

MASTER SERVICE AGREEMENT FOR TREATED EFFLUENT

THIS AGREEMENT is made and entered into this 17th day of March, 2008 by and between the City of Sparks ("City"), a municipal corporation existing under and by virtue of the laws of the State of Nevada, and KILEY RANCH COMMUNITIES, ("Developer").

1. GENERAL.

- 1.1 CHARTER. Sparks City Charter Section 2.110 permits the City to provide utilities and fix the rates for such utilities.
- 1.2 PLANT. Sewage effluent delivered to the Truckee Meadows Water Reclamation Facility ("Plant") is usually treated by chemical, biological and aeration processes and then discharged into the Truckee River via the Steamboat Canal as treated effluent.
- 1.3 PERMIT NO. 29973. The Cities of Sparks and Reno received Permit No. 299733 from the Nevada State Engineer on February 15, 1995, with a priority date of February 6, 1976 to appropriate 27.86 cubic feet per second (55.24 acre-feet per day) for agricultural uses.
- 1.4 TRANSMISSION SYSTEM. In accordance with Permit No. 29973, and at its own expense, City has partially completed the infrastructure necessary to construct a Treated effluent Reuse Distribution System, ("Transmission System") to deliver treated effluent from the Plant to certain public and private facilities for use as an irrigation water system.
- 1.5 DEVELOPER. Kiley Ranch Communities ("Developer") is entering this agreement with the City to secure effluent water for its Customers as Developer sells or leases real property as defined on Exhibit "A". In the event that the Developer decides to transfer ownership of the Master Service Agreement for Treated Effluent to a landscape maintenance company, a Homeowners Association (HOA), or a legal successor, the successor then assumes the responsibilities of the Developer specified in Section 2 and Subsection 9.1 and shall take over any fees specified in Section 5.
- 1.6 PROJECT. City is willing to reserve a quantity of treated effluent and a portion of the capacity of the Transmission System for approved irrigation purposes of properties owned by Developer on real property, which for purposes of this Agreement shall include the development and maintenance of the property shown on Exhibit "A", attached hereto (the "Project").
- 1.7 CUSTOMERS. The parties intend pursuant to this Agreement to obligate future owners of land in the Project ("Customers") improved by irrigated landscaping

(including, but not limited to, developed commercial and industrial properties, developed residential and recreational properties, institutional users, and projects requiring dust control and construction water), and for Customers to have the rights to water service provided herein; provided, however, that if the nature of a future owner's use of the property it acquires within the Project reasonably justifies not using treated water on such property, then such owner shall not become a Customer under this Agreement. In most circumstances, Developer will sell or lease portions of the Project to others who will develop the property and become Customers. This Agreement facilitates the provision of treated effluent to Customers, and binds Customers to accept and use treated effluent from City's Plant and Transmission System, but does not require Developer to be a Customer, except in those circumstances where Developer is the actual owner or lessee of improved land within the Project required to be served by treated effluent from the Transmission System as provided herein. Customers do not have the rights of Developer, and are not liable for the obligations of Developer stated in Subsections 9.1 and in Section 2. Conversely, Developer has no rights and assumes no obligations of a Customer hereunder after sale of or conveyance of a parcel by Developer to a third party Customer, which parcel is subsequently provided treated effluent water service by City. A Customer has no liability for the obligations of another Customer hereunder.

2. CAPACITY RESERVATION PROVISIONS.

2.1 AMOUNT OF CAPACITY RESERVATION. Subject to the provisions of this section 2, City agrees to reserve for water service within the Project the following quantities of treated effluent:

- A. Minimum average annual demand – 473.72 acre feet;
- B. Maximum average annual demand – 473.72 acre feet;
- C. Peak daily demand (night delivery - 8 p.m. to 4 a.m.) - 1180 gpm
- D. This Subsection may be revised by mutual consent at any time.

2.2 EXCEEDING MAXIMUMS/OTHER USES OF EFFLUENT. City shall provide treated effluent in the quantities specified in Section 2.1. City may, upon mutual agreement with Developer (not to be unreasonably withheld), provide treated effluent in quantities in excess of the maximums specified in Section 2 upon request by a Customer. City may also provide treated effluent to Customers in the Project for uses and purposes of nonpotable water other than irrigation (e.g., washing, cooling and other manufacturing or processing uses), subject to compliance with any applicable federal, state or local laws, or regulations and any agreements to which city may be a party. City, using its sole discretion, may provide water service to Customers for uses other than irrigation.

3. **SERVICE AGREEMENTS.** On or before commencement of treated effluent service by City, City shall require any Customer requesting treated effluent water service to execute an agreement for sale of treated effluent ("Service Agreement") with the City containing provisions not inconsistent with this Agreement. Any conflict or inconsistency between provisions of a Service Agreement and this agreement shall be governed by provisions of this Agreement.

4. **CUSTOMER WILL-SERVE COMMITMENTS.**

4.1 **PROCEDURE TO OBTAIN.** City shall deliver to each Customer requesting treated effluent water service a written will-serve commitment upon compliance with the following provisions:

A. Submittal by Customer and approval by City of a Calculation Worksheet prepared by an engineer, landscape architect or other person acceptable to City of the amount of annual water demand and meter size for the Irrigation System (in acre feet or gallons) meeting the standards of the practice.

B. Payment by Developer to City of the Infrastructure Connection Fee and any other fees or charges allowed by this Agreement;

C. Compliance by Customer with the provisions of this Agreement relevant to Customer's water service; and

D. Execution by Customer of a Service Agreement, if any.

4.2 **TERMINATION OF WILL-SERVE COMMITMENT.** A written will-serve commitment issued to a Customer may be terminated at any time by City if it is determined by the City that the Customer has misappropriated treated effluent, used treated effluent in an unlawful or wasteful manner or in a manner that creates a public nuisance or a dangerous condition or if Customer has materially breached any term of either this Agreement or the Customer's Service Agreement. A Service Agreement is automatically terminated as to said Customer's water service as specified in Subsection 9.1. City may also suspend service within thirty (30) days of written notice pursuant to conditions specified in Section 10.1.

4.3 **EXCEEDING COMMITMENT.** A Customer may use less treated effluent than the quantity stated in its will-serve commitment, but may not use more treated effluent without amending its will-serve commitment pursuant to the same procedures as those specified in Subsection 4.1

4.4 **CONSERVATION/ADJUSTMENT.** The parties acknowledge that treated effluent is a finite resource and the parties should mutually promote and encourage the conservation of this limited resource for other possible uses.

Therefore, if during the term of this Agreement a Customer conserves water or otherwise limits treated effluent usage so as to permanently decrease the level of the Customer's treated effluent demand stated in its will-serve commitment, and the Customer advises City in writing of the amount of such decreased demand, then City and Customer may thereupon mutually agree to amend Customer's will-serve commitment whereby Customer will permanently release its rights to such conserved treated effluent. Such amendment shall contain terms and conditions mutually agreed upon between Customer and City, and shall not require a refund or any portion of the Connection Fee previously paid by the Customer.

- 4.5 NO OTHER ADJUSTMENTS IN WILL-SERVE COMMITMENT. Subject to the provisions of Subsection 4.1.A, in order to determine the amount of water supplied by City annually for each Customer within the Project (and for calculation of the aggregate total supplied) pursuant to City's will-serve commitment hereunder, the water commitment stated in each will-serve commitment to a Customer shall be used, regardless of any subsequent determination of metered water use (whether the actual metered use is more or less than the amount stated in any will-serve commitment or the aggregate total of all will-serve commitments within the Project).

5. PERMISSIBLE FEES AND CHARGES.

- 5.1 RESERVATION FEE. Developer shall pay an annual minimum of **\$148,187.65** ("Reservation Fee") calculated pursuant to the provisions of Exhibit "C" as consideration for the City's agreement to reserve **473.72 acre feet annually** pursuant to Section 2.1 hereof, regardless of actual usage. The amount of the Reservation Fee shall increase or decrease in proportion to any increase or decrease in the City's rates for delivery of treated effluent (currently \$0.96 per 1,000 gallons of treated effluent or portion thereof). Such amount, however, shall be reduced by any Effluent Use Fees (defined in Section 5.4) collected by City pursuant to the terms of a Service agreement entered into pursuant to Section 3 hereof, but in no event to an amount less than zero. Such amount will be payable within 30 days after full execution hereof. Thereafter, City shall invoice Developer annually during the term hereof for the amount of the Reservation Fee, less credits for Effluent Use Fees collected in the preceding year. Payment thereof shall be due within 30 days after receipt of City's invoice.
- 5.2 INFRASTRUCTURE CONNECTION FEE. Developer shall pay **\$514,574.40** ("Infrastructure Connection Fee"), which is equivalent to the provisions of Exhibit "B", to compensate the City solely for the Developer's apportioned cost (including financing costs) necessary for the construction of the Transmission System. Developer shall pay the Infrastructure Connection Fee in monthly installments, amortized over a 20 year period at a fixed interest rate of 4.5 percent per annum per the payment schedule attached as Exhibit "B", which is a monthly payment of **\$3,255.45**, due on the first business day of each month, one month in arrears.

- 5.3 METER SERVICE FEE. A Monthly meter service fee shall be assessed based on the meter size of either the Developer or Customer as specified in Exhibit "D" and shall be updated in accordance with the Sparks Municipal Code.
- 5.4 EFFLUENT USE FEE. City shall charge each Customer a monthly effluent use fee based on the quantity of water used by the Customer in its Irrigation System. Initially the usage fee shall be \$0.96 per 1,000 gallons used, billed monthly in arrears. This fee shall be updated in accordance with the Sparks Municipal Code.
- 5.5 NO OTHER FEES. Except for the fees and charges specified in Subsections 5.1, 5.2, and 5.3 and 5.4, City shall not charge Developer or Customers any fees or charges that are not applicable and universal to all effluent Customers.

6. TREATED EFFLUENT DELIVERY PROVISIONS.

6.1 METERING FACILITIES.

City shall provide meter(s) and City will install meter(s) upon approval of service and Division of Environmental Protection authorization to apply effluent to property. Developer shall install service lines, private distribution lines, meter vault, pressure reducing valves to service property.

All service lines, meter equipment, vault, and pressure reducing equipment shall be as specified, inspected and approved by the City.

Each Customer is responsible for all charges associated with installation of service meter.

7. FACILITY PROVISIONS AND OPERATION RESPONSIBILITIES.

7.1 CITY'S RESPONSIBILITY. City shall have the following obligations:

- A. City shall be responsible for providing, operating and maintaining the City's Transmission System, Distribution System and Storage Facilities, within public right of way, or public utility easements, in accordance with applicable Federal, State, and City laws, rules and regulations. City shall not be responsible for maintaining the private distribution system located on the subject property covered by this agreement.
- B. City shall be responsible for supplying treated effluent to the Point(s) of Connection which meets or exceeds all applicable Federal, State, City, and applicable regulatory agency quality standards.
- C. Upon Customer's request, City will make available quarterly NDEP Discharge Monitoring Reports concerning treated effluent.

- D. City will notify Developer and each affected Customer if City becomes aware of any condition under City's control which violates federal, state, city and local regulatory agency requirements or discharge standards.
- E. City shall be responsible for maintaining a State Discharge Permit necessary to supply treated effluent to the Project.
- F. City shall submit to the Nevada Division of Environmental Protection (NDEP) an Effluent Management Plan for its approval. The plan shall convey all information regarding planned operating and management criteria for the treated effluent system. Said plan must be approved by NDEP prior to delivery of treated effluent by City under this Agreement. City shall deliver copies of the plan, and all amendments or modifications thereto, to Developer.
- G. City shall be solely responsible for conveying and controlling the treated effluent in compliance with applicable regulatory agency requirements up to and including the Point(s) of Connection.

7.2 CUSTOMER'S RESPONSIBILITY. Each Customer shall have the following obligations:

- A. Each Customer shall be responsible for providing, operating, maintaining and repairing its private on-site Irrigation System, together with all appurtenant facilities, as are necessary to accept, convey, control and use treated effluent in compliance with the requirements of all applicable federal, state, city and local regulatory agencies on Customer's owned or controlled lands.
- B. Each Customer shall notify City if Customer becomes aware of any condition under Customer's control which violates federal, state, city and local applicable regulatory agency requirements or discharge standards.
- C. Each Customer shall be responsible for adhering to all conditions of the City Discharge Permit and Effluent Management Plan regarding Customer's use in its Irrigation System of treated effluent.
- D. Each Customer shall notify City within twenty-four (24) hours of any situation that knowingly constitutes a material violation of City's Discharge Permit or Effluent Management Plan.
- E. Each Customer shall provide to City the name of the company or person responsible for irrigation maintenance of Customer's Irrigation System. Customer shall notify City of any changes in responsibility. This company or person shall be knowledgeable in the operation of irrigation

systems and the rules and regulations governing the proper use of treated effluent.

- F. Each Customer also agrees to cooperate with City in obtaining any state and federal regulatory permits that might be required of City relating to this Agreement. City shall not be responsible for obtaining any other permits.
- G. Each customer agrees to use and manage the treated effluent in a manner consistent with best management practices and any approved Effluent Management Plan and Discharge Permit in effect. Customer understands that it is receiving treated effluent, which is not intended for human consumption, and further agrees that it assumes any and all risks associated with the use of the treated effluent under this Agreement in its Irrigation System and shall indemnify, defend and hold City harmless for any damages associated with the Customer's use of treated effluent.

7.3 INTERRUPTION OF DELIVERY. City may interrupt service to Customers for commercially reasonable periods of time under the following circumstances.

- A. City shall not be liable to Customers for failure to deliver treated effluent under the terms of this Agreement due to force majeure. For the purposes for this Agreement, a force majeure event is defined as a war, insurrection, riot, flood, drought, earthquake, fire, casualty, act of God, act of public enemy, quarantine restriction or other effect of epidemic or disease, contamination of water supply or effluent by third parties, freight embargo, order from the Federal Water Master or any other regulatory authority, a lawsuit challenging this agreement, or any other event or condition that is beyond the City's control which causes or requires interruption of service, except for the City's own voluntary act or failure to exercise reasonable care and diligence in the performance of this Agreement. City will provide Customer with as much advance notice as practical under the circumstances. Customer acknowledges advance notice for certain state or federal action may not be given. The notice will provide Customer with an estimate of when service will be suspended or interrupted, the extent to which delivery of the treated effluent will be impaired, and the duration of the suspension of service.
- B. City's obligation to deliver treated effluent under this Agreement is subject to:
 - i. City having the legal right to divert treated effluent; and
 - ii. The necessary effluent pipeline improvements and appurtenances constituting the portion of the Transmission System necessary to

transport treated effluent from the Plant to a Customer's meter be constructed, offered for dedication and accepted.

- C. City may temporarily interrupt or reduce delivery of treated effluent without liability to Customers if City determines that such interruption or reduction is necessary for system emergencies, maintenance or management. Except in emergencies, City shall give a 24-hour prior telephone, written, or verbal notice to Customers of any such interruption or reduction is necessary for system emergencies, maintenance or management. Except in emergencies, City shall give a 24-hour prior notice to Customers of any such interruption or reduction, the reason for such interruption or reduction, and the estimated duration of such interruption or reduction to the extent practicable. City shall make reasonable attempts to minimize the effect of such interruption or reduction on all Customers.

7.4 **CUSTOMER ACKNOWLEDGMENT.** Each customer acknowledges the following:

- A. The purpose for operating City's Transmission System and to enter into this Agreement is to control the biological quality of the treated effluent resulting from the Effluent Plant's operation and to distribute or discharge treated effluent as required under contracts with users or under discharge standards of federal, state, city and local regulatory agencies.
- B. Said system is not equipped to detect, treat, or remove harmful chemicals or toxic materials except as required to meet federal, state, city and local regulatory agency discharge standards.

7.5 **HOLD HARMLESS.** All Customers and Developer agree to hold City free and harmless from any and all legal liability or economic loss which Customers and Developer may sustain as a result of the quality or quantity of the treated effluent which is delivered to Customer by City in compliance with all terms and provisions of this Agreement and all then-applicable discharge standards.

8. **USE OF TREATED EFFLUENT.**

8.1. **RULES AND REGULATIONS.** All treated effluent delivered pursuant to this Agreement shall be used in each Customer's Irrigation System only for approved uses in compliance with all applicable rules and regulations of federal, state, city, and local regulatory agencies, including the Discharge permit and Effluent Management Plan. It shall be each Customer's responsibility to remain current and knowledgeable regarding all such regulations.

8.2 RECLAMATION REQUIREMENTS. Each Customer shall obtain from City's Environmental Engineering Department discharge permit requirements covering the use of the treated effluent to be delivered and used pursuant to this Agreement. Customer shall comply with the provisions of such reclamation requirements.

8.3 NDEP REQUIREMENTS.

A. Each Customer shall be liable for any sanctions imposed by the State of Nevada for use of treated effluent in Consumer's Irrigation System not in conformance with the Discharge Permit and Effluent Management Plan.

B. City may discontinue treated effluent service to any customer whose use of treated effluent is not in compliance with the Discharge Permit and Effluent Management Plan, until said use comes into compliance.

9. TERM OF AGREEMENT/TERMINATION

9.1 TERM OF AGREEMENT; Except for Subsection 5.2 related to Infrastructure Connection Fees, this Agreement shall have an initial term of twenty (20) years, unless terminated earlier by mutual agreement of Developer and City, provided that any said agreed termination shall not be effective as to water service to a then-existing Customer without said Customer's prior written consent.

9.2 EXTENSIONS. After the initial term of this Agreement, this Agreement shall be automatically extended for indefinite successive periods of three (3) years each unless City provides a written notice to Developer and every Customer that City wishes to terminate the Agreement, at least one (1) year prior to the commencement of the first (or next) extension period, in which case said termination shall be effective at the completion of the initial term (or extension term, as the case may be).

9.3 CUSTOMER'S RIGHT TO TERMINATE. Each customer may terminate this Agreement and its Service Agreement for failure by City to comply with the requirements of Subsection 7.1, after giving City a 30 day written notice, provided City has not cured its default within said 30 days.

10. SUSPENSION OF SERVICE DUE TO CUSTOMER MISCONDUCT.

10.1 CITY'S RIGHT TO SUSPEND. City may suspend delivery of treated effluent to Customer under this Agreement due to the following circumstances.

A. Customer's noncompliance with the terms of this Agreement which may result in unhealthy conditions or violations of the City's Discharge Permit or Effluent Management Plan. Suspension of service may be immediately

implemented. In circumstances in which immediate suspension is not required for public health or safety, City shall give Customer thirty (30) days written notice of said suspension. Customer shall have said time period to cure, correct, or resolve to City's satisfaction the cause for City's proposed suspension of services. Notwithstanding the foregoing, if the default is not curable within the thirty (30) day period, the cure period may be extended to a maximum of one hundred twenty (120) days so long as Customer initiates the cure within the original thirty (30) day period and diligently takes and continues action to cure the default. Customer acknowledges advance notice for certain state or federal action may not be given.

- B. City may suspend service upon thirty (30) days written notice if:
- i. Customer fails to comply with any federal, state or local laws or permit conditions pertaining to the use of the treated effluent, including the time period when an environmental prosecution against Customer is pending;
 - ii. Use of the treated effluent contaminates any domestic water supply or provides a danger to neighboring properties or residents;
 - iii. Customer's failure to pay any amount due to City within sixty (60) days of its due date;
 - iv. City is unable to provide treated effluent in compliance with federal, state or local laws now or hereafter existing;
 - v. Customer, at any time after initially applying treated effluent to beneficial use on its parcel, fails to apply treated effluent for a continuous period of one year.

11. ASSIGNMENT/SUCCESSORS AND ASSIGNS/COVENANTS RUNNING WITH THE LAND.

11.1 **ASSIGNMENT BY CITY.** City shall not assign any rights or obligations under this Agreement unless Developer approves the assignment, and said approval will not be unreasonably withheld. In the event of an assignment to an assignee which owns the Plant and becomes the purveyor of treated effluent from the Plant to the Project, provided said assignee receives an assignment of all City's rights hereunder and said assignee assumes all City's rights hereunder and said assignee assumes all City's obligations hereunder.

11.2 **COVENANTS RUNNING WITH THE LAND.** Except as provided otherwise in this Section 11 all provisions of this Agreement are covenants running with the

land described in Exhibit "A", which bind successors in interest as title owner to portions of the Project.

11.3 ASSIGNMENT BY DEVELOPER. In addition to the transfer rights set forth in Section 1.5, the rights and obligations of Developer stated in Subsection 9.1 and Section 2 may only be assigned in the event of a bulk sale or transfer of substantially all of the remaining undeveloped real property constituting the Project, and then only to the successor owner of said portion. An assignment of Developer's rights in Subsection 9.1 and Section 2 must include an assumption of all Developer's obligations therein by the assignee in order to be effective, and must be recorded in the office of the Recorder of Washoe County, Nevada against the portion of the Project transferred to the assignee.

11.4 EFFECT OF SALE OR TRANSFER OF LAND IN PROJECT. Customers and Developer are not liable for the acts or omissions of each other. Except as provided in Subsection 11.3, upon sale or other conveyance of a parcel in the Project, the transferor's rights and obligations hereunder shall cease. The transferor, however, shall be personally liable for defaults occurring prior to the transferor's conveyance (e.g., failure to pay water bills). A transferee shall not be liable for the defaults of a transferor occurring prior to the time of conveyance to the transferee.

12. MISCELLANEOUS PROVISIONS.

12.1. INTEGRATION. This Agreement, including the exhibits hereto, all of which are true and correct and incorporated by reference as a part of this Agreement, constitutes the complete and integrated agreement between the parties with respect to the matters recited herein, and supersedes any prior or contemporaneous written or oral agreements or understandings with respect thereto.

12.2 AMENDMENT/WAIVER. This Agreement shall not be modified, amended, supplemented, rescinded, cancelled or waived, in whole or in part, except by written amendment signed by duly authorized representatives of Developer and City, provided that no such amendment shall be binding on a then-existing Customer without the written consent of the Customer. No waiver of any of the provisions of this Agreement shall be deemed to be a waiver of any other provision, regardless of similarity, and no waiver shall constitute a continuing waiver. Forbearance of failure to declare a default or pursue a remedy shall not constitute a waiver except as provided in this Agreement.

12.3 BINDING NATURE. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their respective heirs, legal representatives, successors and permitted assigns.

- 12.4 NO THIRD PARTY BENEFICIARY RIGHTS. Except as provided in Subsection 1.7 and Section 11, this Agreement is not intended and shall not be construed to provide any person or entity not a party to this Agreement with any benefits or cause of action, or to obligate the parties to this agreement to any entity or person not a party.
- 12.5 GOVERNING LAW. The laws of the State of Nevada shall govern this Agreement without regard to conflicts of law principles. This agreement shall be construed an interpreted in accordance with the laws of the State of Nevada.
- 12.6 ATTORNEY'S FEES. In the event of litigation or arbitration arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs to be fixed by the court or by the arbitrator.
- 12.7 JURISDICTION; VENUE. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of this Agreement must be brought in the Second Judicial District Court of the State of Nevada, County of Washoe. The parties consent to the jurisdiction of said court (and of the appropriate appellate court) in any such action or proceeding and waive any objection to venue.
- 12.8 CLAIMS. Pursuant to NRS 268.020, which the parties agree to abide by contractually, all demand and accounts against the City must be presented to the Sparks City Council in writing within six months from the time the demands or accounts become due. No demand or account may be audited, considered, allowed or paid by the City unless this requirement is strictly complied with.
- 12.9 VIOLATION OF CITY'S ILLEGAL HARASSMENT POLICY. Developer and Customers agree that they will comply with the City's illegal harassment policy (HR-16), which is incorporated by reference and available from the Human Resources department, when dealing with the City, its officials, officers, employees, and agents pursuant to this Agreement. Violation of this policy shall constitute a material breach of contract.
- 12.10 DUPLICATE ORIGINALS/COUNTERPARTS. This Agreement may be executed simultaneously in one or more duplicate originals or counterparts and is binding on a party only when all parties have signed.
- 12.11 SUBJECT HEADINGS. The subject headings of the sections and subsections of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.
- 12.12 DRAFTING PRESUMPTION. The parties acknowledge that this agreement has been agreed to by all of the parties, that all of the parties have consulted or have had the opportunity to consult with their attorneys with respect to the terms, and

that no presumption shall be created against any party as the drafter of the Agreement.

- 12.13 ADDITIONAL DOCUMENTS. The parties agree to execute such additional documents and to take such additional action as is reasonably necessary to carry out the purposes hereof.
- 12.14 DUE AUTHORIZATION. Each party represents that all required authorizations have been obtained to execute this agreement and for the compliance with each and every term hereof. Each person signing this Agreement warrants and represents to the other parties that he or she has the actual authority to execute this Agreement and bind the party for whom he or she is signing.
- 12.15 NOTICE. Unless written notice of a new designee is sent in accordance with this subsection, all communications or notices required pursuant to this agreement shall be in writing and shall be delivered in person, transmitted by facsimile, or mailed by certified mail, postage prepaid, return receipt requested, to the individuals at the addresses indicated below. Notices that are mailed are deemed received the third day after they have been postmarked by the U.S. Postal Service.

DEVELOPER: Kiley Ranch Communities
Attn: Matthew Kiley
201 West Liberty Street
Suite 203
Reno, Nevada 89501
Facsimile: (775) 353-2489

CITY: City of Sparks
Attn: City Clerk's Office
P.O. Box 857
Sparks, Nevada 89432-0857
Facsimile: (775) 353-2489

Notices to a Customer shall be delivered, mailed or transmitted by facsimile to that Customer's address for water service within the Project for treated effluent service or such other address of Customer on City's records.

- 12.16 INDEMNIFICATION. Developer, City and all Customers shall jointly and severally indemnify, defend, and hold harmless each other, their officers, officials, employees and agents, from any liability for damage or claims for damage for personal injury, including death, as well as for claims for property or personal damage, arising in whole or in part from the use of the treated effluent provided under this agreement. This provision shall survive termination of the Agreement and shall be binding upon the parties, their legal representatives, heirs, successors and permitted assignees.

12.17 SEVERABILITY.

- A. Each term and provision of this Agreement shall be valid and enforceable to the extent permitted by law. If any term or provision of this Agreement or the application thereof is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

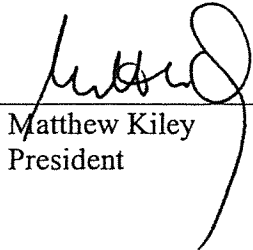
- B. To prevent windfall or unintended consideration, if any term or provision of this Agreement is deemed invalid or unenforceable, or enforceable only to a limited extent, the parties agree to negotiate in good faith to adjust any counter performance, condition or corresponding consideration.

12.18 FUNDING.

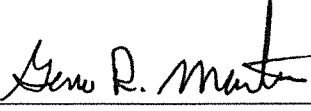
- A. In the event that the governing body appropriating funds necessary for City to perform its obligations hereunder fails to obligate the funds necessary to make payments beyond the current fiscal period, this Agreement is subject to termination by City; however, City agrees to proceed in good faith to make every effort to see that the funding source continues for the term of this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first above written.

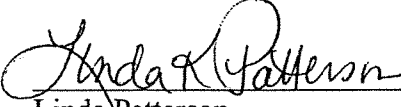
DEVELOPER:
KILEY RANCH COMMUNITIES

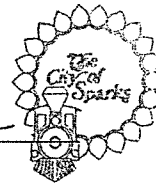
By: 
Matthew Kiley
President

CITY OF SPARKS

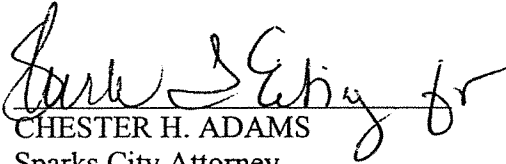
By: 
GENO MARTINI
Sparks Mayor

ATTEST:


Linda Patterson
City Clerk



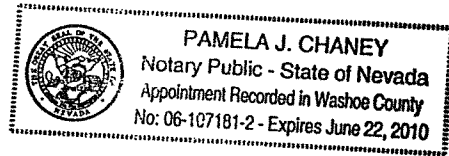
APPROVED AS TO FORM:


CHESTER H. ADAMS
Sparks City Attorney

State of Nevada } Acknowledgment in representative
County of Washoe } capacity (NRS 240.1665)

This agreement was acknowledged before me on the 21 day of FEBRUARY, 2008 by
MATTHEW KILEY as PRESIDENT of the
KILEY RANCH COMMUNITIES.

Pamela J. Chaney
Notary Public

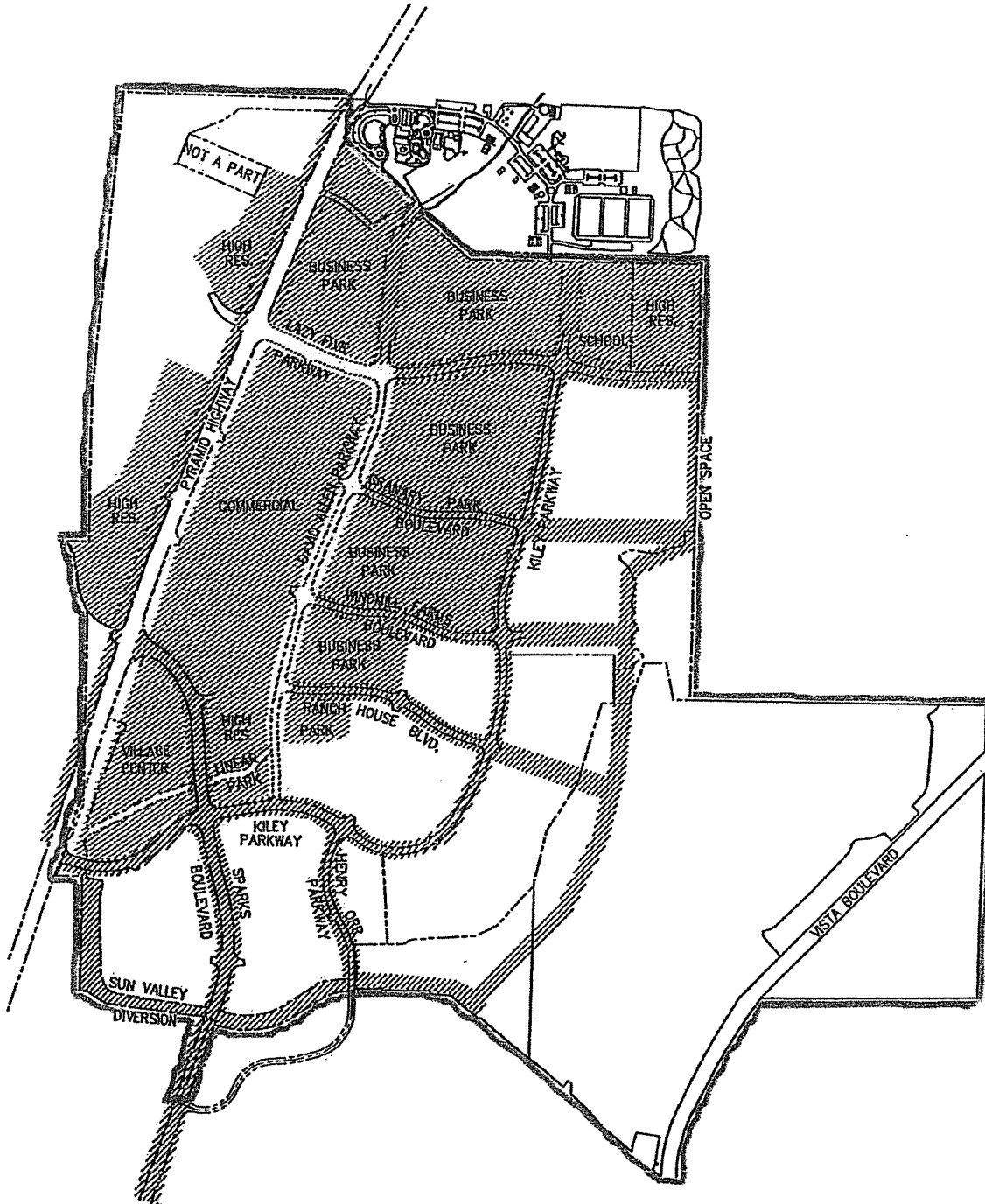





Index of Exhibits: Kiley Master Service Agreement


- Exhibit A** Site Plan
- Exhibit B** Effluent Fee Calculation
- Exhibit C** Effluent Utility Fee Schedule
- Exhibit D** Effluent Utility Rates

Exhibit A

RECLAIMED WATER USAGE EXHIBIT KILEY RANCH COMMUNITIES SPARKS NEVADA February 15, 2008



-  PHASE 1 WATER USAGE AREA
-  PHASE 2 WATER USAGE AREA
-  FUTURE KILEY STREETSCAPE WATER USAGE AREA

-  FUTURE RETAIL/COMMERCIAL, OFFICE/BUSINESS PARK, SCHOOL, NEIGHBORHOOD PARK WATER & HIGH DENSITY RESIDENTIAL WATER USAGE AREA

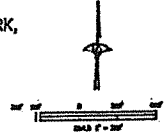


EXHIBIT "B" EFFLUENT FEE CALCULATION

SITE: Kiley Ranch (see Exhibit "A")	
MINIMUM ANNUAL DEMAND, Ac-ft. / yr. =	473.72
MAXIMUM ANNUAL DEMAND, Ac-ft./ yr. =	473.72
DAY TIME PEAK FLOW DEMAND, gpm =	0
NIGHT TIME PEAK FLOW DEMAND, gpm =	1180
METER SIZE, inches =	4
FEE ZONE -	4B
FEE CALCULATION	
INFRASTRUCTURE CONNECTION FEE	
INFRASTRUCTURE CONN. FEE MULTIPLIER, from rate structure (day) =	\$872.16
INFRASTRUCTURE CONN. FEE MULTIPLIER, from rate structure (night) =	\$436.08
ONE TIME TOTAL INFRASTRUCTURE CONN. FEE fee multiplier x peak flow demand (day) =	\$0.00
ONE TIME TOTAL INFRASTRUCTURE CONN. FEE fee multiplier x peak flow demand (night) =	\$514,574.40
ONE TIME TOTAL INFRASTRUCTURE CONN. FEE Total (day + night) =	\$514,574.40
ALTERNATE MONTHLY AMORITIZED FEE Total fee x 0.0063265 =	\$3,255.45
ALTERNATE ANNUAL AMORITIZED FEE Monthly fee x 12 Months/ yr. =	\$39,065.46
MONTHLY METER SERVICE FEE	
MONTHLY METER SERVICE FEE from rate structure =	\$277.79
ANNUAL METER SERVICE FEE =	\$3,333.52
ANNUAL RESERVATION FEE	
RESERVATION FEE \$/ 1000 gallons =	\$0.96
ANNUAL RESERVATION QUANTITY Gallons/ year= Maximum annual demand, ac-ft./yr. x 325851gal/ ac-ft. =	154,362,136
ANNUAL RESERVATION FEE =	\$148,187.65
ESTIMATE OF TOTAL ANNUAL FEE= Amortized annual Infrastructure Fee + Annual Meter Fee+ Approx. Effluent Use Fee =	\$190,586.63

EXHIBIT "C"
ANNUAL MINIMUM RESERVATION FEE CALCULATION

Current rate per 1,000 gallons	\$	0.96
Requested Reservation (In acre ft.)		473.72
Gallons per Acre Feet		325,851
Requested Reservation (in 1000 gallons)		154,362
Minimum Annual Reservation Fee	\$	148,187.65

EXHIBIT "D"
EFFLUENT UTILITY RATES

I. INFRASTRUCTURE CONNECTION FEE

Zone	Zone Description		Night Time Delivery 8 PM to 4AM		Daytime Delivery 4AM to 8 PM
4B	Vintage Hills Parkway, north to the Sparks Flood Control Dam	\$	375.76	\$	751.52
4C	From 4B east along Vista to the Spanish Springs Sports Complex and from Sparks Control Dam north to Eagle Canyon	\$	496.40	\$	992.80

Notes:

Infrastructure Connection Fee: Nighttime demand, gpm x peak flow multiplier +
Daytime demand, gpm x peak flow multiplier

Infrastructure Connection Fee: User may elect to pay upfront a lump sum fee or make
monthly payments amortized over 20 years at 4.5%. Approx Annual Payment = loan/13.0079

Notes on Calculation of GPM for Purposes of Computing Infrastructure Connection Fee:

- (a) The customer shall calculate the peak daily demand using a commercially reasonable standard
- (b) Hours of delivery will vary depending on the Connection type. If effluent is to be discharged to a storage facility, the effluent will be delivered during the day time period, 16 hours, from effluent 4:00 AM to 8:00 PM. If the distribution system is to connect directly to a pressurized system, the effluent will be delivered during the night, 8 hours, from 8:00 PM to 4:00 AM.

II. MONTHLY METER SERVICE FEE

Meter Size (In Inches)	Maximum Recommended Flow Rate, GPM		Night Time Delivery 8 PM to 4 AM		Daytime Delivery 4 AM to 8 PM
1 1/2	50	\$	46.30	\$	70.12
2	80	\$	74.08	\$	112.19
3	200	\$	185.19	\$	280.47
4	300	\$	277.79	\$	420.70
6	660	\$	611.14	\$	925.54
8	1250	\$	1,157.46	\$	1,752.91
10	1950	\$	1,805.64	\$	2,734.55
12	2900	\$	2,685.30	\$	4,066.76

Notes: Monthly Meter Service Fee, per meter size, paid 12 months per year

III. EFFLUENT USE FEE

Cost of effluent at point of use per 1000 gallons = \$0.96

