

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

**INTERLOCAL AGREEMENT FOR  
WASTEWATER SERVICE**

This Interlocal Agreement for Wastewater Service (this “Agreement”) is between Wilbarger Creek Municipal Utility District No. 1 (the “District”), a political subdivision of the State of Texas created and operating under Chapters 49 and 54 of the Texas Water Code, and the City of Manor, Texas (the “City”), a Texas home-rule municipality located in Travis County, Texas, to set forth the terms and conditions on which the City will provide retail wastewater service to serve the ±4 acre tract shown on the attached **Exhibit “A”** (the “Cottonwood Tract”), which is the remnant portion of a called 109.5069 acre tract described in Document No. 1999115220 of the Official Public Records of Travis County, Texas. The Cottonwood Tract is currently owned by Cottonwood Holdings, Ltd., a Texas limited partnership (“Cottonwood Holdings”), which is executing this Agreement for purposes of acknowledging and confirming its agreements and obligations hereunder.

RECITALS:

WHEREAS, the District provides retail wastewater service to the land and customers within the District’s boundaries; and

WHEREAS, although the Cottonwood Tract is located within the boundaries of the District, the Cottonwood Tract is separated from the rest of the District by F.M. 973 and, thus, does not currently have access to the District’s wastewater system; and

WHEREAS, the City intends to construct a wastewater line along the east side of F.M. 973 through the Cottonwood Tract to serve certain property north of the Cottonwood Tract (the “City Wastewater Line”) as long as an easement is granted by Cottonwood Holdings across the Cottonwood Tract for the City Wastewater Line; and

WHEREAS, Cottonwood Holdings has agreed to grant the easement to the City but has asked the City and the District to consider allowing the Cottonwood Tract to connect to the City Wastewater Line and receive retail wastewater service from the City instead of being required to bore under F.M. 973 in order to connect to the District’s wastewater system and receive retail wastewater service from the District; and

WHEREAS, the City and the District have determined that it would be more economical and efficient for the Cottonwood Tract to connect to and receive retail wastewater service from the City Wastewater Line that will cross the Cottonwood Tract rather than requiring Cottonwood Holdings to bore under F.M. 973 in order to connect to the District’s wastewater system; and

WHEREAS, the City, the District, and Cottonwood Holdings desire to enter into this Agreement to set forth the terms and conditions on which the City will provide retail wastewater service to the Cottonwood Tract via the City Wastewater Line;

## AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, the District, and, as applicable, Cottonwood Holdings agree as follows:

### I. RETAIL WASTEWATER SERVICE TO THE COTTONWOOD TRACT

- 1.1 Recitals Incorporated.** The above recitals are incorporated herein and made a part of this Agreement to the same extent as if set forth herein in full.
- 1.2 Area to Be Served.** The City may provide wastewater utility service under this Agreement only to the Cottonwood Tract. No other properties within the District may be connected to the City's wastewater utility system without a further written agreement between the City and the District.
- 1.3 Agreement for Wastewater Service.** Subject to the terms of this Agreement, the District and the City agree that the City will provide retail wastewater service to the Cottonwood Tract from the City Wastewater Line. The City will provide retail wastewater service to customers within the Cottonwood Tract in the same manner and on the same terms and conditions as the City provides service to other retail wastewater customers inside its corporate limits. The City's standard wastewater rates, charges, and other fees, including engineering review and inspection fees, that are applicable to other areas within the City's corporate limits will be applicable to facilities constructed, connections made, and services provided within the Cottonwood Tract. Subject to the limitations in Section 1.4 below, the City agrees and commits to provide wastewater service sufficient for the full build-out of the Cottonwood Tract at flow rates sufficient to meet the minimum requirements of all applicable regulations, and agrees to provide written confirmation of the availability of service upon the District's request in connection with any District bond sale or audit. As compensation for providing retail wastewater service to the Cottonwood Tract under this Agreement, the City will be entitled to retain all amounts collected from customers within the Cottonwood Tract in connection with the provision of retail wastewater service to the Cottonwood Tract, which the City and the District agree will fairly compensate the City for providing retail wastewater service to the Cottonwood Tract under this Agreement. The retail wastewater service provided by the City to the Cottonwood Tract will not reduce or be counted against the capacity of the District's wastewater system or any other services provided by the District in any way. Except as expressly provided in this Agreement, the District will have no responsibilities with respect to wastewater service to the Cottonwood Tract and is hereby released from any such responsibilities or obligations, whether regulatory, contractual, or otherwise.
- 1.4 Level and Quantity of Service; Quality of Wastewater.** Unless otherwise agreed by the City and the District in writing, the City's commitment to provide retail wastewater service to the Cottonwood Tract under this Agreement will be limited to a maximum of 60 living unit equivalents (LUEs). The City's retail wastewater customers within the Cottonwood Tract will be responsible for assuring that only normal, domestic wastewater is passed-through the City's wastewater utility system and that no

commercial and/or industrial wastewater is discharged into the City wastewater collection system. The City will be entitled to inspect the facilities constructed by Cottonwood Holdings on the Cottonwood Tract and to test the wastewater generated by the Cottonwood Tract. If any test reflects that any wastewater other than normal domestic wastewater is being received by the City from the Cottonwood Tract, pretreatment of such wastewater will be required, in accordance with applicable governmental regulations, at the expense of the City's retail wastewater customers within the Cottonwood Tract.

- 1.5 Billings.** The individual wastewater connections within the Cottonwood Tract will be direct City retail wastewater customer(s) for all purposes and will be subject to all applicable wastewater service policies and ordinances of the City. The City will collect all applicable wastewater impact fees, will generate retail wastewater billings for the services provided to the Cottonwood Tract, and will be solely responsible for collecting its billings from the wastewater customer(s) within the Cottonwood Tract.
- 1.6 Water and Wastewater Easement.** As additional consideration for the City's and the District's agreement to permit the City to provide retail wastewater service to the Cottonwood Tract under this Agreement, Cottonwood Holdings agrees to provide the City with a 25-foot wide water and wastewater easement across the Cottonwood Tract in a form acceptable to the City and Cottonwood Holdings concurrently with the execution of this Agreement.
- 1.7 District Taxes, Rules, Reimbursement, and Other Related Matters.** Cottonwood Holdings, on behalf of itself and its successors and assigns, hereby (i) acknowledges and agrees that, although the District will not be providing retail wastewater service to the Cottonwood Tract by virtue of this Agreement, the Cottonwood Tract will remain subject to the District's full ad valorem property tax and to all District rules and regulations except the rates and charges applicable to retail wastewater service under the District's rate order; and (ii) consents to, ratifies, and agrees to be bound by same. Cottonwood Holdings, on behalf of itself and its successors and assigns, also acknowledges and agrees that the City Wastewater Line will be a City facility, not a District facility or a "Master District Facility" under that certain Amended and Restated Contract for Financing and Operation of Regional Waste Collection, Treatment and Disposal Facilities; Regional Water Supply and Delivery Facilities; and Regional Drainage, Including Water Quality, Facilities dated March 6, 2003 among the District, Travis County Municipal Utility District No. 2, Cottonwood Creek Municipal Utility District No. 1, and Wilbarger Creek Municipal Utility District No. 2 (the "Master District Contract"); that neither the City Wastewater Line nor any connections to the City Wastewater Line to serve the Cottonwood Tract will be eligible for reimbursement by the District or the "Master District" under the Master District Contract; and that Cottonwood Holdings, or its successors or assigns, will be responsible for constructing the water facilities necessary for the District to provide retail water service to the Cottonwood Tract in accordance with applicable law and the District's rules.

## II. GENERAL PROVISIONS

- 2.1 Authority.** This Agreement is made under the authority of Chapter 791 of the Texas Government Code and Section 54.201 of the Texas Water Code.
- 2.2 Remedies Upon Default.** In the event of default under this Agreement, the non-defaulting party(ies) may avail itself/themselves of all remedies existing at law or in equity.
- 2.3 Severability.** If a court or governmental agency of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other portion of this Agreement invalid, the remainder of this Agreement will not be affected by that holding and this Agreement will be construed as though the invalid portion was not included. The provisions of this Agreement are expressly deemed severable for this purpose.
- 2.4 Payments from Current Revenues.** Any payments required to be made by any governmental entity under this Agreement will be payable from current revenues or other funds lawfully available for such purpose.
- 2.5 Entire Agreement.** This Agreement is the entire agreement of the parties hereto and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter of this Agreement.
- 2.6 Amendments.** Any amendment of this Agreement must be in writing and will be effective only if signed by the authorized representatives of the District and the City.
- 2.7 Assignment.** The rights and obligations of the parties under this Agreement are not assignable without the prior written consent of the other parties to this Agreement; provided, however, that this Agreement will constitute a covenant running with the Cottonwood Tract, will be recorded in the Official Public Records of Travis County, Texas, and will be binding upon the Cottonwood Tract and any owner(s) thereof.
- 2.8 Applicable Law and Venue.** This Agreement will be construed in accordance with Texas law. Venue for any action arising under this Agreement is in Travis County, Texas.
- 2.9 Notices.** Unless otherwise provided, any notice given under this Agreement must be in writing, and may be given by (i) depositing it in the United States mail, postage paid, certified, and addressed to the party to be notified, with return receipt requested; or (ii) by depositing it with a courier service, with appropriate proof of receipt by the party to be notified at the addresses specified below:

District: Wilbarger Creek Municipal Utility District No. 1  
c/o Armbrust & Brown, PLLC  
Attn: John Bartram  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701

City: City of Manor  
Attn: City Manager  
105 E. Eggleston Street  
Manor, Texas 78653

With a copy to: The Knight Law Firm, LLP  
Attn: Paige Saenz  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

Cottonwood  
Holdings: Cottonwood Holdings, Ltd.  
Attn: Pete Dwyer  
9900 Highway 290 East  
Manor, Texas 78653

Any party may change its respective address for the purpose of notice by giving at least five days' notice of the new address to the other parties.

- 2.10 Exhibits.** The attached **Exhibit "A"** (depiction of the Cottonwood Tract) is incorporated into this Agreement by reference for all purposes.
- 2.11 Counterparts; Authority.** This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. Each party to the Agreement represents and warrants that it has the full right, power, and authority to execute this Agreement.
- 2.12 Effective Date; Term.** This Agreement will be effective from and after the date of due execution by all parties and, unless earlier terminated by mutual agreement of the City and the District, will terminate upon the annexation and dissolution of the District by the City under that certain Development Agreement for the ShadowGlen Subdivision, a memorandum of which is recorded as Document No. 2012158027 in the Official Public Records of Travis County, Texas, as amended and assigned.
- 2.13 Interpretation.** Each party to this Agreement has fully participated in the negotiation, formulation, drafting, and approval of this Agreement. Therefore, if there is any ambiguity, the provisions of this Agreement will not be construed for or against any particular party to this Agreement by reason of authorship.

*[signature pages follow]*

**COUNTERPART SIGNATURE PAGE TO:**  
**INTERLOCAL AGREEMENT FOR**  
**WASTEWATER SERVICE**

**THE DISTRICT:**

**WILBARGER CREEK MUNICIPAL UTILITY  
DISTRICT NO. 1**

By \_\_\_\_\_  
Bill Kochwelp, President  
Board of Directors

THE STATE OF TEXAS    §  
  §  
COUNTY OF TRAVIS    §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Bill Kochwelp, President of the Board of Directors of Wilbarger Creek Municipal Utility District No. 1, a political subdivision of the State of Texas, on behalf of said district.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

**COUNTERPART SIGNATURE PAGE TO:**  
**INTERLOCAL AGREEMENT FOR**  
**WASTEWATER SERVICE**

**THE CITY:**

**CITY OF MANOR, TEXAS**

By: \_\_\_\_\_  
Dr. Christopher Harvey, Mayor

THE STATE OF TEXAS    §  
  §  
COUNTY OF TRAVIS    §

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Dr. Christopher Harvey, Mayor of the City of Manor, a Texas municipal corporation, on behalf of said city.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

**COUNTERPART SIGNATURE PAGE TO:**  
**INTERLOCAL AGREEMENT FOR**  
**WASTEWATER SERVICE**

**COTTONWOOD HOLDINGS, LTD.**, a Texas  
limited partnership

By: **COTTONWOOD GENERAL  
PARTNER, L.C.**, a Texas limited liability  
company, its General Partner

By: \_\_\_\_\_  
Peter A. Dwyer, President

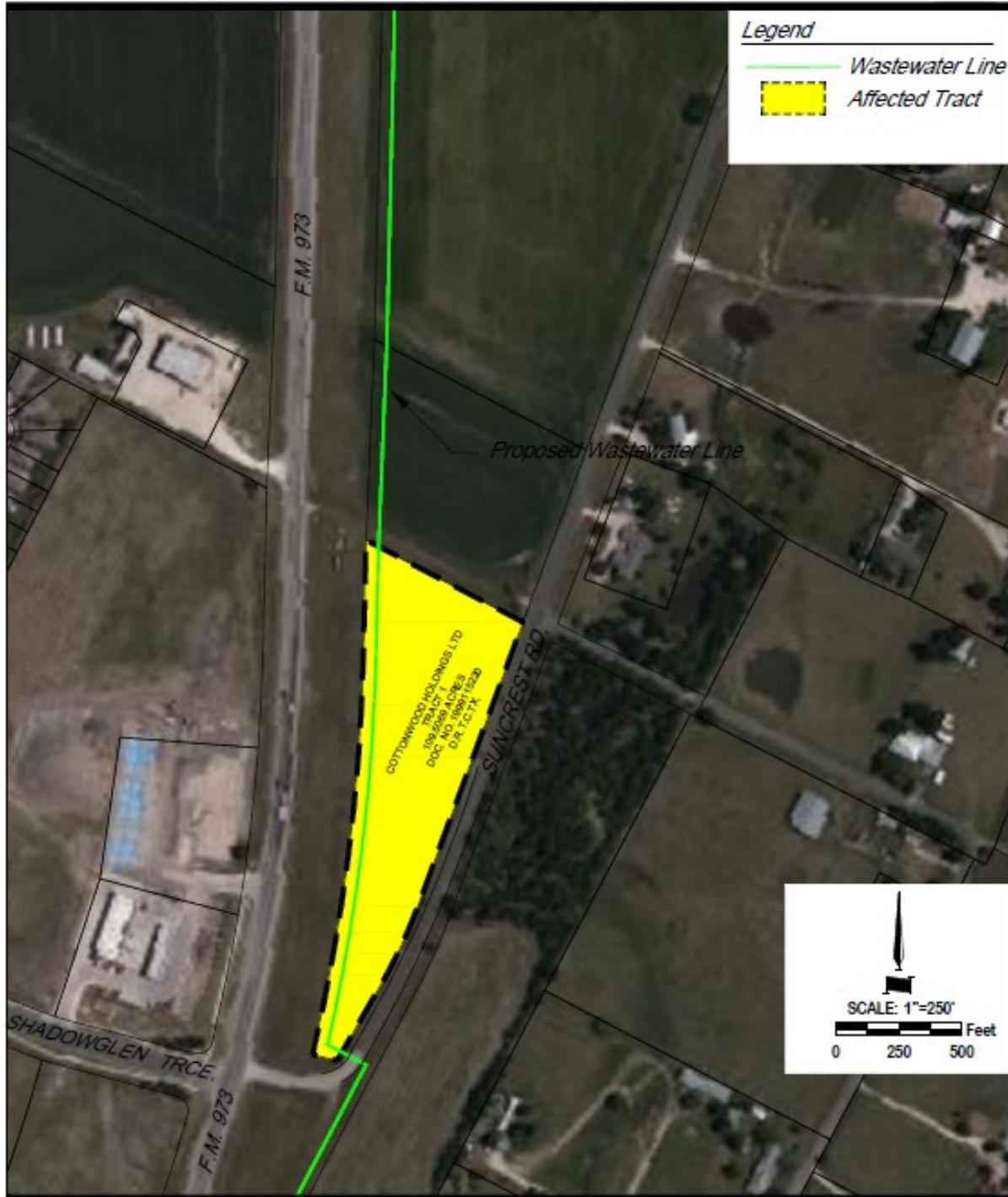
THE STATE OF TEXAS    §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2022,  
by Peter A. Dwyer, President of Cottonwood General Partner, L.C., a Texas limited liability  
company, sole general partner of Cottonwood Holdings, Ltd., a Texas limited partnership, on  
behalf of said limited liability company and said limited partnership.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

**EXHIBIT "A"**

G:\14628\Civil\_3D\Production Drawings\Exhibits\Interlocal Agreement Exhibit.dwg  
Layout: 8.5x11 -- Monday, October 18, 2021 1:23:06 PM -- Copyright 2021, George Butler Associates Inc.



Texas  
Engineering  
Firm #1242

PROJECT NUMBER  
**14628.00**  
DATE  
**03/09/2021**

F.M. 973 WATER & WASTEWATER LINE  
**EXHIBIT A**  
*Manor, Texas*

SHEET NUMBER  
**1**