

First Amendment to Water Supply Agreement

This First Amendment to Water Supply Agreement (this "Amendment") effective as of September 22, 2008 (the "Effective Date") is entered into by and between by and between **MARK J. MINAHAN, SR. AND WIFE, BRENDA MINAHAN** (collectively, "Owner") and **THE CITY OF FAIR OAKS RANCH, TEXAS** (The "City").

RECITALS:

A. Owner and City entered into that certain Water Supply Agreement Dated September 22, 2008 (the "Contract") concerning 40.00 acres of land, more or less, located on Ralph Fair Road and being situated in Comal County, Texas (the "Property"), and as more particularly described and defined as in the original Contract, said Property also being described by metes and bounds herein on **Exhibit "A"**, attached hereto and incorporated herein for all purposes.

B. Owner and the City desire to enter into this Amendment to make a modification to the Contract.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the City hereby agree to amend the Contract as follows:

TERMS OF THIS AMENDMENT:

Section I (AUTHORITY AND TERM) on Page One is hereby wholly deleted and replaced with the following Section I:

**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 30th anniversary of its execution (September 22, 2038) unless extended by mutual agreement of the parties, or upon full build-out of the property.**

[END OF AGREED-TO MODIFICATION]

Due Authorization. The parties hereby represent and warrant to one another that the person executing this Amendment on behalf of said party has been duly authorized to execute and deliver this Amendment and this Amendment is binding on said party in accordance with the terms hereof.

No Further Amendments; Ratification. Except as specifically amended hereby, the terms and conditions of the Contract remain the same and unchanged and the Contract is hereby ratified and confirmed and is in full force and effect. The Contract, as amended herein, may only be further amended or modified by a written instrument signed by Owner and City.

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

Electronic Signatures. The use of electronically transmitted signatures (whether by facsimile or email) in place of original signatures on this Amendment is expressly allowed. The parties intend to be bound by the signatures on the electronically transmitted document, are aware that the other parties will rely on the electronically transmitted signatures, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the form of signature.

Successors and Assigns. This Amendment shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and permitted assigns.

Defined Terms. Unless otherwise defined herein, capitalized terms used herein and otherwise not defined herein shall have the meanings set forth in the Contract.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to be effective as of the Effective Date, the same being the date first written above.

[Signatures on the following pages.]

[Remainder of page intentionally left blank.]

Signed and Acknowledged by Owner and City as of the dates to follow below, but Effective as of the Effective Date.

OWNER:

By: _____
Mark J. Minahan, Sr.

By: _____
Brenda S. Minahan

Date Signed: _____

Acknowledgment

STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2023, by **Mark J. Minahan, Sr.** and wife, **Brenda S. Minahan.**

Notary Public, State of Texas

[City's Signature and Acknowledgment to follow on the next page.]

CITY OF FAIR OAKS RANCH, TEXAS
A MUNICIPAL CORPORATION

By: _____
Scott Huizenga

Its: Interim City Manager

Date Signed: _____

Acknowledgment

STATE OF TEXAS §

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2023, by Scott Huizenga, the Interim City Manager of the **City of Fair Oaks Ranch, Texas**, a Municipal Corporation, acting for and on behalf of said City.

Notary Public, State of Texas

[Exhibit "A" to follow]

Exhibit "A"

FIELD NOTES FOR 40.00 ACRES

BEING a 40.00 acre tract out of the 233.30 acre tract described in Volume 128, Page 331 of the Deed and Plat Records of Comal County, Texas and out of the Maria De La Luz Guerra Survey No. 172, Abstract No. 173 of Comal County, Texas and more particularly described by metes and bounds as follows:

BEGINNING at a found $\frac{1}{2}$ " iron rod in the southeast right-of-way of FM 3351 as described in Volume 659, Page 236 of the Deed Records of Comal County for the southwesterly corner of 1.82 acre right-of-way deed and the northeasterly corner of the 50.00 acre tract described in Volume 128, Page 331 of the Deed and Plat Records of Comal County, Texas;

THENCE South $00^{\circ} 21' 48''$ East, a distance of 579.17 feet to a set mag nail for an angle point in the west line of the tract described in Volume 657, Page 520 and the east line of the 40.00 tract in this tract;

THENCE South $00^{\circ} 01' 44''$ East, a distance of 1335.22 feet to a set iron rod at a fence corner for the southeast corner of this tract;

THENCE South $00^{\circ} 00' 18''$ East, a distance of 610.62 feet to a set iron rod with a yellow cap marked "ACES" for the southeast corner of this 40.00 acre tract;

THENCE South $89^{\circ} 59' 42''$ West, a distance of 692.92 feet to a set iron rod with a yellow cap marked "ACES" at the fence line for the southwest corner of this tract;

THENCE North $10^{\circ} 55' 08''$ West, a distance of 1496.08 feet to the south right-of-way of FM 3351 with a $\frac{1}{2}$ " iron rod set at the edge of the right-of-way for the northwesterly corner of this tract;


THENCE North $42^{\circ} 23' 30''$ East, a distance of 985.75 feet with the southeasterly right-of-way of FM 3351 to a found iron rod for an angle point in this right-of-way;

THENCE North $48^{\circ} 06' 08''$ East, a distance of 100.50 feet with the southeast right-of-way line of said Fm 3351 to a found iron rod for an angle point in this description;

THENCE North $42^{\circ} 23' 30''$ East, a distance of 129.35 feet with a southeast right-of-way of said FM 3351 for an angle point in this description;

THENCE North $41^{\circ} 18' 05''$ East, a distance of 220.15 feet along the right-of-way of FM 3351 to the POINT OF BEGINNING and containing 40.00 acre of land in Comal County, Texas.

ALAMO CONSULTING ENGINEERING
& SURVEYING, INC.


Kevin Conroy, R.P.L.S. 4198
April 5, 1999
Job No. 11543.00

