

THIRDSECOND AMENDED AND RESTATED WASTEWATER SERVICE AND IMPACT FEE AGREEMENT

This ~~ThirdSecond~~ Amended Wastewater Service and Impact Fee Agreement (“Agreement”) is by and among the City of Dripping Springs, a Type A General Law City located in Hays County, Texas (the “City”), ~~and~~ Hays County Development District No. 1 (“District”), a political subdivision of the state of Texas, ~~and CF CSLK Caliterra LLC and CF CSLK Carter LLC (“Owner”), limited liability corporations who are assignees of the interests of~~ Development Solutions CARTER, LLC and Development Solutions CAT, LLC (“~~OwnerAssignors~~”). Collectively, the City, the District, and the Owner are hereinafter referred to as the “Parties.”

RECITALS:

- A. ~~CF CSLK Caliterra LLC and CF CSLK Carter LLC~~~~Development Solutions CAT, LLC and Development Solutions CARTER, LLC~~ own the Properties that are within the District or will be annexed within the District. The ~~Developer~~Owner plans a mixed-use development within the District’s boundaries and has requested sewer service from the District. One property is generally located at the intersection of Ranch Road 12 and FM 150 and is referred to as the Caliterra Subdivision. The other property is general located southeast of the intersection of Creek Road and Mount Gainor Road and is referred to as the ~~Ranch at Caliterra~~Carter Ranch.
- B. In an effort to regionalize the wastewater service to the area, the District and the City believe it is in the best interest to provide wastewater service to the Caliterra Subdivision and ~~Ranch at Caliterra~~Carter Ranch and the City has requested the use of land in the Caliterra Subdivision and ~~Ranch at Caliterra~~Carter Ranch for treated effluent disposal purposes.
- C. The City wishes to provide the requested service through the City’s South Regional Wastewater Treatment and Collection System (“the System”).
- D. Because the new service ~~will~~required expansions of the City’s wastewater treatment and disposal systems, the City, the Owner and the District ~~have~~agreed to design and construct certain wastewater treatment and disposal facilities as expansions to the System, to serve the District and other City customers as set forth in this Agreement.
- E. In addition, the Parties wish to enter into this Agreement providing for the timing and payment of Impact Fees.
- F. The ~~Parties~~City, District, and Assignor executed a Wastewater Service and Impact Fee Agreement with an effective date of January 14, 2014 (“Initial Agreement”).
- G. The ~~Parties~~City, District, and Assignor have entered into a First Amended Wastewater Service and Impact Fee Agreement with an effective date of January 27, 2015 (~~“First Amended Agreement”~~).
- H. The City, District, and Assignor have entered into a Second Amended Wastewater Service and Impact Fee Agreement with an effective date of December 7, 2016 (“Second Amended Agreement”).
- ~~G.~~
- ~~H. The District and the Owner have asked the City to provide wastewater service to the Carter Ranch and Parties agree to add the Carter Ranch to this agreement.~~

- I. The Assignors have assigned all of its rights, obligations, and benefits in the Initial Agreement, First Amended Agreement, and Second Amended Agreement to the Owner
- J. Subsequent to executing the Initial Agreement, ~~and~~ the First Amended Agreement, and the Second Amended Agreement, the Parties desire to make amendments, and execute this Agreement to replace and supersede the Initial Agreement, the ~~and~~ First Amended Agreement, and the Second Amended Agreement.
- K. The Parties acknowledge that the wastewater arrangement has been mutually beneficial.
- L. Through these Agreements, the City is able to dispose of treated effluent generated from City Customers that are outside of the District.
- ~~I.M.~~ The wastewater disposed in Recital L above is accomplished through, among other improvements, a large effluent holding pond, spray irrigation areas, including pipes and conveyances provided by the District and the Developer with cost-sharing from the City.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, including the agreements set forth below, the City, the Owner and the District agree as follows:

ARTICLE 1 DEFINITIONS

- 1.1 **Agreement:** This contract between the City, the Owner, and the District, including all Exhibits, which are incorporated herein for all intents and purposes. As of the Effective Date below, and upon execution by all parties, this ~~-ThirdSecond~~ Amended Wastewater Service and Impact Fee Agreement (“Agreement”) replaces and supersedes the Initial Agreement ~~and~~ the First Amended Agreement ~~and the Second Amended Agreement~~. “Agreement” herein refers to this ~~ThirdSecond~~ Amended Wastewater Service and Impact Fee Agreement and not the Initial Agreement.
- 1.2 **CCN:** A Certificate of Convenience and Necessity issued by the TCEQ designating areas to be served with retail sewer service.
- 1.3 **Chapter 395:** Chapter 395 of the Texas Local Government Code, as such may be amended from time to time.
- 1.4 **City:** The City of Dripping Springs, an incorporated Type A, general law municipality located in Hays County, Texas.
- 1.5 **City Council:** The governing body of the City of Dripping Springs, Texas.
- 1.6 **City Engineer:** The person or firm designated by the City Council as the wastewater engineer for the City of Dripping Springs, Texas.
- 1.7 **City’s Reserved Share:** ~~68,000 GPD~~ 389 LUE wastewater capacity of effluent disposal and effluent holding pond on the Caliterra Subdivision for use by the City. This capacity shall be for use by the City separate and apart from the wastewater needs of the Caliterra Subdivision and the ~~Ranch at Caliterra~~ Carter Ranch. This capacity may be used for wastewater capacity or for beneficial reuse, at the City’s option.

- 1.8 **City Wastewater Utility Standards:** all City standards, including standards for design, location, construction, and installation of Wastewater Infrastructure as they may be enacted and thereafter amended from time to time, and expressly including the following:
- (a) Utility Extension Policies;
 - (b) Water Quality Ordinance;
 - (c) Pretreatment/Waste Control Ordinance; and
 - (d) Technical Construction Standards & Specifications Manual.
- 1.9 **Engineering Contracts:** The contracts between the City and Engineers for design of the infrastructure described in Article 2 and Exhibits ~~A, B, and C, D-1, and D-2~~ of this Agreement. To the extent that Engineering Contracts with sub-contractors for the construction and operation of infrastructure described in Article 2 and Exhibits ~~A, B, and C, D-1, and D-2~~ of this Agreement, such subcontracts are included in the definition of Engineering Contracts.
- 1.10 **Connection Fees:** The City's wastewater connection fees as adopted in Article 20.02.005 (1)(B) of the City's Code of Ordinances. Pursuant to City ordinance, the City's Connection Fee and the City's Impact Fee is the same fee.
- 1.11 **Construction and Operation Contracts:** The contracts between the City and other persons for the construction and operation of infrastructure described in Article 2 and Exhibits ~~A, B, and C, D-1, and D-2~~ of this Agreement.
- 1.12 **Contractor:** A person or entity that designs, constructs, installs, alters or repairs Wastewater Infrastructure required to serve the Properties, whether located on or outside the Properties.
- 1.13 **Customer:** the retail end-user of (a) the System, (b) the Wastewater Infrastructure, and (c) the WW Expansion Facilities.
- 1.14 **District's Final Reserved Share – Caliterra Subdivision:** ~~674~~~~118,000 GPD~~LUE retail wastewater capacity from the City's South Regional Wastewater Facilities for residential and commercial service to the Caliterra Subdivision within the District. This retail capacity shall be reserved for the exclusive use on the Properties within the District. This ~~118,000 GPD~~674 LUE includes the District's Initial Reserved Share. The District shall pay the standard reservation fees for this retail wastewater capacity as set-forth in paragraph 2.~~107~~ of this Agreement.
- 1.15 **District's Final Reserved Share – Ranch at Caliterra**~~Carter Ranch~~: ~~50,000 GPD~~286 LUE retail wastewater capacity from the City's South Regional Wastewater Facilities for residential service to the Ranch at Caliterra~~Carter Ranch~~ within the

District. This retail capacity shall be reserved for the use on the Ranch at Caliterra~~Carter Ranch~~ and lands within the District boundaries.

- 1.16 **District's Initial Reserved Share:** ~~21,000-GPD~~120 LUE retail wastewater capacity from the City's South Regional Wastewater Facilities for residential and commercial service to the Properties within the District. This retail capacity shall be reserved for the exclusive use on the Properties within the District. The District shall pay the standard fees for this retail wastewater capacity upon the Effective Date.
- 1.17 **Effective Date:** The date set forth as the Effective Date in **Section 6.15** below.
- 1.18 **Impact Fees:** City's wastewater impact fees for new or enlarged connections as adopted in Article 20.02.005 of the City's Code of Ordinances in accordance with Chapter 395. Pursuant to City ordinance, the City's Connection Fee and the City's Impact Fee is the same fee.
- 1.19 **Properties:** One property is generally located at the intersection of Ranch Road 12 and FM 150 and is referred to as the Caliterra Subdivision and is in the extraterritorial jurisdiction of the City. The other property is general located southeast of the intersection of Creek Road and Mount Gainor Road and is referred to as the Ranch at Caliterra~~Carter Ranch~~ and is in the extraterritorial jurisdiction of the City. Collectively, the Caliterra Subdivision and the Ranch at Caliterra~~Carter Ranch~~ constitute the "Properties."
- 1.20 **LUE:** Living Unit Equivalent of sewer usage, as defined in Article 20.02.001 of the City's Code of Ordinances, as it may be amended from time to time or as determined by the City Engineer.
- 1.21 **Party:** Individually, the City, the Owner, or the District.
- 1.22 **Payees:** The person or persons who are entitled to payment for worked performed under Engineering Contracts or the Construction and Operations Contracts.
- 1.23 **System:** The City's South Regional Wastewater Treatment System, including City-owned collection lines, treatment, and disposal facilities.
- 1.24 **TCEQ:** The Texas Commission on Environmental Quality, or its successor agencies.
- 1.25 **Wastewater Infrastructure:** All wastewater facilities, equipment or related improvements necessary to serve the Properties, whether located on or outside the Properties.
- 1.26 **Wastewater Ordinance:** Chapter 20 of the City of Dripping Springs Code of Ordinances, as amended from time to time, and any rules enacted pursuant thereto.
- 1.27 **WW Expansion Facilities:** The Wastewater Infrastructure consisting of the wastewater existing treatment plant, disposal facilities, effluent tank and/or pond(s),

and treated effluent transfer line required to increase the City's wastewater treatment and disposal capacity.

ARTICLE 2 PERMITTING AND CONSTRUCTION

2.1 District's Existing TCEQ TLAP Permit. The District has obtained a TCEQ Permit ~~Amendment to amend its existing TCEQ Permit~~ Number WQ0016604001 ("Ranch at Caliterra Permit"). ~~WQ0014208001.~~ The Parties intend the Ranch at Caliterra Permit to be temporary until such time that the City is able to provide wastewater service pursuant to its permits and facilities as specified herein. The District may operate facilities and service under the Ranch at Caliterra Permit for the Caliterra Subdivision, the Ranch at Caliterra Subdivision, or the Farmstead Development until such time that the City is able to provide wastewater service pursuant to its permits and facilities as specified herein, at which time it will cease operating under the Ranch at Caliterra Permit and will remove at its own cost any facilities that were constructed to operate under the Ranch at Caliterra Permit and that are not left in-place for the City System or for beneficial reuse. When the City is able to provide service to the Ranch at Caliterra Development, it will provide notice to the District and the District and the City will coordinate efforts to cease the operation under the Ranch at Caliterra Permit. The City does not and will not operate under the Ranch at Caliterra Permit. The City does not and will not provide services or bill customers to customers while the District is utilizing the Ranch at Caliterra Permit. The District, not the City, will be the wastewater provider to Ranch at Caliterra during this interim period and will handle all billing and collection for operations under the Ranch at Caliterra Permit. The District is responsible for all costs associated with constructing or removing facilities under the Ranch at Caliterra Permit.

- a. Nothing in this Agreement should be construed as requiring any party to operate under the Ranch at Caliterra Permit or to build any facilities under the Ranch at Caliterra Permit.
- b. With respect to the District's operation under the Ranch at Caliterra Permit, the following provisions apply:
 - (1) The operations under the Ranch at Caliterra Permit shall be at facilities other than the City WWTPs or City System and shall be the sole responsibility of the District.
 - (2) The City's West Interceptor shall not be used for storage or any use by the District. To the extent that any of the Ranch at Caliterra Permit facilities is connected to the City System (including the West Interceptor), the District will isolate the Ranch at Caliterra Permit facilities from the City System in such a way that is reasonably acceptable to the City. Provided, however, that the District can utilize up to 45 unused LUEs from the District's Final Reserved Share – Caliterra Subdivision operations under the District's TLAP Permit pump and haul so that no storage of effluent will be in West Interceptor. (inarticulate language but I am trying to get point across.)

- (3) It is the District's responsibility for ensuring sufficient storage exists for its activities (without using any City facilities for storage).
- (4) If any damage occurs or repairs are done to what will be City infrastructure in the future, the District will notify the City as soon as practicable upon determining that damage was done or repairs are needed and allow the City to inspect the damage and or repairs.
- (1) After startup of the facilities under the Discharge Permit, the District shall clean, retest, and revideo the portions of the collection system that were used under the Ranch at Caliterra Permit, if any.
- (2) Upon acceptance by the City of the recleaned and retesting results of the portions of the collection system used for storage by the District, the District may connect to the West Interceptor. At that time, the collection will be accepted by the City for ownership, operation, and maintenance and the two (2) year warranty period of the collection system for the City shall begin. Once any portion of the collection system is accepted by the City, the District will not use that portion under the Ranch at Caliterra Permit.
- (3) Upon the cessation of operations under the Ranch at Caliterra Permit, the collection and distribution facilities that were utilized shall be dedicated to the City, but the District or Owner will be responsible for the decommissioning and removal of any wastewater plant that was operating under the Ranch at Caliterra Permit. Facilities that are to the City that were utilized under the Ranch at Caliterra Permit must be cleaned, videotaped, and inspected to assure that the facilities are being conveyed in a state that is reasonably acceptable to the City.
- (4) Upon the cessation of operations under the Ranch at Caliterra Permit, District shall deliver its billing records for its operations under the Ranch at Caliterra Permit to the City.

~~2.1 Special Condition 21 of Permit Number WQ0014208001 requires that within 180 days of the issuance of the permit amendment described in section 2.2 of this Agreement, the District will apply to the TCEQ for cancellation of Permit Number WQ0014208001. Because the permit amendment described in section 2.2 of this Agreement has occurred, the District will apply for cancellation of Permit Number WQ0014208001. Exhibit A had originally been intended to provide a cost allocation for construction of facilities pursuant to Permit Number WQ0014208001, but has been removed from this Agreement because facilities will not be built pursuant to Permit Number WQ0014208001.~~

~~2.1 City's Current Amended its Existing TCEQ TLAP Permit—Amendment 1. The City currently provides wastewater service to the Caliterra subdivision pursuant to its amended its existing TCEQ Permit Number WQ0014488001 ("City TLAP Permit"). The Caliterra subdivision is entitled to 674 LUE of the capacity from the City's TLAP Permit because Owner agreed to and provided an The amendment allows expansion of the~~

~~permitted capacity of the City's WWTP, and will add the Pond and Irrigation Area to the permit to expand the permitted disposal capacity to a total of 348,500 GPD. The amendment established new phasing of the permit with a final phase allowing a capacity of 186,000 GPD (118,000 GPD allocated to the District and 68,000 GPD allocated to the City). The WWTP, effluent holding pond, surface irrigation area, and surface irrigation system are permitted on land within the Caliterra Subdivision (hereafter referred to as the "Pond and Irrigation Area"). The Owner agrees to dedicate a portion of its Properties for the Pond and Irrigation Area sufficient to accommodate 186,000 GPD 1,063 LUEs. The City will is allowed to and does use the Pond and Irrigation Area se dedicated areas for effluent disposal via surface irrigation. The City TLAP Permit amended permit is sufficient to provide for the District's Final Reserved Share – Caliterra Subdivision and the City's Reserved Share. The District at its own discretion may utilize some of the District's Final Reserved Share – Caliterra Subdivision capacity for the Ranch at CaliterraCarter Ranch. Costs associated with preparing Amendment 1 to the City's TLAP Permit and constructing and operating the facilities authorized by this Amendment 1 shall be were allocated as set-forth in Exhibit B (attached hereto and made part of this Agreement). The District has will received a pro-rata reimbursement for the capital costs associated with the regional gravity line along Onion Creek and Phase I of the regional lift station built to accommodate the extra capacity obtained through this amendment pursuant to the reimbursement provisions of paragraph 5.2 of this Agreement to the extent that and as third parties utilize these facilities from the City's Reserved Share. Because the City shares in the costs for each phase of the irrigation system construction, the City shall have access to 36.6% of the Pond and Irrigation Area for its purposes (whether for beneficial reuse or to obtain additional capacity). The Parties agree that to the extent allowed by the permit, the irrigation system may be built in phases. To the extent that the City desires a particular phase of the irrigation system to be constructed before the District so desires, the District shall design and construct and the City shall fund the design and construction of that phase of the irrigation system and the City shall receive reimbursement (on a phase by phase basis) from the District in accordance with the allocations as set-forth on Exhibit B within 45 days from the time that the District first obtains capacity from the phase that was initially funded by the City. To the extent that the District desires a particular phase of the irrigation system to be constructed before the City so desires, the City shall provide it's share of the funding as set-forth at Exhibit B as payments to contractors become due.~~

2.2 City's TPDES Discharge is seeking Permit for Discharge. The City has obtained Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014488003 ("Discharge Permit") and is currently preparing to construct facilities to operate the City System under the Discharge Permit. The District's Final Reserved Share – Ranch at Caliterra will be made available to the Owner and District upon construction of the facilities authorized by the Discharge Permit and connection of the Ranch at Caliterra to those facilities. submitted a separate permit application allowing for discharge treated effluent into or adjacent to water in the State ("Discharge Permit Application"). The new permit ("Discharge Permit") would establish new and additional phasing. The new permit would also expand the permitted capacity of the City's WWTP, allow for discharge of treated effluent. The Pond and Irrigation Area ~~may shall~~ remain on the Properties for use by the District to the extent needed for the District's Final Reserved Share and will remain on the Properties for use by the City to the extent needed for the City's Reserved Share. Costs

associated with preparing this new application and constructing and operating the facilities authorized by the Discharge Permit this new application shall be allocated as set-forth in Exhibit C (attached hereto and made part of this Agreement). The Owner and the District agree that the discharge point identified in the Discharge Permit Application will be allowed and that easements needed to effect such discharge shall be provided by the Owner or the District at no cost to the City. If the discharge point in the final permit changes from that designated in the application, the Parties will work together in good faith to accommodate the change. City agrees that it will issue a bid award for the construction of the wastewater treatment plant authorized by the Discharge Permit by January 15, 2027.

2.3 Owner shall dedicate enough acreage at the Ranch at Caliterra Ranch to receive 30,000 gpd of treated effluent to be for Chapter 210 beneficial reuse ("Ranch at Caliterra Beneficial Reuse Acreage"). This Acreage is shown at Exhibit A. It shall be the City's responsibility to build, operate, and maintain the Ranch at Caliterra Beneficial Reuse Acreage to TCEQ standards, which includes, but is not limited to, 30 Texas Admin. Code § 210.22(c) ("There shall be no nuisance conditions resulting from the distribution, the use, and/or storage of reclaimed water."). The District may inspect City's operations to ensure proper operation and maintenance to TCEQ standards, including nuisance conditions.

(a) Owners' dedication of acreage at Ranch at Caliterra to receive 30,000 gpd of treated effluent is contingent on the City issuing a bid award for the construction of the wastewater treatment plant authorized by the Discharge Permit by January 15, 2027.

2.4 In partial consideration of the past and continuing relationship and use of wastewater facilities on District property, the City agrees to provide an expedited review process related to review of the Ranch at Caliterra. This includes all review, board and council hearings.

2.5 Owner shall convey to the City the easement identified at Exhibit D-2 for City System wastewater lines by February 1, 2027.

(a) Owners' conveyance of the easement of acreage identified at Exhibit D-2 is contingent on the City issuing a bid award for the construction of the wastewater treatment plant authorized by the Discharge Permit by January 15, 2027.

2.6 At its Board Meeting on August 13, 2026, District shall conveyed to the City the easement identified at Exhibit D-1 for City System wastewater lines based on two contingencies. Nothing in this Agreement changes that action. Upon satisfaction of those contingencies, the District shall convey the easement identified at Exhibit D-1 for City System by January 15, 2027.

(a) Districts' conveyance of the easements of acreage identified at Exhibit D-2 is contingent on the City issuing a Notice to Proceed to a construction contractor for the construction of the wastewater treatment plant authorized by the Discharge Permit by January 1, 2027.

2.2

2.32.7 Use of Reclaimed Water Under the ~~pon~~ Issuance of Discharge PermitNew Application. After approval by TCEQ of the New Permit Application specified in paragraph 2.3 above and upon construction of the facilities for either the New Permit specified in paragraph 2.3 above, subject to TCEQ approval, ~~t~~The District or Owner will be entitled to reclaim the District's Reserved Share under the Discharge Permit as follows: (a) the City will be responsible for the costs and work product required to obtain authorization from TCEQ for use of the reclaimed water; and (b) The District shall receive the reclaimed water without any additional charges. ~~_ for a period of seven (7) years after issuance of the Chapter 210 authorization issued by TCEQ related to the discharge permit and the completion of construction of the facilities for the discharge permit and after operation of the System has commenced, and~~ District agrees that during the time that the Chapter 210 beneficial reuse water is provided without charge, District will take and use as much beneficial reuse water as the City desires that District take and use (but not to exceed an amount that will provide a reasonable margin of safety to ensure compliance with any applicable laws, rules, or statutes). ~~With respect to the charges set forth in item (b) of the preceding sentence, (i) after seven years, for any water that is beneficially used on parks or areas open to the public (which includes every citizen of the City of Dripping Springs), the District shall receive such water without any charges for as long as such water is beneficially used on parks or areas open to the public; and (ii) after seven years, for any water that is not beneficially used on parks or areas open to the public is beneficially used on parks or areas open to the public (which includes every citizen of the City of Dripping Springs), the District shall pay the City a fair market price for the reclaimed water that would be comparable to the market price for a similar quantity and quality of water.~~

2.4 City to Amend its Existing TLAP Permit ~~TLAP Amendment 2.~~ The City will develop a TCEQ Permit Amendment Application to amend its existing TCEQ Permit Number WQ0014488001. TCEQ issued Amendment 1 on November 19, 2015. Amendment 1 authorized the City to dispose up to 348,500 GPD as follows: 1. Subsurface drip irrigation disposal of 162,500 GPD (in two permit phases of 127,500 GPD, and 162,500 GPD); and 2. Surface irrigation disposal of 186,000 GPD (in three permit phases of 62,000 GPD, 124,000 GPD, and 186,000 GPD). The City is currently in the 127,500 GPD subsurface drip irrigation Phase and may desire to pursue an additional alternative authorization from TCEQ in the form of an amendment for the final phase of the Amendment 1 permit. The amendment, hereafter referred to as "TLAP Amendment 2" would allow expansion of the permitted capacity of the City's WWTP, and will add the Pond and Irrigation Area on Carter Ranch to the permit to expand the proposed permitted disposal capacity of 348,500 GPD by 50,000 GPD. The amended permit will be sufficient to provide for the District's Final Reserved Share for the Caliterra Subdivision and Carter Ranch, and the City's Reserved Share. The City's Engineer shall prepare the amendment application. If at any time, in the City's sole judgment, the City determines after consulting with the District that this TLAP Amendment 2 jeopardizes its ability to obtain the Discharge Permit, or otherwise determines that TLAP Amendment 2 is contrary to its interests, the City may withdraw its application for TLAP Amendment 2 from TCEQ, the obligations arising under this paragraph 2.2 become null and void, but no Party is entitled to damages for such withdrawal or to repayment of money already spent and each Party must honor bills for work already done.

~~(a) — After TLAP Amendment 2 is issued by the TCEQ, the District may decide, at its option, whether it will participate in construction of Facilities associated with TLAP Amendment 2 in order to obtain wastewater capacity for Carter Ranch or for the Caliterra Subdivision.~~

~~(b) — The parties recognize that third parties may or may not participate in sharing the costs and obtaining capacity from obtaining TLAP Amendment 2 and construction facilities to implement TLAP Amendment 2. It is contemplated that SLF IV—Dripping Springs JV, L.P., a Texas limited partnership or its assignee (the “Heritage Owner”) may participate (but is not required to) in the construction facilities to implement TLAP Amendment 2 in order to obtain capacity from TLAP Amendment 2.~~

~~(c) — If the Heritage Owner does not participate (but is not required to) in the construction facilities to implement TLAP Amendment 2 in order to obtain capacity from TLAP Amendment 2, Costs associated with preparing TLAP Amendment 2 and constructing and operating the facilities authorized by this TLAP Amendment 2 shall be allocated as set forth in Exhibit D-1 (attached hereto and made part of this Agreement).~~

~~(d) — If the Heritage Owner does obtain capacity from TLAP Amendment 2 (regardless of when it obtains such wastewater capacity), Costs associated with preparing TLAP Amendment 2 and constructing and operating the facilities authorized by TLAP Amendment 2 shall be allocated as set forth at Exhibit D-2 (attached hereto and made part of this Agreement). To the extent that the Heritage Owner obtains capacity after the District or Owner has already expended funds for TLAP Amendment 2 facilities, the Heritage Owner shall reimburse whichever entity made such expenditures such that the allocation is reflected as set forth at Exhibit D-2.~~

~~(e) — In no event shall the Owner or District be responsible to fund any portion of the cost of any permanent facilities built for TLAP Amendment 2 that benefit the Discharge Permit facilities.~~

~~(f) — If the Heritage Owner participates in the TLAP Amendment 2 facilities and funds the estimated costs as specified at Exhibit D-1, then at the end of the construction City, District and Owner, and Heritage Owner shall determine the actual Construction Costs and the actual pro-rata share of costs and thereafter any under payment or overpayment will be made, within 30 days of notice of same. No party shall have the right to use capacity in the TLAP Amendment 2 facilities until any underpayments are paid to the party who is owed such funds. If not timely paid, Owner shall have the right to impact fee credits for the unreimbursed pro-rata payments made by Owner but owed by others and the underpayment shall be a debt that is owed to the City and enforceable through recourse to a court of law.~~

2.52.8 Timing of Design and Construction of Facilities. ~~Upon receiving funding to design and construct development on the Caliterra Subdivision, t~~The District is responsible for and has shall begin designed and constructed~~ed~~ of the required Pond and Irrigation Area under this Agreement, in phases, as needed. The full District’s Final Reserved Share –

Caliterra Subdivision has been made and is currently available to the District under the City's TLAP Permit. At that time, the City will allow initial service for the District using the City's existing permit and facilities for the District's Initial Reserved Share until the time when the City reaches its 85% of its existing 127,500 GPD permitted limit (hereafter referred to as the "85% Trigger") unless otherwise agreed to by both the City and the District. The District may begin design and construction of the Pond and Irrigation Area on the Carter Ranch no later than when it reaches 85% capacity of the 118,000 GPD capacity allocated to the Caliterra Subdivision in Amendment 1. The District's Final Reserved Share – Ranch at Caliterra will be made available to the District upon the construction of the of the facilities to operate phase I of the City's operations under the Discharge Pemrit (including construction of the West Interceptor).

2.62.9 City to Reserve Capacity and Reservation Fees. The City ~~shall~~ has already delivered the reserve the District's Initial Reserved Share and no Reservation Fees are now applicable. ~~and the District will begin paying the associated reservation fee upon the Effective Date of this Agreement. The City reserved the District's Final Reserved Share when the TCEQ issued Amendment 1 discussed in paragraph 2.2 of this Agreement. The District's Final Reserved Share will remain in effect after the discharge permit is issued as discussed in paragraph 2.32 of this Agreement. Because the District is providing the property for the Pond and Irrigation Area and is funding a substantial part of the facilities and upgrades necessary for the City's TLAP Permit, Amendments 1, either New Permit Application and TLAP Amendment No. 2, there will be no reservation fee assessed to the District for the District's Final Reserved Share – Caliterra Subdivision or District's Final Reserved Share – Ranch at Caliterra– until after issuance by TCEQ of the Ddischarge pPermit and construction by the City of facilities to serve the District under the Discharge Permit. TLAP Amendment 2 specified in paragraph 2.5 of this Agreement.~~

2.7 — District and Owners' Participation. The Parties agree that the Owner's participation and responsibility to share in the cost described in the above sections are contingent on the City entering into Development Agreements with Owners for the development of both the Caliterra Subdivision and the Carter Ranch; The City and the Owners, prior to the Effective Date of this Agreement, have entered into a Development Agreement for the Caliterra Subdivision which satisfies part of that requirement. As provided in the Caliterra Development Agreement, development must occur in a manner such that there is property reasonably available to be set aside for use as treated effluent disposal and/or an effluent holding pond. The Parties agree that construction contracts shall not be bid unless that particular phase is funded and necessary.

2.82.10 Timing of Payments. This paragraph has been completed but is retained for the purpose of recording the agreement regarding timing of payments. As infrastructure is designed and constructed pursuant to this Agreement, the costs are to be shared as provided in this Article 2 above. To the extent that the City has entered into contracts for the design and construction to be performed pursuant to this Agreement and, as work is performed under those contracts, becomes obligated to pay those costs, Owner and/or District agrees to pay (or reimburse) the City for the percentage of the costs in the "Caliterra" columns shown in Exhibits A, B, and C, ~~D-1, and D-2~~ of this Agreement. Regarding the timing of those payments from the Owner to the City, Owner agrees to promptly pay the "Caliterra"

percentage of each invoice to the City within 60 days of the City's presentment to Owner and/or District of each invoice for such costs. The City agrees that it will not add a surcharge or "markup" for design work performed by consultants such as engineers, surveyors, attorneys, etc. Disputed invoices shall not be grounds for non-payment of subsequent invoices. As a clarification to Exhibits ~~A, B, and C, D-1, and D-2~~, Owner and/or District is not responsible for costs, including but not limited to preliminary design, final design or survey work that is conducted "upstream" of the Caliterra Subdivision.

To the extent that the Owner and/or District has entered into contracts for the design and construction to be performed pursuant to this Agreement and, as work is performed under those contracts, becomes obligated to pay those costs, City agrees to pay (or reimburse) the Owner and/or the District for the percentage of the costs in the "City" column in Exhibits ~~A, B, and C, D-1, and D-2~~ of this Agreement. Regarding the percentage of each invoice to the Owner and/or District, City agrees to pay promptly the "City" percentage of each invoice to the Owner and/or District within 60 days of the Owner's and/or District's presentment to the City of each invoice for such costs. The Owner and District agree that each will not add a surcharge or "markup" for design work performed by consultants such as engineers, surveyors, attorneys, etc. Disputed invoices shall not be grounds for non-payment of subsequent invoices.

2.92.11 Rates. Nothing in this Agreement affects the City's control over rates charged to its customers. The City, not the District, shall have control over rates charged to its customers for use of the System, or any wastewater treatment plant or facilities constructed pursuant to this Agreement.

2.12 Review Fees. The City will waive its site development fees for irrigation areas in the permitted irrigation areas on the Properties, but Owner will reimburse City for reasonable actual costs associated with review of such areas.

2.13 The City will not accept or operate any grinder pumps as part of the City System. Ant grinder pumps that are utilized on the Caliterra Subdivision or the Ranch at Caliterra shall be private property and shall not be the responsibility of the City.

2.10

ARTICLE 3 WASTEWATER SERVICE TO THE PROPERTIES

3.1 Wastewater Service. ~~Except for the Ranch at Caliterra Permit, T~~the City operates an existing wastewater collection and treatment system, referred to in this Agreement as the System. The City collects, treats, and disposes of wastewater through the System.

3.2 Availability of Service. The City shall provide the District wastewater service through the System upon construction of the City's Wastewater Infrastructure and WW Expansion Facilities contemplated by this Agreement and upon Customer's execution of

the City's then-current wastewater application form and payment of any fees required herein for commencement of service.

3.3 Wastewater Customer Obligations. This Agreement does not abrogate or otherwise alter, in any way, the future obligations of the District or its customers to comply with the City's Wastewater Ordinance, as that ordinance may be amended from time to time, including requirements related to wastewater service application, payment and other provisions governing retail wastewater service; payment of wastewater rates and fees; pretreatment requirements; service termination, interest, and other charges as provided in the ordinance for delinquent accounts; provided, the District shall not be required to pay any utility deposit, or any additional Connection Fees, Impact Fees or Capital Recovery Fees under Article II of the City's Wastewater Ordinance for connecting the reserved LUE's to the System, other than those due pursuant to **Article 5**. The District's residents will be retail customers of the City upon issuance by TCEQ of Amendments 1 and either New Permit Application and/or TLAP Amendment No. 2 as specified in this Agreement.

3.4 Wastewater CCN. If the City elects to file with the TCEQ an application for a wastewater CCN covering the Properties that is consistent with the City's service obligation under this Agreement, then the District agrees not to oppose or protest, or support any other person in opposing or protesting, such application.

3.5 Conveyance/Ownership of Wastewater Facilities. Upon final completion of construction, as evidenced by a certificate of final completion and acceptance by the City of a phase of the Wastewater Facilities, the District and/or Owner will dedicate and convey that phase of the Wastewater Facilities to the City, including any easements associated with that phase. The conveyance shall include access to public rights-of-way and easements are sufficient to permit the City to operate and maintain such Facilities. Following the acceptance and dedication of a phase of the Wastewater Facilities, the City will be responsible for the operation and maintenance of that phase of the Wastewater Facilities. The form of the dedication instruments, easement assignments and maintenance bonds shall be submitted for review and approval by the City, which will not be unreasonably withheld or delayed. In any event, the City agrees that the District shall have an undivided interest in the capacity of that portion of the City's Wastewater System, up to the capacity designed for the provision of wastewater service to the District by the City to the extent of the designed capacity of the conveyed systems and the payment of associated costs of said facilities by the District. In no way should this section be interpreted to mean that the District shall have an undivided interest in capacities that exceed the amount needed to service the District, or in any capacities that the City should require to be included as oversizing. Notwithstanding anything to the contrary, the effluent holding pond and irrigation system constructed in the Caliterra Subdivision and Ranch at Caliterra~~Carter Ranch~~ will be owned by the District.

ARTICLE 4 WASTEWATER INFRASTRUCTURE STANDARDS AND CONSTRUCTION

4.1 Design and Construction of WW Improvements. The District shall design and construct, or cause to be constructed the WW improvements described in Paragraph 2.52 above.

4.2 Inspection by City. Any Wastewater Infrastructure constructed by District must be constructed in compliance with the City Wastewater Utility Standards as those standards exist at the effective date of this Agreement and TCEQ statutes and regulations. At the City's cost, the City has the right, but not the obligation, to inspect and test any Wastewater Infrastructure at any time, and the right to participate in a final inspection of all Wastewater Infrastructure, including any connection to the District's buildings or other structures on the Properties. To the extent that District undertakes any of its own inspections, the District will promptly provide copies of the resulting inspection reports to the City. With respect to any Wastewater Infrastructure not constructed by the City, the District or its Contractor shall notify the City when Wastewater Infrastructure is ready for final inspection. If the City concurs that construction of the Wastewater Infrastructure is substantially complete, then the City will schedule a final inspection by the City within ten (10) days. After such final inspection, the District shall timely correct any punch list items. If the City undertakes an inspection at its cost and that inspection results in a finding of noncompliance with TCEQ regulations, then, notwithstanding anything to the contrary in this paragraph, District will reimburse City for the costs of a City follow-up inspection to address the noncompliance item(s).

4.3 Wastewater Infrastructure Easements. All portions of the WW System Improvements will be able to be located in existing public rights-of-way or easements to be provided by District.

4.4 Operational Standards. The Pond and Irrigation Area shall be operated in accordance with applicable TCEQ permits, regulations and statutes.

ARTICLE 5 FEES

5.1 Payment of Connection Fees or Impact Fees. Builders and other contractors constructing homes shall be responsible for directly paying the City's Connection or Impact Fees for each LUE connected to the District's wastewater system. These fees shall be payable to the City in the amount specified for impact fees for new development pursuant to subsection (2)(D) of City Ordinance Section 20.02.005 at the time the builder or contractor applies for a building permit with the City. The parties agree that the City will only assess an Impact Fee or a Connection fee but not both. Notwithstanding anything in this Agreement to the contrary, no service shall be provided until all applicable connection or impact fees have been paid pursuant to City Ordinance § 20.02.005.

5.2 Reimbursement. The City shall require any entity or person that is not the District or the District's resident that connects to or utilizes any facility that is contemplated by this Agreement and for which reimbursement is available pursuant to Article 20.05 (Wastewater Line Extension) of the City's Wastewater Ordinance, to pay their reasonable pro-rata share of the District's costs incurred for providing capacity greater than that needed

by the District and its residents (hereafter “Reimbursement Costs”), and the City agrees to reimburse the District by paying the District or Owner on behalf of the District those pro-rata amounts collected from such persons. The pro-rata share to be attributable to Reimbursements Costs shall be determined by the City Engineer based on wastewater engineering factors, the City will adopt an ordinance establishing the charge for the line extension as provided by the Wastewater Ordinance, and the District’s Reimbursement Costs shall be calculated and paid as provided in Chapter 20, Article 20.05 (Wastewater Line Extension) of the City’s Wastewater Ordinance. Notwithstanding City Ordinance § 20.05.006(h), the reimbursement period under this Agreement shall apply until all applicable District costs have been reimbursed in full. To the extent that the City collects Reimbursement Costs from third parties prior to construction, the City will promptly deliver such funds to the District or Owner on behalf of the District and the District will credit such funds to the amount that it would otherwise be entitled as Reimbursement Costs. To the extent that the District or Owner are obligated to pay impact fees, the City agrees that the reimbursement amounts collected pursuant to this paragraph may be applied to those impact fees.

The City will be responsible for reimbursing Owner or the District for Owner’s or District’s payments to “over-size” capacity in the system. The City will make such payments to Owner or the District after the City has issued bonds as part of its Capital Improvement Plan for wastewater and will, within 90 days of being notified by District and/or Owner will commence making payments to the District or Owner for the “over-size” costs. The City’s responsibility to reimburse Owner or the District does not arise until the City has issued bonds as part of its Capital Improvement Plan for wastewater.

ARTICLE 6 MISCELLANEOUS

6.1 Termination of Contract in Case of an Emergency. Whenever, because of an emergency so declared by the President of the United States, Governor of Texas, other lawful authority, or it becomes impossible for the District to obtain all of the necessary funding for the prosecution of the Work with reasonable continuity for a period of two months, the District shall within seven days notify the City in writing, giving a detailed statement of the efforts which have been made and listing all necessary items of funding not obtainable. If after investigation, the City finds that such conditions exist and that the inability of the District to proceed is not attributable in whole or in part to the fault or neglect of the District, then if the City cannot after reasonable effort assist the District in procuring and making available the necessary funding within 30 days, the District may request the City to terminate the Contract and the City shall within 30 days comply with the request, and the termination shall be based on a final settlement, which shall include, but not be limited to, the payment for the portion of the Work previously completed and approved

6.2 Governing Law Jurisdiction and Venue. **THIS AGREEMENT MUST BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AS THEY APPLY TO CONTRACTS PERFORMED WITHIN THE STATE OF TEXAS AND WITHOUT REGARD TO ANY**

CHOICE OF LAW RULES OR PRINCIPLES TO THE CONTRARY. THE PARTIES ACKNOWLEDGE THAT THIS AGREEMENT IS PERFORMABLE IN HAYS COUNTY, TEXAS AND HEREBY SUBMIT TO THE JURISDICTION OF THE COURTS OF HAYS COUNTY, AND HEREBY AGREE THAT ANY SUCH COURT SHALL BE A PROPER FORUM FOR THE DETERMINATION OF ANY DISPUTE ARISING HEREUNDER.

6.3 Conspicuous Provisions. The City and District acknowledge that the provisions of this Agreement set out in **bold**, CAPITALS (or any combination thereof) satisfy the requirements for the express negligence rule and/or are conspicuous.

6.4 Notice. Any notices, approvals, or other communications required to be given by one Party to another under this Agreement shall be given in writing addressed to the Party to be notified at the address set forth below and shall be deemed given: (a) when the notice is delivered in person to the person to whose attention the notice is addressed; (b) when received if the notice is deposited in the United States Mail, certified or registered mail, return receipt requested, postage prepaid; (c) when the notice is delivered by Federal Express, UPS, or another nationally recognized courier service with evidence of delivery signed by any person at the delivery address; or (d) five (5) business days after the notice is sent by FAX (with electronic confirmation by the sending FAX machine) with a confirming copy sent by United States mail within forty-eight (48) hours after the FAX is sent. If any date or period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period for calculating the notice shall be extended to the first business day following the Saturday, Sunday, or legal holiday. For the purpose of giving any notice, the addresses of the Parties are set forth below. The Parties may change the information set forth below by sending notice of such changes to the other Party as provided in this section.

To the City: City of Dripping Springs, Texas
Attn: City Secretary
P. O. Box 384
Dripping Springs, Texas 78620
FAX: (512) 858-5646

City of Dripping Springs, Texas
Attn: City Administrator
P. O. Box 384
Dripping Springs, Texas 78620
FAX: (512) 858-5646

To District: Johnson Petrov LLP
Attn: Zach Petrov
2929 Allen Parkway, Suite 3150
Houston, Texas 77019
Zpetrov@johnsonpetrov.com~~Andrew Barrett & Associates,~~
PLLC
~~3300 Bee Cave Rd, Suite 650 #189~~
~~Austin, Texas 78746~~
~~FAX (512) 600-3899~~

To Owner: CF CSLK Caliterra LLC
CF CSLK Carter LLC Development Solutions CAT, LLC
Development Solutions Carter, LLC
c/o Gregory L. Rich
12222 Merit Drive, Suite 1020
Dallas, Texas 75251
FAX: (972) 960-2660
grich@siepiela.com

6.5 No Third Party Beneficiary. This Agreement is solely for the benefit of the Parties, and neither the City, the Owner nor District intends by any provision of this Agreement to create any rights in any third-party beneficiaries or to confer any benefit upon or enforceable rights under this Agreement or otherwise upon anyone other than the City, the Owner and District.

6.6 Attorneys Fees. Each Party to this Agreement will pay their own attorneys fees in connection with negotiation and preparation of this Agreement.

6.7 Amendment. This Agreement may be amended only with the written consent of the District, the Owners and approval of the governing body of the City.

6.8 No Waiver. Any failure by a Party to insist upon strict performance by the other Party of any material provision of this Agreement shall not be deemed a waiver thereof, and the Party shall have the right at any time thereafter to insist upon strict performance of any and all provisions of this Agreement. No provision of this Agreement may be waived except by a writing signed by the Party waiving such provision. Any waiver shall be limited to the specific purposes for which it is given. No waiver by any Party hereto of any term or condition of this Agreement shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

6.9 Severability. The provisions of this Agreement are severable and, in the event any word, phrase, clause, sentence, paragraph, section, or other provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held or determined to be invalid, illegal, or unenforceable for any reason, and the extent of such invalidity or unenforceability does not cause substantial deviation from the underlying intent of the

Parties as expressed in this Agreement, then such provision shall be deemed severed from this Agreement with respect to such person, entity or circumstance, without invalidating the remainder of this Agreement or the application of such provision to other persons, entities or circumstances, and a new provision shall be deemed substituted in lieu of the provision so severed which new provision shall, to the extent possible, accomplish the intent of the Parties as evidenced by the provision so severed.

6.10 Captions. Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of the agreement.

6.11 Interpretation. The Parties acknowledge that each Party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto. As used in this Agreement, the term “include” or “including” means to include “without limitation,” and “days” means calendar days unless otherwise expressly stated.

6.12 Counterpart Originals. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original.

6.13 Incorporation of Exhibits by Reference. All exhibits attached to this Agreement are incorporated into this Agreement by reference for the purposes set forth herein, as follows:

- | | |
|------------------------|--|
| Exhibit A | <u>210 Irrigation Acreage in Ranch at Caliterra</u> [RESERVED] |
| Exhibit B | Allocation of Costs associated with preparing Amendment 1 and constructing and operating the facilities authorized by Amendment 1. |
| Exhibit C | Allocation of Costs associated with preparing the Discharge Permit A application and constructing and operating the facilities authorized by the Discharge Permit. |
| <u>Exhibit D-1</u> | <u>Easement to be conveyed to City by District.</u> |
| <u>Exhibit D-2</u> | <u>Easement to be conveyed to City by Owner.</u> |
| Exhibit D-1 | Allocation of Costs associated with preparing TLAP Amendment 2 and constructing and operating the facilities authorized by TLAP Amendment 2 (with Heritage Owner participation). |
| Exhibit D-2 | Allocation of Costs associated with preparing TLAP Amendment 2 and constructing and operating the facilities authorized by TLAP Amendment 2 (without Heritage Owner participation). |

6.14 This Agreement fully replaces and supersedes the Initial Agreement. Upon execution of this Third ~~Second~~-Amended Wastewater Service and Impact Fee Agreement, the Initial Agreement is of no effect.

6.15 Effective Date. The Effective Date of this Agreement remains as in the initial agreement as the last date the agreement was signed. The Effective Date is April 13, 2014.

IN WITNESS WHEREOF, the signatories below each represent and warrant that they have the requisite authority to execute this Agreement in the capacity shown and to thereby bind the respective party for whom they sign, and have caused this contract to be duly executed in multiple counterparts, each of which shall constitute an original.

ATTEST:

CITY OF DRIPPING SPRINGS, TEXAS

Jo Ann Touchstone
City Secretary

By: _____

(print name)
Title: _____

APPROVED AS TO FORM AND
LEGALITY:

City Attorney

Date Executed: _____

CF CSLK CALITERRA LLC

BY: _____

Name:

Title:

Date:

CF CSLK CARTER LLC

BY: _____

Name:

Title:

Date:

**HAYS COUNTY DEVELOPMENT DISTRICT
NO. 1**

BY: _____

Name:

Title:

Date:

Attest: _____

Secretary

DEVELOPMENT SOLUTIONS CAT, LLC

BY: _____

Name:

Title:

Date:

HAYS COUNTY DEVELOPMENT DISTRICT NO. 1

BY: _____

Name:

Title:

Date:

Attest: _____

Secretary