

FACILITY CONVEYANCE AGREEMENT

This Facility Conveyance Agreement (the "Agreement") is made and entered into as of the [REDACTED] day of September, 2024, (the "Effective Date") by and among **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 32**, a conservation and reclamation district created pursuant to the authority of Article XVI, Section 59, of the Constitution of Texas, and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended ("MUD 32"), and the **CITY OF IOWA COLONY, TEXAS**, a municipal corporation and home rule city of the State of Texas (the "City").

RECITALS

MUD 32 has partial beneficial ownership of and currently participates in a joint water supply and distribution system and joint wastewater collection and treatment system with the City (collectively, the "Regional Facilities") by virtue of the conveyance of water and wastewater facilities from Brazoria County Municipal Utility District No. 31 ("MUD 31") to the City and a partial assignment of the Joint Facilities/Cost Sharing Agreement dated October 27, 2016 ("Joint Agreement") from MUD 31 to the City, all pursuant to a Facility Conveyance Agreement between MUD 31, MUD 32, and the City dated March 11, 2024 ("Regional Facility Conveyance Agreement").

The joint water supply and distribution system has the capacity to serve 3,265 equivalent single-family connection's ("ESFC") (the "Reserved Water Capacity"). The joint wastewater collection and treatment system has the capacity to serve 3,461 ESFCs (based on 260 gallons per day of wastewater flow per connection) (the "Reserved Wastewater Capacity").

MUD 32 also owns an internal water supply and distribution system and wastewater collection and transportation system (the "Facilities").

Pursuant to the Development Agreement by and among the City, Land Tejas Sterling Lakes South L.L.C., and McAlister Opportunity Fund 2012, L.P. effective February 15, 2016, MUD 32 is required to convey ownership and operation of the Facilities and its beneficial ownership in the Regional Facilities to the City upon six months' notice.

MUD 32 and the City are parties to the Utility Agreement dated May 1, 2016, as amended by Amendment No. 1 (the "Utility Agreement").

The City now wishes to acquire, own, operate and maintain the Facilities, as well as MUD 32's beneficial ownership in the Regional Facilities, and to collect water and sewer fee revenue from the utility customers within MUD 32, which

will become customers of the City upon the conveyance of the Facilities and beneficial ownership in the Regional Facilities.

The City provided official notice on or about January 16, 2024, of the City's interest in and intent to assume ownership and operation of the Facilities and MUD 32's beneficial interest in the Regional Facilities.

AGREEMENT

I. Recitals. The recitals above are true and correct and incorporated for all purposes as a part of this Agreement.

II. Purpose. The purpose of this Agreement is to set forth the parties' agreement as to the conveyance, ownership and operation of the Facilities while recognizing that several actions must be taken to affect such purpose. Such actions shall occur as follows (all capitalized terms are as defined herein):

- a. Within 30 calendar days of the Effective Date, MUD 32 will execute and deliver to the City the Utility Conveyance conveying all Facilities and Regional Facilities to the City and Partial Assignment of Joint Agreement.
- b. As soon as practicable after MUD 32's transfers of the Facilities to the City, the City will countersign and deliver to MUD 32 the Utility Conveyance(s) and Partial Assignment of Joint Agreement.
- c. MUD 32 will record the Utility Conveyance(s) in the real property records.

III. Conveyance of Facilities/Reserved Capacity. MUD 32 agrees to convey the Facilities to the City pursuant to one or more Utility Conveyances, as provided herein, the form of which is attached hereto as Exhibit A. The Reserved Water Capacity and Reserved Wastewater Capacity will remain reserved to serve land only within the boundaries of MUD 31 and MUD 32 unless and until both MUD 31 and MUD 32 have been fully built out (except as otherwise allowed by the Interconnect Agreement). For purposes of this Agreement, full buildout means that the Facilities necessary to serve 100% of the developable land in MUD 31 and MUD 32 have been constructed.

The Regional Facilities will be expanded by MUD 31 and/or MUD 32, as provided for herein and in the Joint Agreement, to serve up to 4,500 ESFCs (at a rate of 260 gallons per day of wastewater flow per ESFC and a rate of 360 gallons

per day of water production capacity per ESFC). At such time as MUD 31 and/or MUD 32 complete an expansion of the Facilities, the Reserved Water Capacity and/or the Reserved Wastewater Capacity, as applicable, shall increase to include the amount of additional capacity added by such expansion up to 4,500 ESFCs of Reserved Water Capacity and Reserved Wastewater Capacity (collectively, "Reserved Capacity"). MUD 31 and MUD 32 each acknowledges that 4,500 ESFC at 260 gallons per day of flow for wastewater and 360 gallons per day of flow for water is sufficient to serve projected development within MUD 31 and MUD 32 at full build-out. The City shall get the benefit of any rerating of the plant(s) that produces capacity in excess of the Reserved Capacity.

IV. Operation of Facilities/Lease Payments. Upon the recordation of the Utility Conveyance, the City agrees that it will operate and maintain the Facilities at its sole cost and expense. The City will meter and bill customers for water and sewer services. All revenues for water and sewer services will be kept by the City.

The City will initially contract with Si Environmental, LLC, to operate the Facilities, which is the current operator of the Facilities.

The City agrees to use reasonable diligence and care in the operation and maintenance of the Facilities by following industry maintenance standards and schedules to maintain the useful life of the Facilities.

MUD 32 will continue to pay its pro-rata share of the lease for the Leased Plant (as defined in the Regional Facility Conveyance Agreement). MUD 32 shall continue to remit said pro-rata share to MUD 31 as MUD 31 is required to make said lease payments pursuant to the Regional Facility Conveyance Agreement and Lease Agreement (as defined in the Regional Facility Conveyance Agreement).

V. Assignment of Agreements. MUD 32 will affect a partial assignment to the City of the Joint Agreement, assigning to the City only MUD 32's rights, titles, obligations and responsibilities under such agreement related to the ownership, operation, and maintenance of the Sewer Plant, Water Plant, District Sanitary Sewer Collection System, and District Water Distribution System (all as defined/utilized in the Joint Agreement). The form of assignment is attached hereto as Exhibit B. MUD 32 shall remain obligated for its share of the expansion of the Sewer Plant and Water Plant as necessary to serve the land within its boundaries and for financing same, and MUD 32 shall remain obligated to expand and finance any necessary expansions of its Water Distribution System and Sanitary Sewer Collection System. The City is not assuming ownership of any detention facilities.

VI. Expansion of Facilities. MUD 32 will continue to exist for purposes of constructing and financing additional water, sewer and drainage facilities. All

expansions to the Facilities within MUD 32 will be conveyed to the City for ownership and operation upon completion and acceptance by the City of the same pursuant to a Utility Conveyance, the form of which is attached hereto as Exhibit A.

No provision of this agreement shall be construed to limit the City's ability to dissolve MUD 32 in accordance with its Strategic Partnership Agreement with the City.

VII. Impact Fees. Impact fees will not be charged against any property owners in MUD 32, provided, however, that if the provision of Article VIII is found to be illegal, invalid or unenforceable by a court of law, the parties agree that the Capacity Charges (defined below) shall be recharacterized as Impact Fees under the City's Impact Fee Ordinance No. 2022-03, as amended, provided that to the extent the impact fees to be assessed under the ordinance exceed \$4,000 per ESFC, a credit shall be granted against such impact fee in consideration of MUD 32's obligation to provide permanent water and wastewater facilities to serve the area within its boundaries (less that amount to be funded by the City through the accumulated Capacity Charges). Any fees collected under this provision will be treated as Capacity Charges, subject to the terms and conditions of Article VIII.

VIII. MUD 32 Capacity Charges. MUD 32 currently assesses a fee in the amount of \$3,850 dollars per ESFC against new development at the time of tap installation. The revenue from this fee was intended to be used by MUD 32 to cover a portion of its costs to fund the permanent wastewater treatment plant that serves the land within its boundaries required by the Utility Agreement. As the City will be taking over the water and wastewater infrastructure within MUD 32, MUD 32 will no longer have a mechanism to collect the Capacity Charge. To account for this loss of revenue, commencing on the Effective Date, the City agrees to assess and collect, on behalf of the MUD, a fee in the amount of \$4,000 per ESFC at the time of the City's tap installation. The City will retain and separately account for \$3,850 per ESFC of such charge (the "Capacity Charges"). The proceeds of the Capacity Charges will be deposited into a separate account (the "MUD 32 Fund") and any interest thereon shall be invested and reinvested and shall constitute part of the Capacity Charges. The City shall provide to MUD 32 an account of the MUD 32 Fund annually within 60 calendar days of the City's fiscal year end. The Capacity Charges, including interest earned, may be used only to pay for and offset MUD 32's pro-rata share of cost of the design and construction of the permanent wastewater treatment plant as provided in the Utility Agreement and Regional Facility Conveyance Agreement. The City will retain the remaining \$150 as an administrative cost to be used for any lawfully available purpose.

IX. Garbage Collection. Notwithstanding Section 3.03 of the Strategic Partnership Agreement between the City and District effective July 18, 2016, upon

the termination of MUD 32's existing contract for garbage and recycling collection services, the City shall assume the responsibility to provide such services within the boundaries of MUD 32 at the City's cost. If MUD 32 is not able to terminate its existing contract for garbage and recycling collection services within 30 days of the effective date of this Agreement, the City agrees it will include an item on its utility bill to customers within MUD 32 equal to MUD 32's contractual cost per connection to provide garbage and recycling collection services through the term of MUD 32's existing contract. The City shall, on a monthly basis, remit all garbage/recycling revenues it actually collects from MUD 32 customers to MUD 32 so that MUD 32 can in turn meet its current contractual obligations to pay for such services.

X. General Provisions.

A. Notice. Any notices or other communications (a "Notice") required to be given by one party to another by this Agreement shall be given in writing addressed to the party to be notified at the address set forth below for such party, (i) by delivering the same in person (ii) by depositing the same in the United States Mail, certified or registered, return receipt requested, postage prepaid, addressed to the party to be notified, or (iii) by depositing the same with Federal Express or another nationally recognized courier service guaranteeing "next day delivery," addressed to the party to be notified. Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties, until changed as provided below, shall be as follows:

City: City of Iowa Colony
3144 Meridiana Pkwy
Iowa Colony, Texas 77583
Attn: City Manager

MUD 32: Brazoria County MUD No. 32
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77026
Attn: Jessica Holoubek

The parties shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by giving at least five days written notice to the other parties. If any date or any 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 such Saturday, Sunday or legal holiday.

B. Severability. If any provision of this Agreement is held to be illegal, invalid, or unenforceable then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected.

C. Waiver. Any failure by a party hereto to insist upon strict performance by the other party of any material provision of this Agreement shall not be deemed a waiver thereof or of any other provision hereof, and such party shall have the right at any time thereafter to insist upon strict performance of any and all of the provisions of this Agreement.

D. Applicable law and venue. The construction and validity of this Agreement shall be governed by the laws of the State of Texas without regard to conflicts of law principles. Venue shall be in Brazoria County, Texas.

E. Reservation of rights. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws.

F. Further documents. The parties agree that at any time after execution of this Agreement, they will, upon request of another party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request in order to carry out the terms of this Agreement.

G. Incorporation of exhibits and other documents by reference. All Exhibits and other documents attached to or referred to in this Agreement are incorporated herein by reference for the purposes set forth in this Agreement.

H. Effect of State and Federal laws. Notwithstanding any other provision of this Agreement, MUD 32 shall comply with all applicable statutes or regulations of the United States and the State of Texas, as well as any City ordinances or rules implementing such statutes or regulations, and such City ordinances or rules shall not be deemed a breach or default under this Agreement.

I. Authority for execution. The City hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted in conformity with the City Charter and City ordinances. MUD 32 hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted by the Board of Directors of MUD 32.

[EXECUTION PAGES FOLLOW]

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

CITY OF IOWA COLONY, TEXAS

By: _____
Mayor

ATTEST:

By: _____
City Secretary

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 32

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary

Exhibit A

FORM OF UTILITY CONVEYANCE AND SECURITY AGREEMENT

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF BRAZORIA §

Brazoria County Municipal Utility District No. 32 (the "District" or "MUD 32") has constructed and installed certain improvements, structures, and facilities designed to provide water and wastewater to serve areas within MUD 32's boundaries and the extraterritorial jurisdiction of the City of Iowa Colony, Texas (the "City"). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MUD 32 does hereby convey, transfer, and deliver to the City, its successors and assigns those certain facilities described as follows:

Those certain facilities constructed to date by MUD 32 pursuant to the construction contract with _____, which facilities are located both within and outside the boundaries of MUD 32, and together with any improvements, structures, plants, service pumps, storage reservoirs, electrical equipment, plant equipment, distribution lines, collection lines, water mains, lift stations, meters, valves, pipes, fittings, connections, meter boxes, laterals, easements, rights-of-way, licenses, operating rights and all other property therein whether real, personal or mixed, owned by MUD 32 in connection with the facilities being conveyed hereby, including without limitation MUD 32's beneficial ownership in any and all regional facilities providing services to MUD 32 or the land within its boundaries (the "Facilities").

MUD 32 hereby assigns to the City all rights, maintenance bonds, warranties and manufacturer's warranties, if any, owned or acquired by MUD 32 for the Facilities.

MUD 32 is conveying the Facilities to the City pursuant to the Facility Conveyance Agreement dated _____, 2024 between the City and District. MUD 32 and the City agree that while the Facilities will be incorporated into the City's system, capacity created by the Facilities shall be reserved to the participants (the "Participants") of the Joint Facilities/ Cost Sharing Agreement dated October

27, 2016, to the extent described in the Facility Conveyance Agreement dated March 11, 2024 between the City, District, and Brazoria County Municipal Utility District No. 31.

The City hereby agrees by its acceptance of this conveyance to operate and maintain the Facilities in accordance with and subject to the terms of the Joint Facilities/ Cost Sharing Agreement dated October 27, 2016.

IN WITNESS WHEREOF, this conveyance is executed on this _____ day of _____, 2024.

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 32

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary, Board of Directors

(SEAL)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day of _____, 2024, by _____ as President and _____ as Secretary of the Board of Directors of Brazoria County Municipal Utility District No. 32, a political subdivision of the State of Texas, on behalf of said political subdivision.

Notary Public, State of Texas

(NOTARY SEAL)

In accordance with the _____ Agreement, the City of Iowa Colony, Texas hereby accepts this Utility Conveyance and Security Agreement on this ____ day of _____, 2024.

CITY OF IOWA COLONY

By: _____
City Manager

ATTEST:

By: _____
City Secretary

APPROVED AS TO FORM:

By: _____
City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

This instrument was acknowledged before me on the ____ day of _____, 2024, by _____ as _____ of the City of Iowa Colony, Texas, on behalf of said City.

Notary Public, State of Texas

(NOTARY SEAL)

AFTER RECORDING RETURN TO: Brazoria County Municipal Utility District No. 32, Attn: Jessica Holoubek; c/o Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027.

Exhibit B

FORM OF ASSIGNMENT AND ACCEPTANCE OF AGREEMENT

For good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 32**, a conservation and reclamation district created pursuant to the authority of Article XVI, Section 59, of the Constitution of Texas, and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended (the "Assignor") hereby assigns all its rights, obligations, title and interests in and to the following agreement ("Agreement")

Partial Assignment and Acceptance of Joint Facilities/ Cost Sharing Agreement, attached as Exhibit A.

to the **CITY OF IOWA COLONY, TEXAS**, a municipal corporation and home rule city of the State of Texas (the "City") to be effective as of _____, 202_ (the "Effective Date").

By execution of this Assignment and Acceptance, and except as otherwise limited by the terms of assignment, Assignee hereby accepts such assignment and assumes all of Assignor's rights, obligations, title, and interests in and to said Agreement, and Assignee agrees to the terms and conditions of said Agreement.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement effective as of the Effective Date.

CITY OF IOWA COLONY, TEXAS

By: _____
Mayor

ATTEST:

By: _____
City Secretary

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 32

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary

Exhibit A to Form of Assignments and Acceptance of Agreement

**PARTIAL ASSIGNMENT AND ACCEPTANCE OF
JOINT FACILITIES/COST SHARING AGREEMENT**

This Partial Assignment and Acceptance of Joint Facilities/Cost Sharing Agreement (this "Partial Assignment") is entered into and made to be effective as of the __ day of _____, 2024, by and among **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 32**, a conservation and reclamation district created pursuant to the authority of Article XVI, Section 59, of the Constitution of Texas, and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended (the "Assignor" or "MUD 32"); **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 31**, a conservation and reclamation district created pursuant to the authority of Article XVI, Section 59, of the Constitution of Texas, and operating under the provisions of Chapters 49 and 54, Texas Water Code, as amended ("MUD 31"); and the **CITY OF IOWA COLONY, TEXAS**, a municipal corporation and home rule city of the State of Texas (the "Assignee"). Assignor and Assignee are sometimes hereinafter referred to individually as "Party" and sometimes referred to collectively as "Parties".

RECITALS

WHEREAS, Assignor and Assignee (by virtue of a partial assignment from MUD 31) are parties to that certain Joint Facilities/Cost Sharing Agreement (the "Joint Agreement") dated June 27, 2016, attached as Exhibit A, which provides the terms and conditions for the financing and joint operation and use of the Water Supply Facilities and Sewer Plant (the "Facilities"); and

WHEREAS, the capitalized terms appearing herein shall have the meanings ascribed to them in the Joint Agreement unless otherwise defined herein; and

WHEREAS, pursuant to the Joint Agreement, Assignee now owns legal title to and operates and maintains the Facilities for the benefit of MUD 32 and MUD 31; and

WHEREAS, Assignor and Assignee entered into that certain Facility Conveyance Agreement dated _____, 2024 to establish the terms and conditions by which Assignor will convey its beneficial ownership, operation, and maintenance of the Facilities to Assignee; and

WHEREAS, except as described herein, Assignor desires to assign all of its rights, obligations, title, and interests in and to the Joint Agreement relating to the ownership, operation, and maintenance of the Facilities, and Assignee desires to

accept such assignment and assume Assignor's rights, obligations, title, and interests as to the ownership, operation, and maintenance of the Facilities; and

WHEREAS, MUD 31 acknowledges and consents to this Partial Assignment of the Joint Agreement; and

WHEREAS, the Parties desire to evidence the foregoing agreements pursuant to the terms and conditions of this Partial Assignment.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual promises, covenants, obligations and benefits of this Partial Assignment, the Parties contract and agree as follows:

1. Except as described in Paragraph 2 below, Assignor does hereby assign to Assignee all of Assignor's rights, obligations, title, and interests in and to the Joint Agreement relating to the ownership, operation, and maintenance of the Facilities. Assignee hereby accepts and assumes all of Assignor's rights, obligations, title, and interests in and to the Joint Agreement as to the ownership, operation, and maintenance of the Facilities.
2. The Parties acknowledge and agree that Assignor, in cooperation with MUD 31, shall remain obligated for future expansions of the Facilities in accordance with the terms and provisions of Sections 3.03 and 4.03 of the Joint Agreement.
3. MUD 31 hereby acknowledges and consents to this Partial Assignment of Assignor's rights, obligations, title, and interests to Assignee and assumption of Assignor's rights, obligations, title, and interests in and to the Joint Agreement by Assignee as provided herein.
4. The Parties acknowledge and agree that from and after the Effective Date hereof, Assignee shall be and constitute "No. 32" under the Joint Agreement with respect to any and all rights, duties, and obligations relating to the ownership, operation, and maintenance of the Facilities.
5. All notices required to be given to Assignee pursuant to the Joint Agreement shall be addressed as set forth below.

If to Assignee:

City of Iowa Colony
12003 County Road 65
Iowa Colony, Texas 77583
Attn: City Manager

6. The law governing this Partial Assignment shall be the applicable laws of the State of Texas.
7. This Partial Assignment may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument.

[EXECUTION PAGES FOLLOW]

Executed and effective as of the Effective Date.

**BRAZORIA COUNTY
MUNICIPAL UTILITY
DISTRICT NO. 32**

ATTEST:

By: _____
Secretary, Board of Directors

By: _____
President, Board of Directors

(SEAL)

**CITY OF IOWA COLONY,
TEXAS**

By: _____
Mayor

ATTEST:

By: _____
City Secretary

APPROVED AS TO FORM:

By: _____
City Attorney