and Non-Financial Liabilities from Grantors, or any one of the Grantors.

3.0 TRANSFERS AND ASSIGNMENTS EFFECTIVE LATER: The following conveyances, transfers and assignments are hereby made by Grantors, but with an effective date only as of the Township Property Tax Implementation Date, as defined and provided for in the Agreement:

- a. **CONVEYANCE OF FINANCIAL ASSETS:** Each of the Grantors does hereby transfer, assign and deliver to each of the Service Companies such portion of the Financial Assets of such Association as may arise out of or relate to the Transferred Matters conveyed, transferred and assigned to such Service Company Associations hereunder, or to the operations of such Service Company or the performance of its obligations hereunder or under the Agreement, the Covenants, the MBA or the Service Agreements, but subject to the Restrictions.
- b. **CONVEYANCE OF FUNCTIONS:** Historically, Grantors have, individually and jointly, furnished and provided community services and functions throughout, and in some instances, beyond the boundaries of the Township. Pursuant to the Agreement, the right, power, authority and responsibility for the furnishing and provision of such functions and services will be transferred over a transition period to the control and direction of the Township. Accordingly, each of the Grantors does hereby transfer, assign and deliver to the Township, as a "Successor Entity" under the Covenants, all of the Transferred Functions of such Grantor, including without limitation, all of the Covenants, the MBA and the Service Agreements, and all rights, duties, powers, authority, obligations and responsibilities of each Grantor and all of the Grantors by, through, under or pursuant to same.
- c. **CONVEYANCE OF FINANCIAL LIABILITIES:** In the performance or exercise of their obligations, rights, powers and responsibilities under the Agreement, the Covenants, the MBA and the Service Agreements, Grantors have incurred, or may hereafter incur, individually or jointly, liabilities and indebtedness constituting Financial Liabilities. Each of the Grantors does hereby transfer, assign and deliver to each of the Service Companies such portion of the Financial Liabilities of such Association as may arise out of or relate to the Transferred Matters conveyed, transferred and assigned to such Associations hereunder, or to the operations of such Service Company or the performance of its obligations hereunder or under the Agreement, the Covenants, the MBA or the Service Agreements, but subject to the Restrictions.
- d. **CONVEYANCE OF AFTER-ACQUIRED MATTERS:** Grantors shall, subject to the Restrictions, transfer to the Service Companies by gift, deed, assignment, conveyance or other appropriate method, all Financial Assets and Financial Liabilities obtained or incurred by Grantors subsequent to February 1, 2008, and up to the time of reversion under 5.0 hereof (if such should occur), whether same be real, personal or mixed; and WCSC, by its signature below, hereby agrees to accept and shall accept any such Conveyances of after-acquired Financial Assets and Financial Liabilities from Grantors, or any one of the Grantors.

4.0 [INTENTIONALLY LEFT BLANK]:

5.0 RESTRICTIONS; RESERVATION OF RIGHTS TO GRANTORS; REVERSIONARY INTEREST OF GRANTORS:

- a. **RESTRICTIONS ON TRANSFER OF ASSETS:** Grantors establish the following restrictions on their conveyances of the WCSC Transferred Assets hereunder: Except when, in the normal course of business, disposition of a WCSC Transferred Asset, other than any interest in real property or any improvements thereon, by sale, gift, abandonment or trade, is necessary and proper due to the dysfunction, obsolescence, age or condition of such WCSC Transferred Asset, WCSC shall be and is hereby precluded from conveying, transferring, giving, selling, granting or in any other way, shape, method or manner changing title to any WCSC Transferred Asset prior to December 31, 2011, without the written approval of the Grantor that conveyed such WCSC Transferred Asset and any such attempted transfer shall be null and void and shall not serve to vest in any transferee any title or any color or title to or indicia of ownership in same. The restrictions on transfers set forth in this paragraph expire upon termination or expiration of the term of the Agreement.
- b. **RESERVATION OF RIGHTS AS TO WCSC TRANSFERRED ASSETS:** Grantors hereby reserve and retain for themselves, individually as to each of their respective WCSC Transferred Assets (that is, the TWA, as to the WCSC Transferred Assets identified in Section 2.0(a) and/or *EXHIBIT A*; the WCOA, as to the WCSC Transferred Assets identified in Section 2.0(b) and/or *EXHIBIT B*; and the WCA, as to the WCSC Transferred Assets identified in Section 2.0(c) and/or *EXHIBIT C*; and each Grantor as to its respective WCSC Transferred Assets generally described in 2.0 (d) and (e), and as depicted in *EXHIBITS D* and *E*), the right and power over that portion of the WCSC Transferred Assets, as follows:
1. Through the Township Property Tax Implementation Date, as defined and provided in the Agreement, the right and power to direct WCSC to pledge such WCSC Transferred Assets as collateral against borrowing or indebtedness of any kind in the normal course of Grantor's business as may be consistent and in compliance with the terms of the Agreement; and
 2. Through the Township Property Tax Implementation Date, as defined and provided in the Agreement, the right and power to direct WCSC's administration of such WCSC Transferred Assets (including the expenditure of monetary assets, modifications and/or maintenance of non-monetary assets, operation of the assets, policy-making regarding the assets or their use, disposition of assets in the ordinary course of business, investment of assets and all other aspects of administration of the assets which Grantor would otherwise have if Grantor did not make this Conveyance) consistent with the terms of the Agreement.

The reservations of rights under this paragraph expire on the Township Property Tax Implementation Date, as defined and provided in the Agreement, or upon earlier termination of the Agreement and reversion of the WCSC Transferred Assets to the Grantors.

- c. **RESERVATION OF RIGHTS AS TO WFD AND WRC.** Grantors hereby reserve and retain for themselves, individually and collectively, the right and power under the Covenants, the MBA and the Service Agreements related to WFD and WRC to demand, require and receive from WFD and WRC such services, functions, operations and performance by WFD or WRC as may be provided therein. The reservations of rights under this paragraph expire on the Township Property Tax Implementation Date, as defined and provided in the Agreement, or upon earlier termination of the Agreement.
- d. **REVERSIONARY INTERESTS:** If the Agreement shall be terminated prior to the expiration of its term, then the WCSC Transferred Assets conveyed hereunder, together with any related WCSC Transferred Liabilities, shall automatically (by operation of law and without need of any further action or document) revert back to the Grantor that conveyed, transferred and assigned same. The reversionary interests of this paragraph expire on the Township Property Tax Implementation Date, as defined and provided in the Agreement.

6.0 FIDUCIARY DUTIES OF SERVICE COMPANIES. Each Service Company shall serve in a fiduciary capacity as to each Grantor and as to the Township with respect to the portion of the Transferred Matters herein transferred, assigned and conveyed to such Service Company, and as such fiduciary, shall have the responsibility to conserve, preserve, administer, use, apply, maintain, perform and comply with any and all of such Transferred Matters and shall exercise the standards of care and diligence required of a fiduciary under Texas law with respect to same; provided, however, that such responsibilities as a fiduciary hereunder shall expire as to Grantors upon the expiration of the term of or the Agreement or, in the event of the termination of the Agreement, and only as to WCSC, upon the reversion of the WCSC Transferred Matters to the Grantors.

7.0 SPECIAL WARRANTY OF TITLE.

(a) Subject to the disclaimers contained in the Agreement, as of February 1, 2008, each Grantor represents and warrants with respect to the portion of the Transferred Matters conveyed, transferred and assigned by such Grantor hereunder, that such Transferred Matters are owned and held by such Grantor, and each Grantor represents and warrants to the best of its knowledge that it has good and marketable title to same. The Service Companies shall have and hold such Transferred Matters, subject only to the Restrictions, and subject to any other lien, restriction, claim or encumbrance of record as of the Effective Date, and each Grantor shall warrant and defend title to same against any person claiming or to claim same by, through or under such Grantor.

(b) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS CONVEYANCE OR IN THE AGREEMENT, THE ASSETS, RIGHTS AND OBLIGATIONS OF THE ASSOCIATIONS ARE BEING TRANSFERRED "AS IS" AND "WITH ALL FAULTS", INCLUDING WITHOUT LIMITATION, ALL LATENT AND PATENT DEFECTS. THE ASSOCIATIONS HAVE NOT MADE AND DO NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES, EXCEPT THE SPECIAL WARRANTY OF TITLE SET OUT HEREIN AND THE WARRANTIES SET OUT IN THE AGREEMENT,

INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING FITNESS FOR ANY PARTICULAR PURPOSE OR COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS. EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES HEREIN AND IN THE AGREEMENT, THE TOWNSHIP HAS NOT RELIED UPON ANY REPRESENTATION, WARRANTY OR OTHER ASSERTION, EITHER ORAL OR WRITTEN, MADE BY ANY OF THE ASSOCIATIONS OR SERVICE COMPANIES, OR THEIR RESPECTIVE EMPLOYEES OR AGENTS, OR BY ANY OTHER PERSON REPRESENTING THEM. THE TOWNSHIP HAS MADE SUCH INSPECTIONS OF THE DUE DILIGENCE MATERIALS, INCLUDING THE FINANCIAL INFORMATION AND MATERIALS PROVIDED IN EXHIBIT "F" OF THE AGREEMENT, AND THE ASSETS AND LIABILITIES OF THE ASSOCIATIONS AND THE SERVICE COMPANIES, AS IT DEEMS APPROPRIATE UNDER THE CIRCUMSTANCES, AND EXCEPT WITH RESPECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES MADE HEREIN AND IN THE AGREEMENT, THE TOWNSHIP AGREES TO RELY SOLELY ON ITS OWN INVESTIGATION TO DETERMINE THEIR CONDITION.

8.0 ACCEPTANCE AND ASSUMPTION BY SERVICE COMPANIES. Subject to compliance by the Township and the Grantors with respect to each of their respective funding obligations set forth in the Agreement, each Service Company accepts from each Grantor the Transferred Matters conveyed, transferred, assigned and delivered hereby and assumes all liabilities and responsibilities associated therewith, including Transferred Liabilities.

9.0 ACCEPTANCE AND ASSUMPTION BY TOWNSHIP. Subject only to compliance by the Associations and the Service Companies with their respective obligations hereunder and under the Agreement, the Covenants, the MBA and the Service Agreements, the Township accepts and assumes all liability and responsibility for the Transferred Functions so transferred, assigned and conveyed to the Township, effective on the effective date thereof.

10.0 CONSTRUCTION AND INTERPRETATION. This Conveyance shall be deemed and construed to be a warranty deed, bill of sale and assignment of the Transferred Matters described herein, together with an express acceptance and assumption of same by the transferee, as provided above.

11.0 ADDITIONAL DOCUMENTS: Notwithstanding the foregoing, should additional deeds, assignments, or other documents be required to effectuate this Conveyance, or any reversion or expiration of rights hereunder, the Associations, the Service Companies and the Township agree to take any action reasonably necessary and to make and execute any further document(s) as may be reasonably required to ensure that the conveyances and reversions contemplated herein are fully and completely effectuated and made, that due and proper notice is given and recorded of the expiration of any reserved rights and/or reversionary interests hereunder, and that the intent and purposes of the Grantors hereunder is met.

12.0 CHOICE OF LAW: This Conveyance has been made under the laws of the State of Texas, and the same shall be interpreted, administered and governed thereby, and any

questions arising under this Conveyance shall be resolved and determined under the laws of the State of Texas.

IN WITNESS WHEREOF, Grantors and Grantee have hereunto set their hand this 29 day of February, 2008.

THE WOODLANDS COMMUNITY ASSOCIATION, INC., GRANTOR

BY: [Signature]
NAME: Joel L Long
TITLE: President

THE WOODLANDS COMMERCIAL OWNERS ASSOCIATION, INC., GRANTOR

BY: [Signature]
NAME: Joel L Deretchin
TITLE: President

THE WOODLANDS ASSOCIATION, INC., GRANTOR

BY: [Signature]
NAME: Joel L Deretchin
TITLE: President

THE WOODLANDS RECREATION CENTERS, INC., GRANTEE

BY: [Signature]
NAME: Cheryl Crandall Tangen
TITLE: President

THE WOODLANDS COMMUNITY SERVICE CORPORATION, GRANTEE

BY: [Signature]
NAME: BRUCE C. TOUGH
TITLE: CHAIRMAN

THE WOODLANDS TOWNSHIP

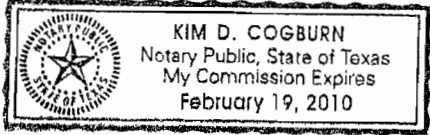
BY: [Signature]
NAME: Nelda Blair
TITLE: chair

THE WOODLANDS FIRE DEPARTMENT, INC., GRANTEE

BY: [Signature]
NAME: BRUCE C. TOUGH
TITLE: PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

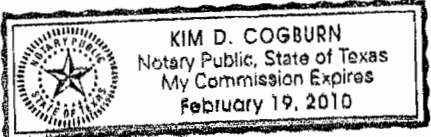
This instrument was acknowledged before me on February 29, 2008, by Joel L. Deretchin, the President of the Board of Directors of Grantor, The Woodlands Association, Inc.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

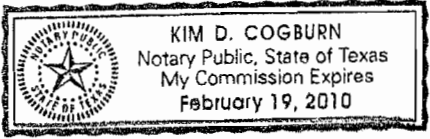
This instrument was acknowledged before me on February 29, 2008, by Joel L. Deretchin, the President of the Board of Directors of Grantor, The Woodlands Commercial Owners Association, Inc.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
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COUNTY OF MONTGOMERY §

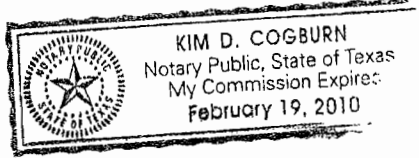
This instrument was acknowledged before me on February 29, 2008, by Joel L. Long, the President of the Board of Directors of Grantor, The Woodlands Community Association, Inc.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

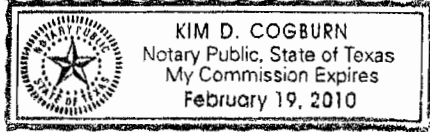
This instrument was acknowledged before me on February 29, 2008, by Bruce C. Tough, President of the Board of Directors of Grantee, The Woodlands Community Service Corporation.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

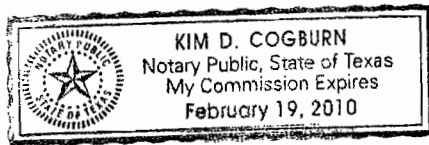
This instrument was acknowledged before me on February 29, 2008, by Cheryl Crandall Tanager, President of the Board of Directors of Grantee, The Woodlands Recreation Centers, Inc.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

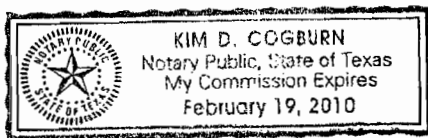
This instrument was acknowledged before me on February 29, 2008, by Bruce C. Tough, President of the Board of Directors of Grantee, The Woodlands Fire Department, Inc.



Kim D. Cogburn
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on February 29, 2008, by Nelda Blair, Chairman of the Board of Directors of The Woodlands Township.



Kim D. Cogburn
Notary Public in and for the State of Texas

EXHIBITS

- Exhibit A TWA Community Improvements
- Exhibit B WCOA Community Improvements
- Exhibit C WCA Community Improvements
- Exhibit D Pathway Improvements
- Exhibit E Irrigation Systems