

FACILITY CONVEYANCE AGREEMENT

This Facility Conveyance Agreement (the "Agreement") is made and entered into as of the 13th day of September, 2024, (the "Effective Date") by and among **BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 53**, 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 53"), and the **CITY OF IOWA COLONY, TEXAS**, a municipal corporation and home rule city of the State of Texas (the "City").

RECITALS

MUD 53 owns and operates a water supply and distribution system to serve the area within the boundaries of MUD 53 as well as its internal water supply and distribution system (collectively, the "Water Supply Facilities"). The Water Supply Facilities include, without limitation, two (2) permanent water wells and a water plant with capacity to serve 1,666 equivalent single-family connection's ("ESFC") (the "Reserved Water Capacity").

MUD 53 also leases a permanent wastewater treatment facility and owns its internal wastewater collection system to serve the area within the boundaries of MUD 53 (collectively, the "Wastewater Facilities," and together with the Water Supply Facilities, the "Facilities"). The Wastewater Facilities include, without limitation, two (2) leased 200,000 gallons per day permanent wastewater treatment plants (the "Wastewater Plant"), each governed by a Lease Agreement with Option to Purchase between MUD 53 and General Plant Finance, LLC (the "Lease Agreements"), as well as internal collection lines, lift stations, and related appurtenances. The current Wastewater Facilities have the capacity to serve 1,600 ESFCs (based on 250 gallons per day of wastewater flow per connection) (the "Reserved Wastewater Capacity").

MUD 53 and the City are parties to the Utility Agreement dated May 1, 2016, as amended by Amendment No. 1 (the "Utility Agreement").

Pursuant to the Development Agreement by and among the City, Land Tejas Sierra Vista West, LLC, and McAllister Opportunity Fund III, L.P., effective November 7, 2019, MUD 53 is required to convey ownership and operation of the Facilities to the City upon six months' notice.

The City now wishes to acquire, own, operate and maintain the Facilities and to collect water and sewer fee revenue from the utility customers within MUD 53, which will become customers of the City upon the conveyance of the Facilities.

The City provided official notice by letter dated January 16, 2024, of the City's interest in and intent to assume the rights, title, interests, and obligation of ownership of MUD 53's interest in the 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. Except as provided in Section II.b. below, within 30 calendar days of the Effective Date, MUD 53 will execute and deliver to the City the Utility Conveyance conveying all Water Supply Facilities and Wastewater Facilities to the City.
- b. With respect to the Wastewater Plant only, MUD 53 will work diligently with the lessor of the Wastewater Plant to effectuate an assignment of lease or sublease of the Wastewater Plant to the City, in a form acceptable to the City, as soon as practicable following the Effective Date, provided that MUD 53 shall remain obligated to make all payments due under the Lease Agreements, including without limitation the obligation to exercise the purchase options. The City will own the Wastewater Plant upon MUD 53's exercise of the purchase options under the Lease Agreements. In the case of a sublease of the Wastewater Plant to the City, or as otherwise necessary to effectuate transfer of the Wastewater Plant, MUD 53 will execute and deliver to the City the Utility Conveyance conveying the Wastewater Plant to the City as soon as practicable after MUD 53 exercises the purchase options.

MUD 53 agrees to file with the Texas Commission on Environmental Quality ("TCEQ") an application transferring MUD 53's TPDES permit to the City within 30 days of the Effective Date, or as soon as practicable following the assignment of lease or sublease of the Wastewater Plant to the City and work diligently with the TCEQ to complete the transfer.

- c. As soon as practicable after MUD 53's transfer of the Facilities to the City, the City will countersign and deliver to MUD 53 the Utility Conveyance(s), and, if applicable, assignment of lease or sublease of Wastewater Plant.
- d. MUD 53 will record the Utility Conveyance(s) in the real property records.

III. Conveyance of Facilities/Reserved Capacity. MUD 53 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 (collectively, the "Reserved Capacity") will remain reserved to serve land only within the boundaries of MUD 53 unless and until MUD 53 has been fully built out. For purposes of this Agreement, full buildout means that the Facilities necessary to serve 100% of the developable land in MUD 53 have been constructed.

The City shall get the benefit of any rerating of the plant(s) that produces capacity in excess of the Reserved Capacity and may use such capacity outside the boundaries of MUD 53.

The City will not accept conveyance of any stormwater detention facilities from MUD 53.

IV. Operation of Facilities/ Lease Payments. Upon the recordation of the Utility Conveyance and assignment of lease or sublease of the Wastewater Plant, as applicable, the City agrees that it will operate and maintain the Facilities at its sole cost and expense; provided, however, MUD 53 will continue to make all payments due under the Lease Agreements, including making all lease payments until MUD 53 exercises the purchase options. MUD 53 shall exercise the purchase options under the Lease Agreements, provided MUD 53 shall have discretion over when to exercise such options. 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.

It is the intent of the parties that within 30 days of the Effective Date, the City shall have been conveyed and shall have assumed full ownership and operation of the Facilities (except for the Wastewater Plant) and that all customers of water and sewer services within MUD 53 shall be customers of the City. If necessary to effectuate the City's operation of the Wastewater Plant, due to the terms of the Lease Agreements (including any assignment or sublease thereof to the City), MUD 53 agrees that the City shall operate the Wastewater Plant on behalf of MUD 53 at the City's sole cost. The City shall meter and bill all customers

within MUD 53 for water and sewer services and retain the water and sewer revenue. The City shall be responsible for the operation and maintenance of the Wastewater Plant in full compliance with MUD 53's TPDES permit, the Lease Agreements, and all applicable laws and regulations of all governmental entities with jurisdiction. The City will initially contract with Si Environmental, LLC, for the operation of 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.

V. Impact Fees. Impact fees will not be charged against any property owners in MUD 53.

VI. MUD 53 Capacity Charges. MUD 53 currently assesses a fee in the amount of \$3,850 dollars per equivalent single-family connection against new development at the time of tap installation ("Capacity Charge"). The revenue from this fee has been intended to be used by MUD 53 to cover a portion of its costs to fund the purchase of the Wastewater Plant under the Lease Agreements. As the City will be taking over the water and wastewater infrastructure within MUD 53, MUD 53 will no longer have a mechanism to collect the Capacity Charge. At the request of MUD 53, commencing on the Effective Date, the City agrees to collect the Capacity Charge at the time of issuance of a building permit. The City will assess the Capacity Charge in the amount of \$4,000 on behalf of MUD 53 and retain and separately account for \$3,850 of such charge towards the purchase of the Wastewater Plant under the Lease Agreements, to be remitted to MUD 53 upon written request at the time MUD 53 exercises the purchase options. The City will retain the remaining \$150 as an administrative cost.

VII. Garbage Collection. Notwithstanding Section 3.03 of the Strategic Partnership Agreement between the City and District, upon the termination of MUD 53's existing contract for garbage and recycling collection services, the City shall assume the responsibility to provide such services within the boundaries of MUD 53 at the City's cost. If MUD 53 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 53 equal to MUD 53's contractual cost per connection to provide garbage and recycling collection services through the term of MUD 53's existing contract. The City shall, on a monthly basis, remit all garbage/recycling revenues it actually collects from MUD 53 customers to MUD 53 so that MUD 53 can in turn meet its current contractual obligations to pay for such services.

VIII. 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

District: Brazoria County MUD No. 53
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 53 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 53 hereby certifies, represents, and warrants that the execution of this Agreement is duly authorized and adopted by the Board of Directors of MUD 53.

[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. 53

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. 53 (the “District”) has constructed and installed certain improvements, structures, and facilities designed to provide water and wastewater to serve areas within MUD 53's boundaries and the boundaries of the City of Iowa Colony, Texas (the “City”). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MUD 53 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 53 pursuant to the construction contract with _____, which facilities are located within the boundaries of MUD 53, 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 53 in connection with the facilities being conveyed hereby (the “Facilities”).

MUD 53 hereby assigns to the City all rights, maintenance bonds, warranties and manufacturer's warranties, if any, owned or acquired by MUD 53 for the Facilities.

MUD 53 is conveying the Facilities to the City pursuant to the Conveyance of Facilities Agreement dated [REDACTED], 2024, between the City and District (the “Conveyance of Facilities Agreement”). MUD 53 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 MUD 53, to the extent described in the Conveyance of Facilities Agreement.

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 Conveyance of Facilities Agreement.

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

BRAZORIA COUNTY MUNICIPAL
UTILITY DISTRICT NO. 53

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. 53, 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. 53, Attn: Jessica Holoubek; c/o Allen Boone Humphries Robinson LLP, 3200 Southwest Freeway, Suite 2600, Houston, Texas 77027.