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SEWER AND WATER SERVICE FEE AGREEMENTMissouri Public  
Service Commission

This Sewer and Water Service Fee Agreement ("this Agreement") is entered into this 13<sup>TH</sup> day of July, 2006 by and between **Raintree Plantation, Inc.**, a Missouri corporation ("Raintree") and **Jefferson County Public Sewer District**, a Missouri public sewer district ("Sewer District").

## WITNESSETH:

WHEREAS, Raintree is the original developer of Raintree Plantation Subdivision in Jefferson County, Missouri; and

WHEREAS, Raintree is a party to an agreement with Aquasource, Inc., a Delaware corporation, and its affiliate Aqua Missouri, Inc., a Missouri corporation, (collectively "Aquasource") to construct sewer lines to service Raintree Plantation Subdivision, a copy of said Agreement attached hereto as Exhibit A; and

WHEREAS, Sewer District is taking possession and control of the sewer and water systems and facilities servicing said subdivision and will need the aforesaid sewer lines to be constructed by Aquasource in order to serve the subdivision;

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

1. Enforcement of Aquasource Agreement. Raintree shall enforce, at its sole expense, the contractual obligations of Aquasource to construct the sewer lines called out in its agreement with Raintree and as defined in Exhibit A attached to this Agreement and incorporated herein by reference.
2. Resolution of Dispute with Aquasource. A dispute currently exists between Raintree and Aquasource regarding which party is responsible for the costs of the engineering designs for the aforesaid sewer lines shown in Exhibit A and the costs related to obtaining the permits for construction necessary from the Missouri Department of Natural Resources. Raintree shall be responsible for resolving such dispute by way of negotiation, arbitration or voluntarily assuming such costs. Nothing contained in this Agreement shall impose a duty upon Raintree to resolve such dispute in any particular manner. The expenses incurred by Raintree in resolving such dispute shall be includible in those expenses Raintree is entitled to recover as defined in item 4 below. Such expenses shall include, but are not limited to, the actual costs of engineering designs and permit approval, cost of construction of the sewer lines and attorneys' fees in enforcing the agreement with Aquasource, whether Raintree voluntarily agrees to assume such costs or not.
3. Sewer and Water Service Fees. In exchange for Raintree's enforcement of its Agreement with Aquasource for the construction of new sewer and water systems and facilities and resolution of a dispute between the aforesaid parties as to certain costs incurred therein,

*Central Jefferson*  
Exhibit No. 8  
Date 12-19-06 Case No. 20-2007-0011  
Reporter DF

Sewer District agrees pay a sewer and water service fee, "a Fee", to Raintree in certain amounts and for a certain period of time as set forth hereinafter.

(a) Fee for Aquasource Improvements. For each lot that is served by improvements constructed by Aquasource under the aforesaid obligation and identified on Exhibit A hereto, or if the sewer lines are constructed by Raintree, the Sewer District shall pay Raintree, or its designee, a Fee of \$1,100.00 for each lot at the time Sewer District begins sewer and water service to each such lot. In the event that Raintree ceases to be in business or has not designated a successor to receive payments of such fees, then, and only then, Sewer District shall pay such fees directly to Aquasource or its designee in accordance with this Agreement.

Raintree shall indemnify, defend and hold harmless Sewer District from any challenge to Sewer District's right to include and/or pay the aforesaid Fee of \$1,100.00 as part of the Fee to begin sewer and water service to lots from the newly constructed sewer and water service systems. However, such indemnification, obligation to defend and hold harmless shall not extend to challenges to Sewer District's general right to collect a Fee to begin sewer and water service to lots except to the extent such general challenge includes a challenge to the aforesaid \$1,100.00 portion payable to Raintree or its designee. In the event that a court of competent jurisdiction determines that said Fee of \$1,100.00 may not be collected by Sewer District and/or paid to Raintree, or its designees, or directly to Aquasource (as the case may be), then Raintree shall release and hold harmless Sewer District from further liability for collecting or paying said \$1,100.00 Fee for newly constructed sewer and water service systems.

(b) Fee for Existing Improvements. For each lot that is served by existing sewer and water systems and facilities, Sewer District shall pay Raintree, or its designee, a Fee of \$800.00 for each lot at the time Sewer District begins sewer and water service to each such lot. After all expenses of Raintree as defined in item 4 below have been reimbursed, Sewer District shall pay Raintree a Fee of \$550.00 for each lot that is served by existing sewer and water systems and facilities at the time Sewer District begins sewer and water services to each such lot.

Raintree shall indemnify, defend and hold harmless Sewer District from any challenge to Sewer District's right to include and/or pay the aforesaid Fee of \$800.00 and/or \$550.00 as part of the Fee to begin sewer and water service to lots from the newly constructed sewer and water service systems. However, such indemnification, obligation to defend and hold harmless shall not extend to challenges to Sewer District's general right to collect a Fee to begin sewer and water service to lots except to the extent such general challenge includes a challenge to the aforesaid \$800.00 and/or \$550.00 portion payable to Raintree or its designee. In the event that a court of competent jurisdiction determines that said Fee of \$800.00 and/or \$550.00 may not be collected by Sewer District and/or paid to Raintree, or its designees, or directly to Aquasource (as the case may be), then Raintree shall release and hold harmless Sewer District from further liability for collecting or paying said \$800.00 and/or \$550.00 Fee for newly constructed sewer and water service systems.

(c) Payment of Fees. Sewer District shall collect its charge for initiating such services to each lot in good and sufficient funds prior to or contemporaneously with initiating

such services to each lot. Sewer District shall account for and pay to Raintree the aforesaid Fees on a monthly basis. Such account shall include identification of the lots being charged for services during that previous month period and the corresponding Fee generated therefrom and paid to Raintree.

(d) Sunset Provision on Fees. Payments of the aforesaid fees to Raintree, or its designee, as provided in subparagraph (b), by Sewer District, shall cease on the 15<sup>th</sup> year anniversary of the "effective date" of this Agreement as defined below.

4. Expenses of Raintree. Raintree has paid on behalf, and will continue to pay on behalf, of Central Jefferson County Utilities, Inc. expenses related to the sewer and water systems and facilities serving Raintree Plantation Subdivision. Raintree shall be entitled to receive the \$ 800.00 per lot Fee provided in paragraph 3(b) until the expenses listed in this paragraph 4 are reached. These expenses include:

(a) Engineering fees and other professional fees resulting from the design, construction, maintenance, or repair of the sewer and water system and treatment facilities servicing Raintree Plantation Subdivision in the amount of \$61,705.36; and

(b) The costs, if any, of preparing engineering plans for the aforesaid new sewer and water systems to be completed by Aquasource and the costs of obtaining approval of said plans and the necessary permits from the Missouri Department of Natural Resources and/or other federal, state and local government entities; and

(c) The cost of satisfaction of certain contingencies required for Sewer District to take possession and control of the sewer and water systems and facilities servicing Raintree Plantation Subdivision; and

(d) Any costs related to the closing and complete transfer of possession and control to Sewer District of the sewer and water systems and facilities servicing Raintree Plantation Subdivision; and

(e) The cost of responding to investigative inquiries and requests of federal, state and local government entities initiated within five (5) years from the Effective Date of this Agreement; and

(f) Current and future attorneys' fees and/or other professionals' fees related to any of the above or expenses of Raintree related to the sewer and water systems and facilities servicing Raintree Plantation Subdivision. The Attorneys' Fees to date are \$65,031.73.

Upon request of Sewer District, Raintree, or its designee, shall provide Sewer District with verification of these expenses. Additionally, Sewer District, at its sole expense, shall have the right to annually review and audit the records of expenses of Raintree during normal business hours at the principal place of business of Raintree upon at least two-business-days prior notice of Sewer District's desire to do so. The expense of Raintree preparing such summary reports or

of Sewer District's review and audit of such records shall be added to and become a part of the expenses to be paid to Raintree herein.

The foregoing items of expense are expected to continue and accrue as a result of ongoing material matters disclosed on Exhibit E to a Tri-Party Purchase and Sale Agreement of even date herewith which is incorporated herein by reference. In the event that additional material matters arise beyond those relating to the aforementioned items during the course of this Agreement, Raintree, or its designee, shall provide Sewer District with written notice of such new material matters within a reasonable time of Raintree, or its designee, becoming aware of such new material matters.

5. Payment to John Kolish. Raintree shall honor a previous commitment to pay John Kolish, his heirs, successors or assigns the sum of \$799.83 related to sewer and water services for lots 129 through 135 of Section 5, and \$2,783.11 for lots 46 and 47 in Section 1 of Raintree Plantations Subdivision as shown on the records of the Missouri Public Sewer Commission. A Fee of \$ 1,100 per lot shall be paid by Sewer District to Raintree on these lots.

6. Indemnification and Hold Harmless. Raintree shall indemnify, defend and hold harmless Sewer District from any claims for damage, if any, brought or threatened by Aquasource against Sewer District and arising out of the aforementioned dispute.

7. Alternative Dispute Resolution. The parties hereto agree to attempt to resolve any controversy or claim arising out of or relating to this Agreement by voluntary non-binding mediation by a single mediator chosen by mutual agreement of the parties. In the event that the parties can not mutually agree on a mediator or a party refuses to be available for such mediation, then the following mandatory dispute resolution shall apply. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, that is not otherwise resolved by voluntary mediation, shall be settled by mandatory binding arbitration in accordance with Chapter 435 of the Revised Missouri Statutes, the Missouri Arbitration Act. There shall be one arbitrator chosen by mutual agreement of the parties. In the event the parties are unable to agree on one arbitrator, the Circuit Court of Jefferson County, Missouri, shall, upon application of either party, appoint an arbitrator pursuant to Missouri Statute. The parties shall each bear the cost of arbitration and the arbitrator, equally. Notwithstanding the foregoing, the Arbitrator shall have the right to adjust and allocate the cost of the Arbitration, including Attorneys' Fees and Expert Witness Fees, and the cost of the Arbitrator, between the parties, including, without limitation, allocating all of said costs to one of the parties, as the Arbitrator sees fit and as part of the Arbitrator's final Award. The arbitration shall take place in Jefferson County, Missouri, unless another location is mutually agreed to by all of the parties, and confirmation of an award of the Arbitrator shall be made in the Circuit Court of Jefferson County, Missouri.

8. Contract Binding on Successors. This Agreement shall be binding on and inure to the benefit of all parties, their successors, designees, or assigns. Without limiting the foregoing, Sewer District shall require that any independent contractor, agent or assign acting on its behalf in regard to its obligations under this Agreement or the operations of the sewer and water systems of Raintree Plantation Subdivision, to incorporate, adopt, abide by, and be contractually bound by, the terms of this Agreement and its obligations.

9. Choice of Law and Venue. This Agreement shall be interpreted under the laws of the State of Missouri. Any action to enforce this Agreement that involves a court of law or equity shall be brought or otherwise heard in the Circuit Court of Jefferson County, Missouri. The parties hereby waive any objection to jurisdiction or venue of said Circuit Court to preside over such action.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto. There are no additional understandings or agreements, written or oral, between the parties relating to the subject matter of Agreement. This Agreement may not be changed, modified or amended, in whole or in part, except in writing signed by all parties.

11. Counterparts. This Agreement may be executed in three or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

12. Waiver. The waiver by any party of any condition or breach of a provision of this Agreement shall not operate or be construed as a waiver of any other condition or subsequent breach.

13. Condition Precedent. This Agreement shall be null and void and of no force and effect unless Sewer District shall take possession and control of all existing sewer and water systems and facilities serving Raintree Plantation Subdivision. The date upon which Sewer District takes such possession and control shall be the "Effective Date" of this Agreement whereupon it shall become an enforceable and legally binding contract between the parties.

14. Authority to Execute. The parties to this Agreement acknowledge that each of them has all necessary right, title and authority to enter into and perform their respective obligations under this Agreement. This Agreement is a binding obligation on each party. Each party has been authorized to enter into this Agreement by all requisite action under each party's governing instruments. Without limiting the foregoing, this Agreement and its terms have been reviewed and approved by Sewer District's Board and in compliance with all applicable federal, state and local laws. A certified copy of the resolution of the Sewer District's Board approving this Agreement shall be delivered to Raintree with this Agreement. The individuals executing this Agreement on behalf of each party is duly authorized and designated to do so. No other signatories are required to bind each party.


15. Parties Represented. Each party to this Agreement has been represented by independent legal counsel and has relied solely on each of their respective separate and independent attorney's advice in entering into this Agreement. All parties are fully aware of their obligations under, and the consequences of, this Agreement and are entering into such agreement freely and voluntarily, totally apprised of their rights and responsibilities herein. There shall be no presumption at law or in equity against any party so far as it relates to the interpretation of any term or condition of this Agreement, it being deemed that all parties to this Agreement took part in its creation and the language used and approved herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.


RAINTREE PLANTATION, INC.

By:

  
Jeremiah Nixon  
Secretary

JEFFERSON COUNTY PUBLIC  
SEWER DISTRICT

By:

  
Name: Martin Toma  
Title: Chair

6-7-06

Section	Lot Numbers	Status	Eng.	Type	Extension #	Street
#2	56 - 61 , 71 - 74 84 - 86	Rej by DNR	Completed	Gravity Gravity	28	Lee Drive Gettysburg
#3	71 & 72 79 - 85 , 95			Gravity F. Main		Gettysburg Jackson Dr.
#5	80 - 86 116 - 123 104,105,110 109 69 - 75 34 - 39 17 - 22 135 - 137 & 127	Rej by DNR	Completed	F. Main Gravity  DNR DNR Gravity Gravity	29	Union Dr. Pea Ridge  Jefferson Davis Tslahassee Lincoln Dr. Bull Run
#6	15 - 17, 35 - 37 5 & 6 82 - 92 51 114 - 123 , 94 - 102	Rej by DNR	Completed	F. Main Gravity F. Main Gravity Gravity	33	Sumpter Dr. Gettysburg Biloxi Dr. Gettysburg Pea Ridge
#7	73 - 78 36 - 45 17 - 18 , 22 - 24 60 - 62, 20 & 21 181 - 188 169 - 175 , 162 - 164 133 - 136 110 - 112 , 141 - 143 155 - 158 , 195 - 197	Rej by DNR	Completed	F. Main Gravity Gravity F. Main F. Main  Gravity F. Main	30	Chattanooga Tullahoma Shennandoah Pea Ridge Jackson Dr. Stonewall Dr. Stonewall Dr. Richmond Rd. Grant Dr.
#9	11 - 13 , 55 & 56 61 - 72	Rej by DNR	Completed	Gravity F. Main	31	Cottonblossom Hollyhock LN.
#11	36 - 55			Gravity		Moonshine

# 14	107 - 113 , 208 - 212	<u>App by DNR</u> Aqua MO	Not Completed	Gravity	27	Blue Bird In.
	160 164 - 192			Gravity F. Main		Old Hickory Blue Ridge Tr.
# 15	19 - 21 , 32 - 36 13 & 18 42 & 43			Gravity Gravity Gravity		Greenwood Dr. Greenwood Dr. Southern Bell
# 16	59 - 64 , 68 - 71			Gravity		Greenview Ct.
# 17	136 - 147 28 71 , 73 , 74 , 77			Gravity Gravity F. Main		Parkview Dr. Plantation Dr. Elm Dr.
# 18	61 - 64 , 79 - 83 72 97			Gravity Gravity Gravity		Ridge Crest Dr. Ridge Crest Dr. Ash Dr.
# 19	14 - 22 13 131 - 147 81 - 87 46 - 51 99 - 105 - 106 - 108 88 - 94 62 - 65 - 68 - 72 95 - 200 169 - 183 210 - 215 196 - 205	<u>Rej by DNR</u>		Gravity Gravity F. Main F. Main F. Main F. Main F. Main F. Main F. Main F. Main F. Main F. Main	32	Cedar Dr. Ridge Crest Dr. Sasfrass Dr. Paw Paw Dr. Butternut Paw Paw Dr. Butternut Butternut Redwood Dr. Sasfrass Sasfrass Redwood Dr.