



BRADLEY ARANT  
BOULT CUMMINGS  
LLP

Henry Walker  
Direct: 615.252.2363  
Fax: 615.252.6363  
hwalker@babco.com

October 15, 2009

filed electronically in docket office on 10/15/09

Docket no. 09-00173

Ms. Sarah Kyle, Chairman  
c/o Sharla Dillon, Docket Manager  
Tennessee Regulatory Authority  
460 James Robertson Pkwy.  
Nashville, Tennessee 37243

Re: Joint Petition of Cartwright Creek LLC and Waterbridge Development for  
Approval of Special Contract

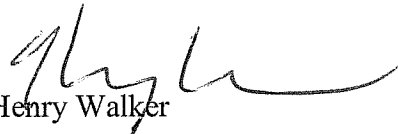
Dear Sharla:

Attached is an uncontested Petition for Approval of a Special Contract. It is important to the parties that this be approved as soon as possible.<sup>1</sup> The parties therefore ask that this matter be placed on the October 26, 2009 agenda. Enclosed is a \$25.00 filing fee.

Very truly yours,

BRADLEY ARANT BOULT CUMMINGS LLP

By:

  
Henry Walker

HW/dnr  
Enclosure

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<sup>1</sup> The completed contract is now being signed. Copies of the signature pages will be filed later today.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**IN RE:**

**JOINT PETITION OF CARTWRIGHT  
CREEK, LLC AND WATERBRIDGE  
DEVELOPMENT FOR APPROVAL  
OF SPECIAL CONTRACT**

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**DOCKET NO. 09-\_\_\_\_\_**

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**JOINT PETITION OF CARTWRIGHT CREEK AND WATERBRIDGE  
DEVELOPMENT FOR APPROVAL OF SPECIAL CONTRACT**

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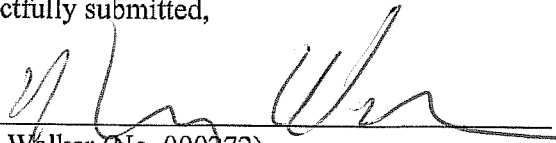
Cartwright Creek L.L.C. and Waterbridge Development, Inc., jointly request that the Tennessee Regulatory Authority review and approve, pursuant to TRA Rule 1220-4-1-.07, the attached contract for wastewater service. The Petitioners ask that this uncontested matter be placed on the TRA agenda conference for October 26, 2009.

Cartwright Creek is a certified wastewater utility operating in Williamson County, Tennessee. Waterbridge owns land within the Cartwright Creek service area.

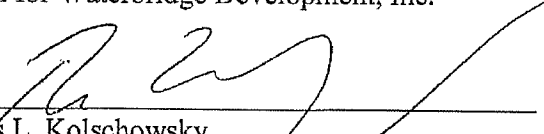
Waterbridge is in the process of building a residential development and requires the wastewater services of Cartwright Creek. The attached contract describes the rates, terms and conditions under which Cartwright Creek will provide service to Waterbridge during the initial development of the property. Once lots in the development are sold to third parties, such as a builder or home owner, the rates, terms and conditions of service to individual lot owners will be governed by Cartwright Creek's tariffs.

To the knowledge of Cartwright Creek and Waterbridge, this Petition is uncontested. The timely approval of the contract will benefit both current and future customers of Cartwright Creek. The Petitioners therefore ask that the contract be approved and that this matter be heard by the agency at its next regularly scheduled conference on October 26, 2009.

Respectfully submitted,



Henry Walker (No. 000272)  
1600 Division Street, Suite 700  
P.O. Box 340025  
Nashville, Tennessee 37203  
(615) 252-2363  
Counsel for Waterbridge Development, Inc.



Thomas L. Kolschowsky  
Corporate Counsel  
Sheaffer International, L.L.C.  
As Manager of Cartwright Creek L.L.C.  
800 Roosevelt Road, Suite A-120  
Glen Ellyn, IL 60137  
Counsel for Cartwright Creek, L.L.C.

## **SEWER AND WASTEWATER TREATMENT SYSTEM SERVICE AGREEMENT**

This Sewer and Wastewater Treatment System Service Agreement (this "**Agreement**") is made and shall become effective this 15<sup>th</sup> day of October 2009 (the "**Effective Date**"), by and between **Cartwright Creek, L.L.C.**, a Tennessee limited liability company ("Cartwright Creek") and **Waterbridge Development, Inc.**, a Tennessee corporation ("Owner") (singularly, "**Party**," and collectively, the "**Parties**")

### **RECITALS**

- A. **Whereas**, Owner owns a certain property in Williamson County, Tennessee, shown and legally described on Exhibit A herein (the "Property"), on which it plans to build a residential development (the "Waterbridge" Development");
- B. **Whereas**, Cartwright Creek has designed and received from the Tennessee Department of Environment and Conservation ("TDEC") and the Williamson County Planning Commission permit approvals to build and operate a wastewater treatment plant as defined in Paragraph 8.b. of this Agreement (the "WWTP"), and Owner has designed [a sewage collection system as defined in Paragraph 8.a. of this Agreement (the "Collection System"), and a treated wastewater irrigation system as defined by Paragraph c.d. of this Agreement (the "Irrigation System")] on the Property ;
- C. **Whereas**, Owner has requested Cartwright Creek, as a privately owned, wastewater treatment utility, holding a license from the Tennessee Regulatory Authority ("TRA"), to own and operate the WWTP, Collection System and Irrigation System;
- D. **Whereas**, Cartwright Creek desires to provide the requested services to Owner and also desires to ensure that the WWTP, Collection System and Irrigation System is designed and constructed in accordance with the TDEC operating permit and with State of Tennessee and local laws, regulations, and ordinances, and in accordance with the "Certificate of Convenience and Necessity" ("CCN") granted to Cartwright Creek by the TRA;

Now therefore, upon the following consideration and mutual promises, the Parties hereby agree as follows:

- 1. **INCORPORATION OF RECITALS AND EXHIBITS.** The foregoing Recitals and all attached Exhibits are hereby incorporated into this Agreement by reference.
- 2. **DUTIES OF CARTWRIGHT CREEK.**
  - a. **General.** Upon Owner's completion of the conditions defined in Paragraph 3 of this Agreement, Cartwright Creek shall accept title to the WWTP, Collection System and Irrigation System, including the Residential Grinder Pumps, and provide sewer and wastewater treatment services for the Property.
  - b. **Commencement of Services.** Cartwright Creek's services under this Agreement shall commence at Closing. Cartwright Creek's agreement to close on the Property shall be conditioned on Owner's completion of its obligations defined in Paragraph 3 of this Agreement.
- 3. **DUTIES OF OWNER.** Owner shall be obligated to complete the following prior to the "Closing:"
  - a. **No Connection Fees.** The Collection System, WWTP and Irrigation System are being constructed at the sole cost of the Owner. There will be no connection fees due Cartwright Creek for the residential units within the Waterbridge Development, up to a maximum of 225 equivalent dwelling units (EDUs), provided the Owner completes the obligations outlined in Paragraph 3.
  - i. In consideration for Owner's payment of the costs of constructing the treatment, collection and irrigation systems as described herein, Owner shall have an option to purchase additional taps at a cost of \$5,000.00 for each EDU and also based on the system permitted capacity and determined by Cartwright Creek's consulting engineer. Owner shall provide written notice to Cartwright Creek of its intent to purchase additional taps identifying the number of taps and the date needed. Cartwright Creek shall reply in writing within 30 days identifying the cost of such taps and any system capacity issues. This option shall terminate 5 years from the date of Closing.
  - b. **Construction Certifications.** Owner has contracted with Sheaffer International, LLC to shall provide a set of as-built plan drawings for the WWTP and Irrigation System and Owner shall provide a set of as-built drawings for the

Collection System signed and sealed by a professional engineer licensed to practice in the State of Tennessee, certifying that the as-built drawings accurately depict the WWTP, Collection System and Irrigation System as it was built, and that the WWTP, Collection System and Irrigation System was built in substantial conformance with the design approved by the TDEC and Williamson County.

- c. Survey. Owner, at its expense, shall provide a plat of survey (the “Survey”), dated after the completion of the WWTP, Collection System and Irrigation System, in accordance with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys and complying with current standards adopted by the American Land Title Association on October 5, 2005 and the Board of Directors, National Society of Professional Surveyors on October 24, 2005, and certified to Cartwright Creek. The survey shall depict and include, without limitation, the following: (i) present location of any and all improvements, fences or structures located on the land, and the Survey shall show that there are no encroachments of adjacent improvements onto the Property; (ii) building lines and all easements whether recorded or visible (and if recorded, by specified reference to the record by document numbers and a separate legal description of all easements; (iii) access to public roads and highways and (iv) identification of storm sewers, sanitary sewers and water lines as they serve the Property from the respective main lines, stormwater detention/retention for the Property and the location of underground pipes carrying the stormwater from the Property to such offsite location. Without limitation of the foregoing, the Survey shall state the legal description of the Property, the square footage of the Property and any improvements or structures on the Property, and shall further state whether the Property is located in an area designated by an agency of the United States of America as being subject to flood hazards or flood risks.
- d. Homeowner Restrictive Covenants. Owner shall prepare homeowners’ association restrictive covenants and bylaws and provide the document(s) to Cartwright Creek for review and approval at Closing. At a minimum, the restrictive covenants shall include the items identified in Exhibit C.
- i. Williamson County Bonding. Williamson County’s Subdivision Regulations and Zoning Ordinances, which include “Article XII, Regulations for Wastewater Treatment and Land Disposal Systems, Williamson County, Tennessee, Amended : October 13, 2008” (the “Regulations”) set forth bonding requirements for wastewater treatment facilities that land apply (irrigate) effluent. The Regulations include performance and maintenance bonding requirements that apply to the WWTP, Collection System and Irrigation System. The documents required and the cost to obtain and maintain the Performance and Maintenance Bonds for the WWTP, Collection System and Irrigation System shall be the responsibility of the Owner and shall be in the form and substance acceptable to Williamson County, Tennessee. As long as Owner is diligently providing the obligations under this Paragraph 3, the Owner shall have the right to provide the appropriate bonding required up to 60 days after the Closing date.
- e. Owner/Developer Maintenance Fee.  
Commencing on the Closing date and continuing for (4) years, unless extended at the option of Owner/Developer, the Owner/Developer shall be responsible for the following:
  - i. To provide funds during the first (4) years of this Agreement, the Owner will pay an annual fee based upon the total number of unsold lots (“Total Owner/Developer Maintenance Fee”) and calculated by multiplying a fee for each unsold lot (“Individual Owner/Developer Maintenance Fee”) by the number of unsold lots on the Waterbridge Development. The Individual Owner/Developer Maintenance Fee shall be \$205.86.
  - ii. As lots are sold to third party purchasers or builders, the Owner will ensure that the purchasers are aware, by including in Owner’s Real Estate Sales Contract that the Individual Owner/Developer Maintenance Fee will become and continue as a responsibility of the lot purchasers until a home is occupied and the homeowner begins paying the monthly sewer bill. The Owner’s Total Owner/Developer Maintenance Fee will subsequently reduce by the number of lots sold to third party purchasers or builders.
  - iii. The Owner will pay the first Total Owner/Developer Maintenance Fee in the amount of \$46,318.50 as follows:
    - a) \$10,000.00 upon execution of this Agreement.
    - b) \$10,000.00 at Closing.
    - c) The balance payable 4 months from the Closing date.

The Owner will continue paying the Total Owner/Developer Maintenance Fee for three additional years in quarterly installments commencing on the one (1) year anniversary date of this Agreement. At the end of the fourth year, the Owner may elect to continue paying in the Total Owner/Developer Maintenance Fee and reserve remaining taps or elect to discontinue paying; in which case, the Owner will forfeit the tap for any unsold lots to Cartwright Creek. All such taps for unsold lots shall be the exclusive property of Cartwright Creek.

- iv. If during years one through four, the Owner fails to pay the Total Owner/Developer Maintenance Fee within 15 days of the one (1) year anniversary date hereof, the Owner shall lose the taps for the unsold lots as described in Paragraph 4.C.i. of this Agreement.
- v. Reimbursable Expenses. Owner shall reimburse Cartwright Creek for actual costs incurred for Real Estate Taxes, Insurance and grass cutting to the extent such expenses exceeds the initial estimated amount paid by Owner to Cartwright Creek upon execution of this Agreement and identified in Exhibit B. The Parties have estimated such initial annual deposit to be \$17,000.00. At the end of each year, Cartwright Creek shall provide Owner an expense summary showing the actual costs incurred for such reimbursable expenses. If the actual amount of such expenses exceeds the amount of the deposit paid by Owner to Cartwright Creek, Owner shall reimburse Cartwright Creek for such amount within 15 days of billing by Cartwright Creek to Owner. In addition, Cartwright Creek shall prepare an expense adjustment statement for such reimbursable expenses and deliver to Owner as soon as reasonably practical at the end of each year with the first expense adjustment to be delivered to Owner one year from the date Cartwright Creek commences operation of the Facility. Owner and Cartwright Creek shall contract by a separate written agreement for grounds keeping, mowing and cover crop maintenance.

f. Documents to be delivered by Owner at Closing. At the Closing Owner shall deliver or cause to be delivered to Cartwright Creek directly or, if either party elects, through the Escrow, the following, each of which shall be in form reasonably satisfactory to Cartwright Creek and (if applicable) the Title Insurer:

- i. A duly executed and acknowledged Warranty or Trustees Deed to the Property subject only to the Permitted Exceptions;
- ii. Affidavit of Title;
- iii. Bill of Sale;
- iv. An affidavit to the effect that Seller is not a foreign person under Section 1445(b) of the United States Internal Revenue Code (FIRPTA);
- v. GAP Undertaking or other Personal Undertaking as required by the Title Insurer;
- vi. All documentation required by Section 1445 of the Internal Revenue Code of 1954, as amended from time to time (the "Code"), it being understood and agreed that Purchaser is authorized to withhold and deduct from the portion of the Purchase Price payable at Closing any and all amounts required by the Code; provided, however, that if Seller is not a "foreign person" as defined in the Code, Seller shall execute and deliver a Transferor's Affidavit in compliance with the terms of the Code, in form and substance reasonably satisfactory to counsel for Purchaser, in which event no such withholding shall be required;
- vii. Such other instruments and documents as may be reasonably required in order to carry out the purposes of this Agreement.
- viii. Certificate from Owners stating that all of Owners obligations under Paragraph 3 have been completed in accordance with this Agreement.

g. Title Insurance Policy. Owner shall provide at Closing at its own expense a title insurance policy from a title insurance company which is retained by Owner and mutually agreed to by the Parties for the Property (the "Title

Policy”), which shows title is in fee simple, free and clear of any and all liens and encumbrances, at the time of transfer of title to Cartwright Creek. The title insurance policy shall include the following endorsements:

- i. Zoning;
  - ii. Access;
  - iii. Owner’s Comprehensive;
  - iv. Contiguity;
  - v. Survey;
  - vi. Subdivision;
  - vii. Address;
  - viii. Tax Parcel;
  - ix. Utility Facility;
  - x. Deletion of Creditor Rights.
- h. Property Taxes. Owner shall pay for all property taxes due for the Property as of the date of Closing and shall prorate for property taxes not yet due and payable in the year after Closing and as further identified in Paragraph 3.e.v. In addition, Owner shall provide Cartwright Creek all financial information necessary to submit to the local county assessor to assist in efforts to reduce or accurately contest real estate taxes. Cartwright Creek shall keep all information confidential. All costs associated with contesting the real estate taxes shall be the responsibility of Owner.
- i. Spare Parts. Owner shall provide spare parts as required on the WWTP, Collection System and Irrigation System drawings. Owners obligation to provide spare parts shall terminate when Owner’s Maintenance bond is released by Williamson County.
- j. Residential Grinder Pump Service and Replacement. Cartwright Creek will own and maintain the individual grinder pumps. Owner shall require through its contracts with home builders or through the homeowners restrictive covenants or other appropriate means that each builder constructing a home on a lot within the Waterbridge Development installs a grinder pump, service connection, and fittings in accordance with the Collection System drawings approved by TDEC and to be inspected by Cartwright Creek in accordance with its approved tariff. Owner shall also include in the homeowners restrictive covenants a grant of easement to Cartwright Creek for its right of access to the grinder pumps as provided in Paragraph 3.d.v of this Agreement. Cartwright Creek shall have the right to inspect every grinder pump installed upon 10 days written notice from Owner or any third party purchaser or builder. Cartwright Creek shall be entitled to a fee as determined by its tariff, but not less than \$100.00

#### 4. DEFAULT/TERMINATION.

- a. Prior to Closing. Cartwright Creek may terminate this Agreement by written notice to Owner if Owner fails to comply with its obligations under Paragraph 3 of this Agreement and, after receiving written notice describing such failure from Cartwright Creek, Owner fails to take corrective actions within 30 days of notification. In the event of Owner’s default prior to Closing, Cartwright Creek will not accept title to the Project and shall have no obligation to provide any sewer and wastewater service connections to Owner, its assignees or designees.
- b. Owner Default after Closing. The occurrence of any one or more of the following events shall constitute a default and breach of this Agreement by Owner.
- i. If Owner fails to pay the Owner/Developer Maintenance Fees identified in Paragraph 3.e or any other charges required to be paid by Owner under this Agreement.
  - ii. If Owner fails to promptly and fully perform any other covenant or condition in this Agreement and such failure continues for 30 days after written notice from Cartwright Creek to Owner.

- iii. If Owner makes a general assignment for the benefit of creditors or if Owner files a voluntary petition or if a petition is filed against Owner in a proceeding under the Federal Bankruptcy Laws or other insolvency laws.
- c. Remedies. In the event of Owner default hereunder, then in addition to any other rights or remedies Cartwright Creek may have under any law, Cartwright Creek shall have the right, at Cartwright Creek's option, without further notice or demand of any kind, to do the following:
  - i. Terminate this Agreement and be entitled to recover as damages a sum equal to the Owner Maintenance Fees owed for years 1-4 of this Agreement and all taps for unsold lots shall be forfeited by Owner and transferred to Cartwright Creek for the sole and exclusive use of Cartwright Creek. Owner shall have the opportunity to cure any default within 60 days from the date Owner receives written notice of default from Cartwright Creek.

## 5. OTHER TERMS AND CONDITIONS.

- a. Attorneys' Fees and Court Costs. The Parties in any dispute between the Parties arising from this Agreement shall be responsible for their own attorneys' fees and costs incurred in pursuing or defending such dispute.
- b. Notices. Any notice required under this Agreement shall be in writing, personally delivered or sent by certified mail, postage prepaid, to the other Party at the address set forth below or to such other address as any Party may so designate in writing from time to time.

TO: Cartwright Creek, LLC  
Attn: Thomas L. Kolschowsky  
800 Roosevelt Rd., Suite B-214  
Glen Ellyn, IL 60137

To: Waterbridge Development, Inc.  
Attn: President  
4521 Trousdale Drive  
Nashville, TN 37204

With a copy to:

Cartwright Creek, LLC  
C/O Bruce Meyer  
1551 Thompson's Station Rd West  
Thompson's Station, TN 37179

Waterbridge Development, Inc.  
C/O K. Thomas Sidwell  
121 First Avenue South, Suite 200  
Franklin, TN 37064

- c. Force Majeure. In the event either Party's performance of this Agreement is delayed in connection with any circumstance beyond such Party's control including, without limitation, fires, floods, accidents, labor shortages, failure to secure materials as a result of strikes, riots, and national emergencies, but expressly excluding obligations of payment, then such Party may elect to suspend performance under this Agreement but only to the extent, and only for the period, that its performance is prevented by the event. In the event that any suspension under this paragraph occurs for a period in excess of 45 days, either Party may elect to terminate this Agreement.
- d. Entire Agreement. This Agreement has been negotiated and prepared by and for the Parties equally and shall not be construed as having been drafted by one Party. When fully executed, it shall supersede all prior agreements, either oral or in writing. This Agreement shall constitute the entire agreement between the Parties and shall not be modified except through writing and signed by the Parties.
- e. Construction of Agreement. In the event that any part of this Agreement shall be declared void or unenforceable by any court having jurisdiction, such imperfection shall not affect the validity or enforceability of the remainder of this Agreement unless the result would be manifestly unconscionable. The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be construed to, define, limit or extend the scope or intent of this Agreement. The terms, conditions, obligations and definitions contained in this Agreement are intended by the Parties to apply to all exhibits attached unless expressly provided otherwise.
- f. No Waiver. The failure of a Party to insist upon the strict performance of the terms and conditions hereof shall not constitute a waiver of that Party's right to enforce the same in the event of a continuing or subsequent default on the part of the other Party.



- g. Choice of Law; Designation of Jurisdiction for Disputes; Venue. This Agreement is governed by and shall be construed in accordance with laws of the State of Tennessee without giving effect to any choice or conflict of law provision or rule (whether of the State of Tennessee or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Tennessee. The Parties mutually consent to the jurisdiction of the Tennessee Regulatory Authority and to the jurisdiction of the federal and state courts in Williamson County, Tennessee and agree that any action, suit or proceeding concerning, related to, or arising out of this Agreement and the negotiation of this Agreement will be brought either before the Tennessee Regulatory Authority or in a federal or state court in Williamson County, Tennessee and the Parties agree that they will not raise any defense or objection or file any motion based on lack of personal jurisdiction, improper venue, inconvenience of the forum or the like in any case filed in a federal or state court in Williamson County, Tennessee.
- h. No Third-Party Rights. Nothing in this Agreement (including any attachments) shall create, or be construed as creating, any express or implied rights in any person or entity other than the Parties except that Cartwright Creek and Owner are express third-party beneficiaries of any section that specifically names them.
- i. Counterparts. This Agreement may be executed in multiple counterparts including by facsimile transmission, each of which is considered an original and shall be binding upon the Party who executed same, but all of such counterparts shall constitute the same Agreement.
- j. Authority. Both Parties hereby warrant that they are fully authorized to enter into this Agreement and to perform each of their respective obligations described.
- k. Subcontracting. Notwithstanding anything to the contrary in this Agreement, Cartwright Creek may subcontract any part of its obligations under this Agreement to a related entity, merged corporation without obtaining the prior consent of Owner, provided, that no such subcontracting shall release Cartwright Creek from liability for the performance of its obligations hereunder.
- l. Independent Contractor. Owner and Cartwright Creek intend that an independent contractor relationship be created by this Agreement and nothing in this Agreement shall be construed as creating an agency, employer/employee relationship, partnership, joint venture, or other business group relationship except as otherwise expressly provided herein.
- m. Assignment and Delegation. Owner shall not assign, transfer, or otherwise dispose of any of its rights, nor delegate its obligations under this Agreement without the prior written consent of Cartwright Creek. If Owner requests such consent of Cartwright Creek, Cartwright Creek shall not unreasonably withhold its consent. Cartwright Creek may, with Owner's prior written consent, assign, transfer or otherwise dispose of any of its rights or delegate its obligations under this Agreement to (a) any affiliated or subsidiary entity; or (b) any person or entity qualified to perform the Wastewater Treatment and/or Additional Services. This Agreement will inure to the benefit of and be binding upon any successors and permitted assigns or delegates.
- n. Change in Permit or Regulatory Requirements. Nothing in this Agreement shall be construed to prohibit Cartwright Creek from requiring an increase or decrease in the fees payable to Cartwright Creek under this Agreement in the event of a regulatory or permit change, including a change in the rate structure for Cartwright Creek approved by the TRA.
- o. Indemnification. Owner does hereby defend, indemnify and save Cartwright Creek harmless from and against any and all claims, actions, damages, liabilities, expenses and costs of litigation in connection with loss of life, personal injury, and/or damage of property arising from or out of any occurrence in, upon, or at the Property, occasioned wholly or in part by any act or omission by Owner, its agents or invitees upon said Property.
- p. Dispute Resolution. Disputes arising under this Agreement will be resolved by the Tennessee Regulatory Authority subject to judicial review as provided by law. If the parties agree, or if the TRA rules, that the agency lacks jurisdiction to resolve a dispute arising under this Agreement, the parties will submit the matters to Arbitration or to a court of competent jurisdiction in accordance with paragraph 5.q. below
- q. Arbitration. Except as provided herein with regard to injunctive or equitable relief, and except as provided in paragraph 5.p above, all disputes and controversies between the parties arising out of or in connection with this

Agreement, as to the existence, construction, validity, interpretation/meaning, performance, nonperformance, enforcement, operation, breach, continuance, or termination thereof shall be submitted to "Arbitration" as provided in this Agreement.

- (i) PRELIMINARY PROCEDURES. If there are preliminary steps or procedures that would have to be followed under state law before a lawsuit could be commenced, those steps or procedures must be followed before the Arbitration can begin. Compliance with these state law provisions and any negotiations or settlement attempts made before the Arbitration do not constitute waiver of the Arbitration.
  - (ii) ARBITRATION FEES. The parties agree to share equally the cost of filing fees and administrative fees charged in connection with the Arbitration. If one of the parties pays a fee to the arbitrator in the process of requesting or scheduling the Arbitration, the other party will reimburse the paying party for its half of the fee within 30 days of being requested to do so in writing. With regard to any other cost incurred in connection with the Arbitration, each party shall bear their own costs. If a party uses litigation to enforce this Arbitration provision or the Arbitration award, the court will award to the prevailing party its court costs and reasonable attorney's fees.
  - (iii) ARBITRATION PROCEDURE. Thirty (30) days after the controversy arises and all preliminary steps or procedures have been satisfied, either of the parties may demand Arbitration. The parties shall select a single arbitrator from the current year's list as maintained by the American Arbitration Association for the nearest geographical area / local municipality to the Property in question. If the parties are unable to agree on one arbitrator from said list, then the parties will each choose one arbitrator from the list and those two arbitrators will then choose the single arbitrator who shall decide the case.
  - (iv) ARBITRATION AWARD AND RULES. The award rendered by the single arbitrator appointed pursuant to this Agreement shall be final and binding on all parties to the proceeding, and judgment on the award may be entered by either party in the highest court, state or federal, having jurisdiction. The appropriate Arbitration Rules and Mediation Procedures of the American Arbitration Association shall govern and control the Arbitration, and discovery in the form of document production and depositions shall be permitted, subject to the restrictions and conditions established by the Arbitrator.
  - (v) ARBITRATION DEFENSE. The parties agree that the Arbitration provisions of this Agreement shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any controversy or dispute arising during the period of this Agreement, except that nothing herein shall preclude the parties from seeking injunctive or other equitable relief from a court of competent jurisdiction. The Arbitration provisions shall, with respect to the controversy or dispute, survive the termination or expiration of this Agreement and is binding on the parties and their respective successors and assigns. Nothing contained in this Agreement shall be deemed to give the arbitrator(s) any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement.
- r. Upon execution of this Agreement, Cartwright Creek and the Owner will file a copy of this Agreement with the Tennessee Regulatory Authority and request that the Authority review and approve the Agreement pursuant to TRA Rule 1220-4-1-.07.

## 8. DEFINITIONS.

- a. "Sewage Collection System," or "Collection System," means sewage collection pipe easements granted to Cartwright Creek, which shall run from the property line of each subdivided property in the Development served by the Waterbridge Development to wastewater collection pipelines and to the WWTP, as designed by Owner's civil engineer, as well as the pipe, valves, electrical controls, flow meters, and manholes installed within the easement. The Collection System does NOT include any real property interest in the subdivided, residential lots included in the Waterbridge Development, except that Cartwright Creek shall be granted a perpetual right of access by permanent easement to each lot for the purpose of maintaining, repairing, and replacing the individual grinder pumps serving each home and a right of access to the potable water supply shut-off valve for each home.

- b. **"Residential Grinder Pumps"** means the individual sewage pumps at each home to be provided by the Owner or builder in accordance with the project plans and specification and TDEC approvals.
- c. **"Wastewater Treatment Plant"** or **"WWTP"** means the wastewater treatment system designed by Owner's consulting engineers, including treatment equipment, building, and real property.
- d. **"Irrigation System"** means the primary and secondary irrigation land, and the reclaimed wastewater irrigation pumps, pipe, sprinklers, and other appurtenances for irrigating treated wastewater to the primary and secondary irrigation areas.
- e. **"Wastewater Treatment and Reuse Facilities"** means the Collection System, Wastewater Treatment Plant, and Irrigation System as defined above.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date written above.

Waterbridge Development, Inc.

Cartwright Creek, L.L.C.

By: Sheaffer International, LLC

Its: Manager

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**PROPERTY MAP AND LEGAL DESCRIPTION**

(to be provided by Owner)

# **EXHIBIT B** **OWNER MAINTENANCE FEE** **SUMMARY OF OPERATING COSTS**

Operating Labor			\$10,000	
Administrative Labor (Management, accounting, legal, engineering			\$5,000	Note 1
Sampling and Testing Costs		Incl. above in Operating Labor		
Regular preventative maintenance cost			\$1,200	
Grounds keeping, mowing, cover crop maintenance			\$1,000	Note 2
Maintenance/replacement/repair allowance			\$14,000	
Electric Power			\$4,928	
Hypochlorite			\$1,012	
Other Utility bills (water, telephone, internet)			\$1,020	
Insurance		Reimbursable Item		
Taxes-Ad Valorem and Gross Receipts		Reimbursable Item		
Permit and other fees required by regulatory agencies			\$1,000	
Customer billing and accounting costs			\$1,728	
Misc. supplies, paper, consumables			\$1,000	
Bank Charges			\$1,000	
	Subtotal		<u>\$42,888</u>	
	Contingency	8%	\$3,431	
	Total		<u>\$46,319</u>	
	Number of Lots	225	\$205.86	

Notes:

1. Start-up administrative labor for first year
2. Developer will maintain irrigation areas at Owners expense

## EXHIBIT C

### HOMEOWNER RESTRICTIVE COVENANTS

1. Each homeowner will be required to sign a sewer service contract with Cartwright Creek, LLC, the utility approved by the Tennessee Regulatory Authority (TRA) to provide wastewater service to the Waterbridge Development. Cartwright Creek has a tariff approved by the Tennessee Regulatory Authority that defines fees and other terms of service requirements.
2. Cartwright Creek's tariff details the Prohibited Substances the owner is prohibited from flushing or discharging to the sewer or wastewater system and the penalties for discharging Prohibited Substances.
3. Cartwright Creek's tariff details procedures for discontinuation of service in the event of non-payment and related penalties.
4. Cartwright Creek, its assignee, designee or subcontractor has an easement to enter each homeowner's property and property owned by the homeowners' association to install, maintain, repair, operate, improve or inspect the collection system piping and appurtenances and the Residential Grinder Pumps.
5. The owner acknowledges that the residential grinder pump installed on each owner's property is the property of Cartwright Creek. Prior to execution of the sewer service contract, the homeowner or the homeowner's agent shall deliver to Cartwright Creek a certificate of installation and testing for the residential grinder pump to be located on the homeowner's property. The certificate of installation shall be provided and signed by a factory authorized representative of Environment One ("EOne") or a Cartwright Creek approved manufacturer, and shall certify: that the pump controls\ and indicator alarms have been installed and tested and functioning properly; and that the homeowner has been given written instruction on alarm monitoring and notification requirements.