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Filed Electronically in TPUC Docket Room on 7/17/2018

July 17, 2018

VIA ELECTRONIC MAIL
AND HAND-DELIVERY ONLY

Sharla Dillon
Tennessee Public Utilities Commission
502 Deaderick St.
Nashville, TN 37219

RE: *IRM Petition for Certificate of Public Convenience and Necessity*
Docket No. #18-00063

Dear Ms. Dillon:

Attached please find the First Amendment to Utility Services Agreement and four (4) copies of same to be filed with TPUC. The original Utility Services Agreement was filed on May 22, 2018 as Exhibit B to IRM's Petition for Certificate of Public Convenience and Necessity. IRM's Petition for Certificate of Public Convenience and Necessity is set for conference on July 23, 2018.

If you have any questions with respect to this instrument or if I may otherwise be of assistance, please call me.

Sincerely,

A handwritten signature in blue ink that reads "Charles B. Welch, Jr." with a stylized flourish at the end.

Charles B. Welch, Jr.

Encls.

FIRST AMENDMENT TO UTILITY SERVICES AGREEMENT

This First Amendment to Utility Services Agreement (the "Amendment") is made and entered into effective the 17th day of July, 2018 by and between Integrated Resource Management, Inc. d/b/a IRM Utility, Inc., a Tennessee Corporation, with its principal office located at 3444 Saint Andrews Drive, White Pine, Tennessee 37890, ("IRM" or the "Utility") and Douglas Land LLC, a North Carolina Limited Liability Company with its principal office located at 203 Peachtree Place, PO Box 661, Murphy, North Carolina 28906 ("Developer") (collectively, the "Parties").

RECITALS:

- A.** The Parties entered into a Utility Services Agreement (the "Agreement"), attached hereto as **Exhibit A**, effective April 16, 2018 which provides for the terms, conditions, costs, privileges and obligations for the construction, maintenance and operation of an on-site waste water services facilities for Waterside on Douglas Lake Subdivision, (the "Development") located in Jefferson County, Tennessee;
- B.** The Parties acknowledge that the Agreement, a copy of which is attached hereto and incorporated herein by reference, should be amended to more particularly define the appropriate financial security referenced in Paragraph 2 of the Agreement and to provide for payment of any and all federal income tax liability incurred by the Utility pursuant to the provisions of the federal Tax Cuts and Jobs Act of 2017 and any other applicable provision of the Internal Revenue Code as agreed by the professional tax consultant of each party.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Parties agree that the Agreement shall be amended by deleting Paragraph 2 in its entirety and replacing the deleted language in substitution thereof as follows:

"Upon the execution of this Amendment, and prior to consideration by the Tennessee Public Utilities Commission ("TPUC") of the IRM Petition for a Certificate of Public Convenience and Necessity in docket number 18-00063, the Developer shall deposit into an escrow account ("Escrow Account") an amount sufficient to ensure payment of all costs for the construction of the System, including without limitation all regulatory, licensing, and conveyance fees (the "Costs"), and the payment of any income taxes ("Taxes") which accrue as an obligation of the Utility in accordance with

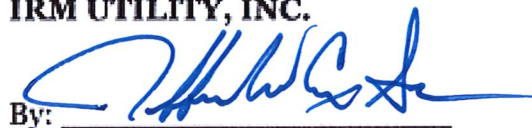
the federal Tax Cuts and Jobs Act of 2017 and any other applicable provision of the Internal Revenue Code; as calculated in accordance with TPUC Tariff No. 1 Section 7.

- (i) The estimated Costs are attached hereto as **Appendix I** to this Amendment and shall include an "Overrun Deposit" amount equal to ten percent (10%) of the estimated Costs which shall be refunded to Developer to the extent the overrun deposit is not used for completion of the System;
- (ii) A calculation of the estimated Taxes is attached hereto as **Appendix II**. The Developer's deposit to the Escrow Account shall equal the total of the estimated Costs and estimated Taxes;
- (iii) Not later than thirty (30) days following the Utility's acceptance of the System pursuant to Paragraph 13 of the Agreement, the Parties shall true-up any amounts owed to the other Party based upon the difference between estimated Costs and Taxes as compared to actual Costs and Taxes incurred;
- (iv) The Escrow Account shall be opened in the name of a third-party chosen by agreement of the Parties and shall be administered in accordance with the terms of a written escrow agreement.

2. All provisions of the Agreement not specifically amended by this Amendment shall remain in full force and effect unless further amended or modified in writing and signed by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have entered into this Amendment effective as of the day and date first written above.

**INTEGRATED RESOURCE
MANAGEMENT, INC. d/b/a
IRM UTILITY, INC.**

By: 
Jeffrey W. Cox, Sr., President

**WATERSIDE ON DOUGLAS
LAKE SUBDIVISION
DOUGLAS LAND, LLC**

By: 
John Snow, Manager



Integrated Resource Management, Inc.

A Privately Owned Public Utility

P.O. Box 842

3444 Saint Andrews Drive

White Pine, Tennessee 37890

Phone (Vol) 674-0828

Facsimile (Vol) 674-2352

Toll Free (877) 746-2910

UTILITY SERVICES AGREEMENT

This Utility Services Agreement (the "Agreement") is made and entered into effective the 16th day of April, 2018, by and between Integrated Resource Management, Inc. d/b/a IRM Utility, Inc., a Tennessee Corporation, with its principal office located at 3444 Saint Andrews Drive, White Pine, Tennessee, 37890 (the "Utility") and Douglas Lake, LLC, a Tennessee North Carolina Corporation, with its principal office located at 203 Peachtree Rd. / P.O. Box 661 (the "Developer"), (collectively, the "Parties"). Murphy NC 28906

Recitals:

1. Developer is the record owner of Waterside on Lake Subdivision (the "Development") as shown in Plot Book/Page 1401 / 1411, in the Jefferson County, Tennessee Register of Deeds Office;

2. Developer shall construct and install a sewage collection, treatment, and disposal system (the "System") in the Development and shall convey and deliver the System to the Utility for the purpose of providing wastewater services to the Development upon completion of the construction and installation of the System; and

3. Developer and Utility enter into this Agreement to establish the terms and conditions for construction, installation, operation, maintenance, and conveyance of the System.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

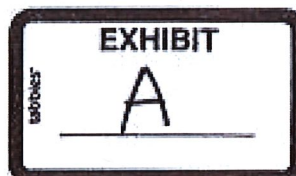
1. The Developer shall construct and install the System to serve the Development in accordance with drawings, plans, and specifications selected and approved by Utility's engineers or representatives. The repair, maintenance, and replacement of the System installed to serve the Development shall be the

Utility Services Agreement

IRM Utility, Inc. & Douglas Lake, LLC

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DOUGLAS LAKE



responsibility of the Utility after the construction of the System is complete and accepted by the Utility.

2. The Developer shall provide Surety **TO-BE DETERMINED** appropriate financial security, in an amount equal to the estimated cost to construct and install the System plus ten percent (10%) of such costs, to insure complete construction of the System. The Utility shall be the named beneficiary of the financial security provided by the Developer.

3. The Developer shall provide for the payment of all necessary engineering and construction costs and/or fees. The Developer shall perform all of the work necessary for the complete and final installation of the System in accordance with the drawings, plans, and specifications approved by Utility's engineers or representatives.

4. Construction of the System shall be subject to the supervision and approval of Utility. The Utility shall have a right of inspection throughout the progress of the work. Developer agrees that it shall not backfill soils over or cover any pipe, fittings, or connections until first inspected and approved by Utility.

5. The Developer shall pay Utility a non-refundable amount equal to ten percent (10%) of the estimated construction cost of the System for the expenses incurred by the Utility during the inspection and permitting process.

6. The Utility shall petition the Tennessee Public Utilities Commission ("TPUC") for a Certificate of Public Convenience and Necessity ("CCN") for the Development. The Developer shall apply and provide for the payment of any fees necessary for a state operating permit to be issued in the name of the Utility by the Tennessee Department of Environment and Conservation ("TDEC"). In the event that the CCN is not issued by the TPUC or the state operating permit is not issued by TDEC, the Developer agrees to release, indemnify, and hold the Utility harmless from any and all obligations associated with the Development.

7. The Developer shall have the duty to immediately repair, all breaks, leaks, or defects in the System of any type which occur within one (1) year from the date the System is accepted by the Utility. In the event that the Developer shall fail to make such immediate repairs, then the Utility shall be authorized to make such repairs at the sole cost and expense of the Developer. If the Developer fails to reimburse Utility for any costs associated with these repairs within thirty (30) days of receipt of a written demand for payment, Utility will also be entitled to recover any attorneys' fees, court costs, and any other expenses incurred to recover costs and expenses associated with repair of the system.

8. Developer will facilitate and execute Restrictive Covenants and Bylaws of the Development providing that a service agreement or contract between the homeowner and Utility will be required by each homeowner to

Utility Services Agreement

IRM Utility, Inc. & DOUGLAS LAKE, LLC

WATERSIDE ON Subdivision, Jefferson County Page 2 of 4
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establish wastewater service. The service agreements or contracts to be entered into between the homeowner and the Utility will include, at minimum, a recitation that the Utility will charge an initial fee (security deposit of \$60.00); a monthly fee to be determined and established by a proposal to the TPUC; and furthermore described as; a Special Contract of; a monthly customer rate, bi-annual "Sewer Access" rates for platted lots not-built on and rates approved by the Commercial Tariff for properties rented, based on the proforma approved by the TPUC.

9. Upon the issuance of the CCN to the Utility by the TPUC, the Developer will turn over any and all funds collected from third parties for the purpose of operating the System.

10. Nothing contained herein shall be construed so as to restrict the Utility's right to increase the capacity or to extend the System as it may, in its sole discretion, deem appropriate, including extension of the System for the purpose of providing wastewater sewer service to customers outside of the Development.

11. The Developer hereby represents and warrants that all materials and labor attributable to the System shall be paid in full at the time of the completion of construction and installation of the System and that the System shall be free from any and all liens and encumbrances. Such representation shall survive the conveyance of the System by the Developer to the Utility, as required by paragraph 12 of this Agreement.

12. The Developer hereby represents and warrants that the System will be in conformance to the plans and specifications approved by the Utility.

13. Upon the Utility's acceptance of the System, the Developer shall convey all right, title, and interest in and to the System to the Utility. The Developer shall, upon request of the Utility, execute and deliver any and all documents necessary to convey the System and to grant the Utility an easement in and to the real property surrounding the System to such extent necessary for access to inspect, repair, replace and maintain the System.

14. If any part of this Agreement for any reason shall be declared invalid or unenforceable, such decision shall not affect the validity or enforceability of any remaining portion, which shall remain in full force and effect; provided, however, that in the event a part of this Agreement is declared invalid and the invalidity or enforceability of such part has the effect of materially altering the obligations of any Party under this Agreement, the Parties agree, promptly upon such declarations being made, to negotiate in good faith to amend this Agreement so as to put such Party in a position substantially similar to the position such Party was in prior to such declaration.

15. No Party shall have any right to assign this Agreement or any of their respective rights or obligations under this Agreement to any third party except by

Utility Services Agreement

IRM Utility, Inc. & Douglas Lake, LLC

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DOUGLAS LAKE

operation of law or with the prior written consent of the other Parties; such consent shall not be unreasonably delayed, conditioned, or withheld. The Utility shall have no right to assign, transfer, convey, pledge, or hypothecate the permits or any interest thereto without any necessary approval of TDEC, and the prior written agreement of the purchaser or assignee to be bound by the terms and conditions of this Agreement.

16. The terms and conditions of this Agreement and the performance thereof shall be interpreted in accordance with and governed by the laws of the State of Tennessee; irrespective of its conflicts of law principles. Any claim, dispute, or other matter in question arising out of or relating to this Agreement or the breach thereof, except for claims which have been waived pursuant to this Agreement, shall be governed by the laws of Tennessee and all actions shall be instituted and litigated in the State of Tennessee in the Davidson County courts, and the Parties hereto submit to the jurisdiction of said courts. In any litigation, the prevailing party shall be entitled to recover its reasonable attorneys' fees from the losing party.

17. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements or understandings of the parties with regard to the subject matter hereof. No interpretation, change, termination, or waiver of any provision hereof shall be binding upon a Party unless in writing and executed by the other Party. No modification, waiver, termination, recession, discharge, or cancellation of any right or claim under this Agreement shall affect the right of any Party hereto to enforce any other claim or right hereunder.

18. This Agreement shall not be amended or modified except in writing signed by the Parties hereto.

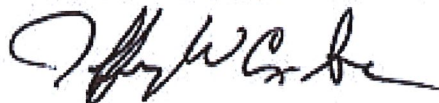
IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the day and date first above written.

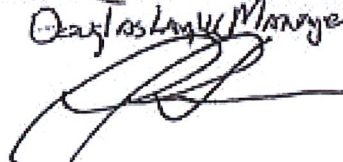
INTEGRATED RESOURCE
MANAGEMENT, INC. d/b/a
IRM UTILITY, INC.

Waterside on Douglas Lake SUBDIVISION
Douglas Lake, LLC

By: 
Jeffrey M. Cox, Sr., its President

By: 
John Snow, its managing partner




Douglas Lake Manager

Utility Services Agreement
IRM Utility, Inc. & DOUGLAS LAKE, LLC
WATERSIDE ON Subdivision, Jefferson County Page 4 of 4
DOUGLAS LAKE

Appendix I

| <i>Estimated</i> | Treatment System Cost | Collection System Cost | Total Cost | (10%) Overrun Deposit | Total Individual Labor/Materials/ Overrun |
|------------------|--------------------------|---------------------------|------------|--------------------------|---|
| Materials | 450,675.82 | 56,681.50 | 507,357.32 | | |
| Labor | 220,100.00 | 162,889.00 | 382,989.00 | | |
| Total: | 670,775.82 | 219,570.50 | 890,346.32 | 89,034.63 | 979,380.95 |

Appendix II

Calculation of Estimated Taxes

| | |
|-----------------------------------|------------|
| Total Actual Cost Labor/Materials | 890,346.32 |
|-----------------------------------|------------|

| | |
|--|------------|
| CIAC - Tariff Calculation 26.58% of Total Actual Costs | 236,654.05 |
|--|------------|

Developer's Escrow Deposit

| | |
|--|------------|
| Total Actual Cost + Overrun Deposit (, | 979,380.95 |
|--|------------|

| | |
|--|------------|
| CIAC - Tariff Calculation 26.58% of Total Actual Costs | 236,654.05 |
|--|------------|

| | |
|------------------------------|---------------------|
| Total Escrow Deposit: | 1,216,035.00 |
|------------------------------|---------------------|