

## FIRST AMENDMENT TO TRANSITION AGREEMENT

**THIS FIRST AMENDMENT TO TRANSITION AGREEMENT** (the "**First Amendment**"), effective as of October 15, 2008 (the "Amendment 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 73<sup>rd</sup> 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 "Service Companies." Each signatory hereto shall be individually referred to as a "Party" and collectively referred to as the "Parties."

### RECITALS

**WHEREAS**, a Transition Agreement, effective as of February 1, 2008 (the "Agreement"), was executed by the Parties with the stated mutual goals of, among other items, the accomplishment of a seamless consolidation of the functions and services provided by the Parties into a single, community-wide governmental organization, and the funding of the services by the most efficient and cost effective means to the taxpayers of the community, 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**, under the Agreement, the transition to a single service organization was anticipated to be completed on or about January 1, 2012; and

**WHEREAS**, the Parties have determined that an accelerated timeline for the transition process with a target completion date on or about January 1, 2010, would better accomplish a seamless consolidation of the functions and services provided by the Parties into a single, community-wide governmental organization; and

**WHEREAS**, the Parties agree that in order to accelerate the transition process and implement a consolidation of services on or about January 1, 2010, it is important that a single leadership position be vested with the responsibility of managing the acceleration of the transition process and be given the tools necessary to accomplish this task; and

**WHEREAS**, the Parties agree that the responsibility for directing the acceleration of the transition process should be vested in the President of The Woodlands Township ("The Woodlands

Township President”) on October 15, 2008, who will have the authority to work with and provide general, overall direction for WCSC/WFD staff efforts in regard to the Agreement; and

**WHEREAS**, the parties desire to enter into this First Amendment to the Agreement for the purpose of amending certain terms and provisions of the Agreement;

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

1. Acceleration. The provisions of Article III of the Agreement are hereby modified and amended to provide that the Parties agree with the goal of consolidating functions and services into a single, community-wide governmental organization on or about January 1, 2010 (subject to the conditions provided for in Section 6 below). The Parties agree that this First Amendment is critical to the objectives of the Agreement, and that its implementation will require the commitment of staff resources from both the Township and WCSC/WFD. The Parties are committed to the community benefits of an accelerated transition and hereby authorize the use of Township and WCSC and WFD personnel, as necessary, to accomplish these goals under the general management and direction of The Woodlands Township President.

2. Township President Position. The provisions of Article III of the Agreement are hereby modified and amended to provide that effective October 15, 2008, the current President of the WCSC will be released from and terminate his position with WCSC (and enter into written termination of any employment agreement) and enter into a written employment agreement with The Woodlands Township with an effective date of October 15, 2008, and a minimum term of two years to serve as The Woodlands Township President.

3. Role of The Woodlands Township President in Support of Transition. The provisions of Article III of the Agreement are hereby modified and amended to provide that The Woodlands Township President shall coordinate, direct and manage all activities related to the consolidation of services into one central organization on or about January 1, 2010 (the “Acceleration Period”), and will otherwise act in accordance with the Agreement. Specifically, The Woodlands Township President, during the Acceleration Period will be responsible for taking the following actions:

a. Serving as the liaison between the Township and the WCSC and WFD Boards, and providing recommendations to them regarding consolidation issues;

b. Communicating the transition plan to the employees of the Township and the WCSC/WFD to stabilize the work force for both organizations;

c. Working with and directing the WCSC/WFD staff efforts regarding the Agreement, as amended by this First Amendment;

d. Developing a 2010 budget and capital plan that address the issues of a consolidated service organization;

e. Developing plans for the full consolidation of service delivery systems in

2010, including reviewing existing operating policies of the Township and the WCSC/WFD and recommending appropriate operating policies and procedures for a combined organization; developing a plan for a combined employee benefit structure beginning in 2010; reviewing the law enforcement contracts and developing the long term law enforcement management strategy to service both business and residential needs; considering consolidation of facility management and maintenance functions where similar services are currently being performed by both the Township and the WCSC, such as parks and pathways; considering consolidation of contract management functions; and considering coordination or consolidation of internal services, such as finance, accounting, human resources, information technology and records management, and providing a plan for full implementation of these functions in 2010;

f. Identifying potential consolidation costs savings in the 2010 budget, and developing an implementation strategy / timeline;

g. Working immediately with the staff and legal counsel of both organizations to resolve issues that result from the Township assumption of Association responsibilities in 2010;

h. Identifying and managing issues resulting from the change-over from Assessments to a the levying of a property tax by The Township; and

i. Keeping the public informed on issues related to the transition.

4. WCSC President Position. It being in the best interests of all Parties to realize the economies associated with a consolidated and streamlined organization as soon as reasonably possible, the Parties agree that, provided the terms and conditions of the Agreement are met and that the Agreement is not terminated during the Acceleration Period, the position of WCSC President will not be filled by the WCSC or the Associations, and this position will remain vacant through all periods as provided for in Article III of the Agreement.

5. Services Related to Transition. It is anticipated that all of the services being rendered by The Woodlands Township President, including those services associated with working with and directing the WCSC/WFD and the Township staff efforts, shall be in support of transition, and therefore, the WCSC/WFD shall not be required to compensate the Township for such services. Furthermore, under the guidance and direction of The Woodlands Township President, certain of the staff of the WCSC/WFD will be required to provide services in support of the transition, and therefore, those services will not be billable to the Township.

6. Resources Needed for Accelerated Transition. The Township acknowledges that the accomplishment of the transition goals within the accelerated time frame will require the commitment of additional resources in the 2009 and 2010 budget years, including, but not limited to, financial, accounting and human resource services (including compensation/benefits planning), as well as software and other support services. These resource requirements will be identified and considered in the Township's 2009 and 2010 budgets to accomplish the goals as defined in the action plan.

7. The Woodlands Township President Role with WCSC/WFD Boards. Under the direction of the Township Board of Directors, The Woodlands Township President has the primary role of managing and directing operations of The Woodlands Township, including the management of all Township services and operations, budget, debt management and fiscal responsibility and representation of the Township with other governmental and business organizations. In mutual cooperation between the Township and the Associations, in order to accelerate the transition process, the Parties agree that The Woodlands Township President will direct and manage on behalf of the Parties, all matters regarding the transition acceleration as provided for in the agreed upon action plan. The Woodlands Township President will advise and receive direction from the WCSC/WFD Boards on matters regarding transition issues impacting the WCSC/WFD. The Woodlands Township President will be provided a primary office located at the Township offices, and will be provided an interim office located at the WCSC offices. The day-to-day operations of the WCSC/WFD and Associations will be managed by an interim management team selected by the WCSC/WFD Boards that will report directly to the WCSC/WFD Boards (the "WCSC/WFD Interim Management Team"). The Woodlands Township President will be available to the WCSC/WFD Interim Management Team for consultation during the transition process.

8. Transition Coordination Team. The Township and the Associations shall each appoint representatives to a transition team to guide the acceleration of the transition process. This team shall consist of three (3) persons, being the Chairperson of The Woodlands Township and the Presidents of each of the Associations (or a designee appointed by any of such persons). This group shall meet at least bimonthly to review the transition progress and to provide direction regarding transition issues to The Woodlands Township President. Additional members may be added to such team by agreement of each of the initial three members.

9. Ongoing Covenant. Should the employment of The Woodlands Township President, to be effective as of October 15, 2008, be terminated by action of The Township other than for good cause (as defined in his employment agreement) prior to December 31, 2009, the Parties agree that this Amendment will no longer be effective, and the original timelines and provisions of the Agreement will be reinstated.

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

THE WOODLANDS TOWNSHIP

BY: [Signature]  
NAME: NELDA BLAIR  
TITLE: CHAIRMAN  
DATE: 11-6-08

THE WOODLANDS COMMUNITY ASSOCIATION, INC.

BY: [Signature]  
NAME: [Signature]  
TITLE: President  
DATE: 5/Nov 08

THE WOODLANDS ASSOCIATION, INC.

BY: [Signature]  
NAME: JOEL L. DERETCHIN  
TITLE: PRESIDENT  
DATE: 11/3/08

THE WOODLANDS COMMERCIAL OWNERS ASSOCIATION, INC.

BY: [Signature]  
NAME: JOEL L. DERETCHIN  
TITLE: PRESIDENT  
DATE: 11/3/08

THE WOODLANDS COMMUNITY SERVICE CORPORATION

BY: [Signature]  
NAME: BRUCE TOUGH  
TITLE: CHAIRMAN  
DATE: NOV. 3, 2008

THE WOODLANDS RECREATION CENTERS, INC.

BY: [Signature]  
NAME: THEODORE A. STANLEY  
TITLE: PRESIDENT  
DATE: 11/6/08

THE WOODLANDS FIRE DEPARTMENT, INC.

BY: [Signature]  
NAME: BRUCE TOUGH  
TITLE: PRESIDENT  
DATE: NOV 3, 2008