

**WATER SUPPLY AGREEMENT**  
**CITY OF FAIR OAKS RANCH / HILL COUNTRY CHURCH AT FAIR OAKS RANCH**

This Water Supply Agreement (“Agreement”) is made and entered into by and between Hill Country Church at Fair Oaks Ranch, a Texas corporation (“Owner”) and the City Of Fair Oaks Ranch, Texas, a municipal corporation (“City”).

**RECITALS**

WHEREAS, Owner owns 10 acres of real property (the “Property”) more fully described in **Exhibit A** attached hereto and incorporated herein; and

WHEREAS, the Owner will request annexation into the corporate limits of the City prior to the delivery of water service; and

WHEREAS, the City has requested that Owner enter into this Agreement to memorialize certain agreements and commitments by the Owner with respect to its planned development of the Property and the provision of water services to the Property; and

WHEREAS, Owner has requested that the City enter into this Agreement to memorialize certain agreements and commitments by the City with respect to the development of the Property and the provision of water services to the Property; and

NOW, THEREFORE, in consideration of the mutual benefits and promises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Owner agree as follows:

**I.**  
**AUTHORITY AND TERM**

A. **Authority.** The City’s execution of this Agreement is authorized by The City Council of the City of Fair Oaks Ranch and constitutes a valid and binding obligation of the City. Owner’s execution and performance of this Agreement constitutes a valid and binding obligation of Owner as the Owner proceeds with the development of the Property. The City acknowledges that Owner is acting in reliance upon the City’s performance of its obligations under this Agreement in making its decision to commit substantial resources and money to the development of the Property.

B. **Term.** This Agreement shall become enforceable upon execution by the City and Owner. This Agreement shall terminate on the earlier of (I) the 15th anniversary of its execution or (ii) upon conveyance by Owner of all of the Property to third parties (each a “Lot Owner” and collectively, the “Lot Owners”), unless extended by mutual agreement of the parties.

**II.**  
**LAND USE PLAN**

Consistent with the existing general land uses that exist within the City, it is the intent of Owner to design a Church Facility whereby the actual location and design of its roadway system will comprise local streets only.

A. **Lot Summarization.** As of the date hereof, it is anticipated that the Property will contain a Church Facility with lot(s) to be allocated to the various operations of that facility:

**III.**

**OBLIGATIONS OF THE PARTIES**

For and in consideration of the mutual promises, covenants, obligations, and benefits described in this Water Supply Agreement, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Owner and the City agree as follows:

A. Potable Water Service. The City of Fair Oaks Ranch will provide treated water from the City's Water Production, Storage, and Distribution system; as such system may be expanded or modified from time to time. The water to be delivered may be from any source or combination of sources that may be available to the City including, without limitation, water from Canyon Reservoir under the City's Western Canyon Water supply contract and or from the City's Trinity Aquifer well fields.

B. Extension of Utilities. Owner will extend utilities from the property line of adjacent property to the boundaries of the property at its sole expense and pay for any increase in size of all appurtenances necessary to provide utility service to the lots with the Property at the level required in the City of Fair Oaks Ranch Subdivision Ordinance.

C. Offsets and Credits. This Agreement shall constitute an application for offsets or credits for the Contributions in Aid of Construction, provided by the Owner to facilitate utility service to the Property, against impact fees due for the Property. The City shall credit the amount of the Contributions in Aid of Construction provided by the Owner against the amount of Impact Fees due for the Property

D. Water Service Capacity. The City agrees to reserve water service capacity to the Property for 3.5 Living Unit Equivalents ("LUEs"), to support the church facility. The City of Fair Oaks Ranch shall reserve 2 acre-feet of water to serve the Property ("Annual Reservation"). The City shall provide an initial annual commitment ("Capacity Reservation") of .50 acre-feet of water. The annual commitment may be increased in January of each year up to a maximum total of 2 acre-feet.

E. Water Replacement Charge. Upon execution of this Agreement, Owner shall pay to the City of Fair Oaks Ranch a one-time charge ("Water Replacement Charge") equal to the product of Water Reservation (2 acre-feet) times \$275, or Five hundred fifty dollars and no cents (\$550.00).

F. Contribution in Aid of Construction. Owner shall pay to the City of Fair Oaks Ranch a one-time charge ("Contribution in Aid of Construction") equal to the product of Property's total potential residential customers (3.5 LUE's) times \$1,669.58, or Five thousand eight hundred forty-three dollars and fifty-three cents (\$5843.53). The Contribution in Aid of Construction shall be payable in two (2) equal installments of \$2,921.77 each as follows:

- (I) the first installment shall be due and payable within ten (10) days after execution of this Agreement; and
- (ii) the second installment shall be due and payable within ten (10) days after the City signs a contract to construct an elevated storage tank.

The Contribution in Aid of Construction shall be refunded to Owner prorata on a quarterly basis for each building permit issued with respect to a residential/commercial lot on the Property and receipt by the City of the impact fee in the amount of \$1,669.58 for each lot serviced.

G. Water Reservation fees. Owner shall, on or about the 30th day after the date of execution of this Agreement, begin paying the monthly water reservation fee. Such fee shall be the monthly rate the City of Fair Oaks Ranch pays for the reservation of an acre foot of water for that year and shall be adjusted annually to be equal to the City of Fair Oaks Ranch's cost for the reservation of water necessary to provide for the development of the Property. This fee is equal to the product of 1/12th of the Annual Reservation times the Firm Water Rate in effect during that month. The initial Water Reservation fee will be \$16.67 per month based on the current rate of \$100 per acre-foot per year and the Owner annual reservation of 2 acre-feet per year. Owner shall continue to pay said Water Reservation fee with respect to each lot comprising the Property until the earlier of sale of such lot to a lot owner or connection of the residence on such lot to the City's water system (water meter has been set) .

H. Capacity Reservation Fees. Owner shall, on or about the 30th day after the date of execution of this Agreement, begin paying the monthly Capacity Reservation fee. Such fee shall be the monthly rate the City of Fair Oaks Ranch pays for Capacity Reservation of an acre foot of water for that year and shall be adjusted annually to be equal to the City of Fair Oaks Ranch's cost for the reservation of water necessary to provide for the development of the Property. This fee is equal to the product of 1/12th of the annual Capacity Reservation times the Capacity Reservation Rate in effect during that month. The initial Capacity Reservation fee will be \$21.76 per month based on the current rate of \$522.41 per acre-foot per year and the Owner's annual Capacity Reservation of .50 acre-feet per year. Owner shall continue to pay said Capacity Reservation fee with respect to each lot comprising the Property until such time as one of the following events occurs:

- (I) Owner conveys one or more lots to new Lot Owner(s) and by such conveyance liability for payment of said reservation fee for the designated lot(s) transfers to the new Lot Owner(s); or
- (ii) Owner is granted a permit for connection of the lot(s) to the City's water system and Owner applies for building permits for construction of any kind on the lot(s).

I. Billing. The City will render bills to Owner once each month for the charges required to be paid by Owner pursuant to this Agreement. The City shall, until further notice, render such bills on or before the 10th day of each month and such bills shall be due and payable at the City's office indicated below by the 20th day of each month or fifteen (15) days after such bill is deposited into the United States mail, properly stamped, addressed and postmarked to Owner, whichever is later. The City may, however, by sixty (60) days written notice change the monthly date by which it shall render bills, and all bills shall thereafter be due and payable ten (10) days after such date or fifteen (15) days after such bill is deposited into the United States mail, properly stamped, addressed and postmarked to Owner, whichever is later. Owner shall make all payments in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall make payment to the City of Fair Oaks Ranch at its office in the City of Fair Oaks Ranch, Texas, or at such other place as the City may from time to time designate by sixty (60) days written notice.

J. Delinquency in Payment. All amounts due and owing to the City by Owner shall, if not paid when due, bear interest at the maximum rate permitted by law, provided that such rate shall never be usurious. If any amount due and owing by Owner is placed with an attorney for collection by the City, Owner shall pay to the City, in addition to all other payments provided for by this Agreement, including interest, the City's collection expenses, including court costs and reasonable attorney's fees. Owner further agrees that the City may, at its option, discontinue taking some or all actions to fulfill its obligations under this Agreement until all amounts due and unpaid are paid in full with interest as herein specified.

K. Use of Groundwater Wells for Supplementary Supply. One well. The well will not be connected to the Public Water Supply from the City of Fair Oaks Ranch. The use of the well will be consistent with the Fair Oaks Ranch Conservation Ordinance.

L. Final Plat Fee Adjustment. If the property is subdivided, the City shall, upon receipt of the application for final plat, recalculate and adjust the Contribution in Aid of Construction, Water Reservation fees and the Capacity Reservation Fees to reflect the total number of LUE's to be platted on the Property. Owner shall pay the above mentioned adjustments to the City or the City shall refund such overpayments within 30 days of final plat approval by the City.

M. Cooperation. Both City and Owner agree to reasonably cooperate with the other party in meeting their respective obligations set forth herein and to assist the other party in preparing and entering into any and all instruments necessary to memorialize the future agreements of the parties pertaining to the development of the Property. The City agrees to use its best efforts and if necessary its power of condemnation, in order to acquire all necessary easements and/or right-of-way to facilitate the extension of City utilities to the boundary of the Property, and Owner agrees to provide all necessary easements and/or rights-of-way on the Property for such utilities.

#### IV. DISANNEXTION

It is expressly understood if Owner submits a request for disannexation of the Property described in **Exhibit A** and the City Council honors said request, this Water Supply Agreement shall become null and void, and in such event all amounts paid by Owner pursuant to this Agreement shall be non-refundable.

#### V. MISCELLANEOUS

A. Mutual Assistance. City and Owner will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions.

B. Representations and Warranties. The City represents and warrants to Owner that this Agreement is within its authority, and that it is duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. Owner represents and warrants to City that it has the requisite authority to enter into this Agreement.

C. Default. If either the City or Owner should default in the performance of any obligations of this Agreement, the other party shall provide such defaulting party written notice of the default, and a period of thirty (30) days or such longer period specified in such written notice to cure such default, prior to instituting an action for breach or pursuing any other remedy for default.

D. Entire Agreement. This Agreement contains the entire agreement between the parties. This Agreement may only be amended, altered or revoked by written instrument signed by the City and Owner.

E. Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns.

F. Assignment. Owner may assign all or part of its rights and obligations under this Agreement, without prior written approval of the City, to an entity in which Owner (or the principals of Owner)

has a 25% or more ownership interest, or a Lot Owner who by receipt and recording of a proper conveyance of the lot or other appropriate assignment document and who thereby assumes such assigned obligations, specifically including all fees due under Article III, Obligations of the Parties, Sections G and H herein. Upon such assignment, Hill Country Church at Fair Oaks Ranch shall be relieved of all future obligations with respect to the obligations so assigned.

G. Notice. Any notice and or statement required and permitted to be delivered shall be deemed delivered by actual delivery, facsimile with receipt of confirmation, or by depositing the same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses:

Owner: First Baptist Church of Fair Oaks Ranch  
Box 220  
28720 IH 10 West #300  
Boerne, Texas 78015  
Attn: Office Manager  
Email: [info@hccfor.org](mailto:info@hccfor.org)

City: City Administrator  
City of Fair Oaks Ranch  
7286 Dietz Elkhorn  
Fair Oaks Ranch, TX 78015  
Email: [rthomas@ci.fair-oaks-ranch.tx.us](mailto:rthomas@ci.fair-oaks-ranch.tx.us)

Either party may designate a different address at any time upon written notice to the other party.

H. Interpretation. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, however its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any party.

I. Applicable Law. This Agreement is made, and shall be construed and interpreted, under the laws of the State of Texas and venue shall lie in Kendall County, Texas.

J. Severability. In the event any provisions of this Agreement are illegal, invalid or unenforceable under present or future laws, and in that event, it is the intention of the parties that the remainder of this Agreement shall not be affected. It is also the intention of the parties of this Agreement that in lieu of each clause and provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

K. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

L. No Joint Venture. It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create any partnership or joint venture among the parties. The City, its past and future officers, elected officials, employees and agents do not assume any responsibilities or liabilities to any third party in connection with the development of the Property.

M. Exhibits. The Exhibits attached hereto are incorporated by reference for all purposes.

EXECUTED in duplicate and to be effective on September 29, 2008.

**Owner:**

Hill Country Church at Fair Oaks Ranch, a Texas corporation

By: Lynn Williams  
MS. Lynn Williams

**CITY:**

CITY OF FAIR OAKS RANCH, TEXAS, a municipal corporation

By: Daniel E. Kasprowicz  
Daniel E. Kasprowicz, Mayor

APPROVED as to form:

Adolph D. Jacobson  
City Attorney

**EXHIBITS:**

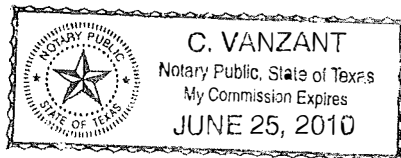
Exhibit A - Property Description (10 acres)

THE STATE OF TEXAS

COUNTY OF Bexar

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared L. Williams known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the Hill Country Church at Fair Oaks Ranch, and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 29 day of Sept, 2008.



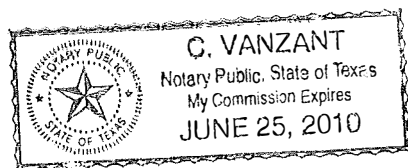
C. Vanzant  
Notary Public, The State of Texas

THE STATE OF TEXAS

COUNTY OF BEXAR

BEFORE ME, the undersigned, a Notary Public in and for said State, on this day personally appeared Daniel E. Kasprowicz known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the CITY OF FAIR OAKS RANCH, and that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 29 day of Sept, 2008.



C. Vanzant  
Notary Public, The State of Texas

**Survey Associates**  
**2544 Boardwalk**  
**San Antonio, Texas 78217**  
**(210) 828-1102**

Exhibit A

STATE OF TEXAS  
COUNTY OF COMAL

F. M. ROAD No. 3351  
10.00 ACRE TRACT

All that certain tract or parcel of land containing 10.00 acres in Comal County, Texas, out of the M. De La Guerra Survey No. 172, Abstract 173, County Block 4012, being a portion of a 29.000 acre tract (Parent Tract) described in Document Number 9806015680, Official Public Records of Comal County, Texas, and in Volume 7536, Page 1931, Real Property Records of Bexar County, Texas.

Said 10.00 acre tract, being more particularly described by metes and bounds as follows;

- BEGINNING:** at ½" iron pin found on the Northwest right-of-way line of F.M. Road 3351, at the South corner of Emmeline G. Whitworth tract, of record in Volume 283, Page 379-386, Deed Records of Comal County, Texas, at the East corner of said Parent Tract, for the East corner of this herein described tract;
- THENCE:** along with the Northwest right-of-way line of F.M. Road 3351 and same being the Southeast boundary line of said Parent Tract, the following courses and distances:  
South 42 deg. 10 min. 17 sec. West, 218.63 feet to a ½" iron pin found;  
South 43 deg. 54 min. 47 sec. West, 129.59 feet to a ½" iron pin found;  
South 38 deg. 14 min. 54 sec. West, 33.92 feet to a ½" iron pin set with cap stamped "Survey Associates", for the South corner of this herein described tract;
- THENCE:** North 51 deg. 55 min. 57 sec. West, a distance of 1403.75 feet across said Parent Tract to a metal spindle set on the North boundary line of Parent Tract and same being the South boundary line of Rueben Francis Klar tract, of record in Volume 283, Page 377, Deed Records of Comal County, Texas, for the Northwest corner of this herein described tract;
- THENCE:** South 86 deg. 41 min. 29 sec. East, a distance of 667.78 feet to a 2" metal corner post at an angle corner of said Klar tract, at the Northeast corner of said Parent Tract, for the Northeast corner of this herein described tract;
- THENCE:** South 51 deg. 56 min. 39 sec. East, a distance of 884.08 feet along with the Northeast boundary line of said Parent Tract to the POINT OF BEGINNING.

Bearing Basis – South 51 deg. 56 min. 39 sec. East – from the Northeast boundary line of said Parent Tract, of record in Document Number 9806015680, Official Public Records of Comal County, Texas, and in Volume 7536, Page 1931, Real Property Records of Bexar County, Texas.