

**FINNEGAN, CONRAD & PETERSON, L.C.**

**ATTORNEYS AND COUNSELORS AT LAW**

**1209 PENNTOWER OFFICE CENTER  
3100 BROADWAY  
KANSAS CITY, MISSOURI 64111**

**(816) 753-1122  
TELECOPIER (816) 756-0373**

**JEREMIAH FINNEGAN, P.C.  
STUART W. CONRAD  
C. EDWARD PETERSON\***

**\*ALSO ADMITTED IN  
KANSAS AND MASSACHUSETTS**

March 8, 2005

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**FILED**

**MAR 09 2005**

**Missouri Public  
Service Commission**

**RE: Timber Creek Sewer Company  
Application for Additional Service Area**

Dear Mr. Roberts:

Enclosed find an original and 8 copies of the Application of Timber Creek Sewer Company for additional service area. Please file and call the application to the attention of the Commission.

Please return the extra copy of the first page of the Application with the file stamp affixed in the self-addressed stamped envelope I have also enclosed.

Very truly yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By:

  
Jeremiah D. Finnegan

JDF:crb  
Enclosures  
cc: Willis Sherry  
Office of the Public Counsel

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BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

MAR 09 2005

In the matter of the application of Timber )  
Creek Sewer Company, for permission, )  
approval, and a certificate of convenience )  
and necessity authorizing it to construct, )  
install, own, operate, control, manage and )  
maintain a sewer system for the public, )  
located in an unincorporated area in Clay )  
County, Missouri. )

Missouri Public  
Service Commission

CASE NO. \_\_\_\_\_

APPLICATION

Comes now Timber Creek Sewer Company ("Applicant" or "Timber Creek"), pursuant to Section 393.170, RSMo and 4 CSR 240-2.060 and 240-3.300, and states as follows:

1. Applicant is Timber Creek Sewer Company, a Missouri corporation, duly organized and existing under the laws of the State of Missouri with its principal office and place of business located at 18305 Cable Bridge Road, P.O. Box 511, Platte City, Missouri 64079. Applicant's telephone number is (816) 858-3989, its fax number is (816) 858-4876 and its e-mail address is tcscoco@yahoo.com.

2. A copy of Applicant's Certificate of Incorporation and Articles of Incorporation were previously filed with the Commission in Case No. SA-95-110 and are hereby incorporated by reference herein. A copy of a Certificate of Good Standing from the Secretary of State is attached hereto as **Appendix 1**.

3. Applicant is a public utility and sewer corporation rendering sewer service under certificates of convenience and necessity to serve certain unincorporated areas in Platte County, Missouri, issued by the Commission in Case Nos. SA-95-110, SA-96-238,

SA-99-202, SA-2002-404 and SA-2002-1061. Applicant's existing sewer system in its presently certificated areas meets all requirements of the Department of Natural Resources (DNR).

4. Communications in regard to this application should be addressed to Applicant's attorney and to its President, whose address is as follows:

Willis C. Sherry, President  
TIMBER CREEK SEWER COMPANY  
18305 Cable Bridge Road  
P.O. Box 511  
Platte City, Missouri 64079  
Telephone (816) 858-3989  
Fax Line (816) 858-4876  
E-Mail tcsecco@yahoo.com

5. Applicant has no pending actions or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates and has had no such actions, judgments or decisions within three (3) years of the date of this application.

6. Applicant states that no annual reports or assessment fees are overdue.

7. Applicant requests permission, approval, and a certificate of public convenience and necessity to install, own, acquire, construct, operate, control, manage, maintain and extend a sewer system for the public in an unincorporated area in Clay County, Missouri. The area proposed to be served pursuant to this application shall sometimes hereinafter be referred to as "the Proposed Service Area." All extensions or other plant required to serve the Proposed Service Area shall be designed and built to

meet all requirements of DNR and the Commission as well as the Company's own requirements.

8. There is no sewer service, regulated or nonregulated, available in the Proposed Service Area.

9. There are no residents living in the Proposed Service Area. The landowner of the Proposed Service Area is 136th Street Properties, LLC, whose President is Brian Burton. The landowner's address is 607 Harborview Drive, Smithville, MO 64089.

10. The legal description of Applicant's Proposed Service Area is attached hereto as **Appendix 2**.

11. Applicant's Proposed Service Area is depicted on the map attached hereto as **Appendix 3**.

12. A feasibility study is attached to this application as **Appendix 4**.

13. Inasmuch as the Proposed Service Area is for an unincorporated area in Clay County, there is no approval required from any municipality.

Applicant has also ascertained that no approval of the Clay County Board of County Commissioners is required. A copy of a letter from the Director of the Clay County Planning and Zoning Commission dated January 12, 2005 advising that it is the County's policy to allow private sewer companies to provide sanitary sewer services for subdivisions provided they have a Missouri Public Service Commission Certificate and are permitted by the Missouri Department of Natural Resources is attached as **Appendix 5**.

14. The Proposed Service Area is in need of sewer service so that it can be

developed. There are no homes presently located within the Proposed Service Area, however, a developer, 136th Street Properties, LLC, has sought and obtained the approval of the Clay County Planning and Zoning Commission for rezoning and preliminary plat approval for 75 homes on the property within the Proposed Service Area and is requesting that the Company serve the proposed development. A copy of the letter from the developer requesting Timber Creek to serve the area is attached as **Appendix 6**. The facilities to be constructed to serve this subdivision are sewer mains and service lines to be connected to a sewer treatment facility to be constructed by Applicant to serve the area. This expansion will be financed solely by the developer, 136th Street Properties, LLC.

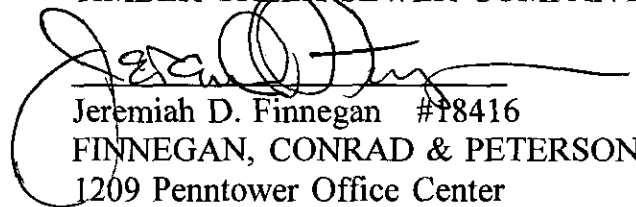
Due to economies of scale and due to the fact that the developer is donating the sewer treatment plant, sewer mains, sewer service lines, i.e. the entire sewer system, the expansion of Applicant's service area with the subsequent increase in ratepayers will benefit both the public in the Proposed Service Area as well as the public in Applicant's existing service area. The future residents of the Proposed Service Area will also benefit from the fact that the rates and reliability will be provided by a company regulated by the Commission. Therefore, a public need exists for adequate sewer service within the Proposed Service Area and the public convenience and necessity will be promoted by the granting of the authority herein requested.

WHEREFORE, Applicant requests the Commission to grant it permission, approval, and a certificate of convenience and necessity authorizing it to install, acquire, build, construct, own, operate, control, manage, maintain and extend a sewer system for the

public within the Proposed Service Area and for such further orders as the Commission may deem meet and proper.

Respectfully Submitted,

TIMBER CREEK SEWER COMPANY

A handwritten signature in black ink, appearing to read 'Jeremiah D. Finnegan', is written over a horizontal line. The signature is stylized with a large, looping initial 'J'.

Jeremiah D. Finnegan #18416

FINNEGAN, CONRAD & PETERSON, L.C.

1209 Penntower Office Center

3100 Broadway

Kansas City, Missouri 64111

Telephone (816) 753-1122

Fax Line (816) 756-0373

E-Mail [jfinnegan@fcplaw.com](mailto:jfinnegan@fcplaw.com)

ATTORNEYS FOR APPLICANT

VERIFICATION

County of PLATTE )  
 ) ss.  
State of Missouri )

I, Willis C. Sherry, having been duly sworn, state that I am President of Timber Creek Sewer Company, the Applicant herein, and attest that the statements contained in this Application are true and accurate to the best of my information and belief.

Willis C. Sherry  
Willis C. Sherry

Subscribed and sworn to before me, Beverly Bolinger, a notary public in and for such county this 18 day of February, 2005.

Beverly Bolinger  
Notary Public

My Commission Expires: 11-1-08

BEVERLY BOLINGER  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Platte County  
My Commission Expires: 11-1-08



Robin Carnahan  
Secretary of State

**CORPORATION DIVISION  
CERTIFICATE OF GOOD STANDING**

ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records of my office and in my care and custody reveal that

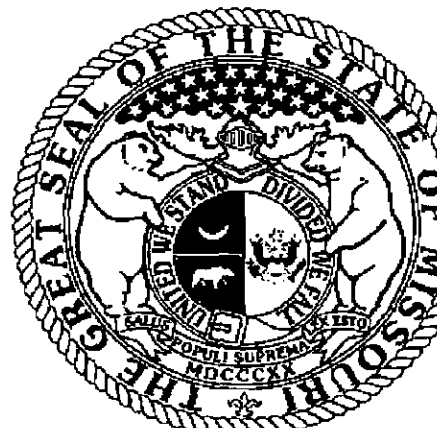
**TIMBER CREEK SEWER COMPANY  
00400859**

was created under the laws of this State on the 14th day of September, 1994, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 9th day of February, 2005

*Robin Carnahan*

Secretary of State



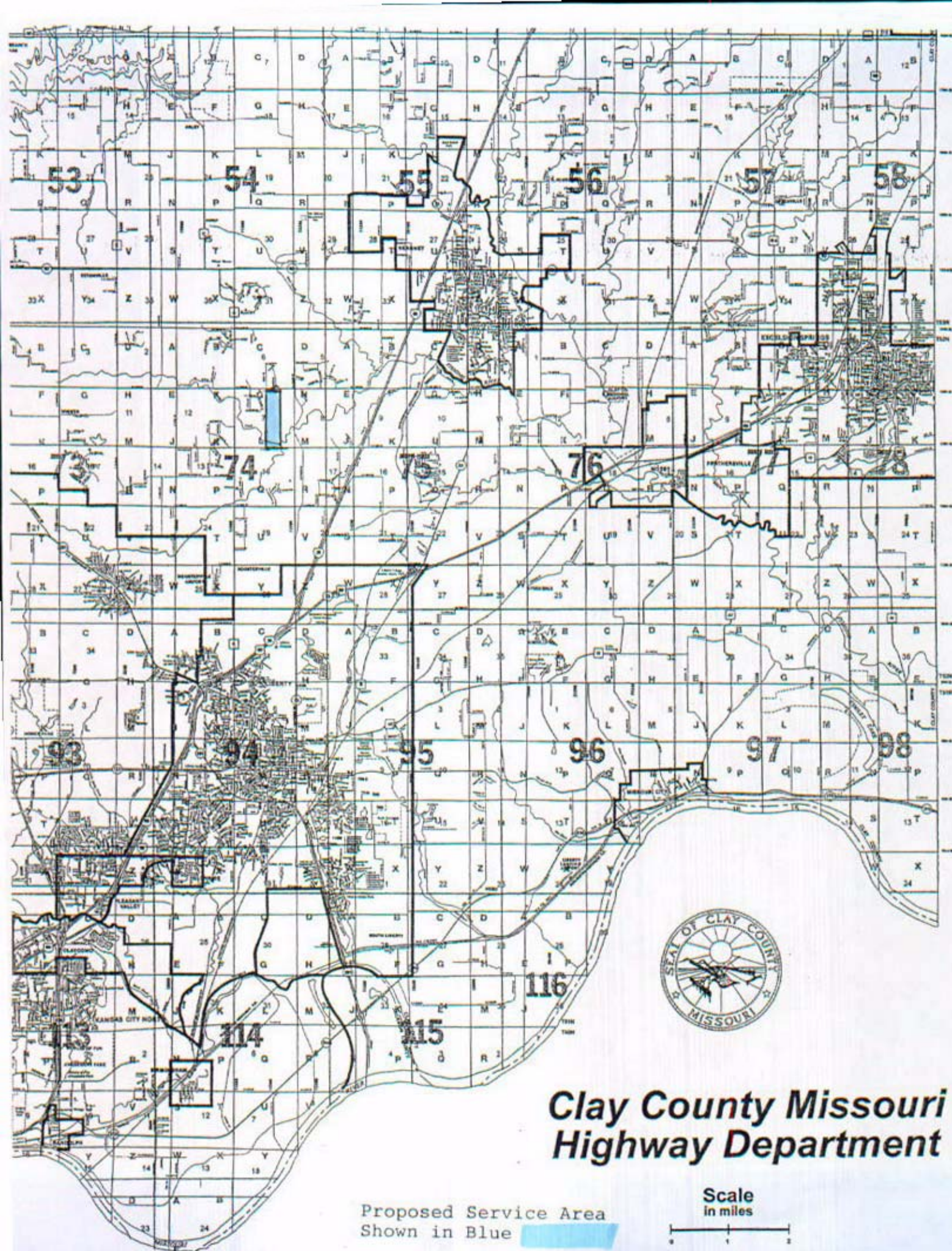


## **TIMBER CREEK SEWER COMPANY** **PROPOSED SERVICE AREA**

The Proposed Service Area is described as follows:

All of a tract of land described as follows: The West ½ of the East ½ of Section 7, Township 52 North, Range 31 West, Clay County, Missouri, Except an area described as Lot 1, Popejoy Acres, a subdivision in Clay County, Missouri.







## **TIMBER CREEK SEWER COMPANY FEASIBILITY STUDY**

Timber Creek Sewer Company (Timber Creek) was incorporated on September 14, 1994 for the purpose of owning, operating, managing and/or maintaining a private Sewer system. On May 18, 1995, in Case No. SA-95-110, it was granted a Certificate of Convenience and Necessity by the Commission to serve certain unincorporated areas in Platte County effective June 1, 1995. On June 11, 1996, in Case No. SA-96-238, Timber Creek was granted a Certificate of Convenience and Necessity by the Commission to serve an additional unincorporated area in Platte County effective June 21, 1996. On September 11, 1999, in Case No. SA-99-202, Timber Creek was granted a Certificate of Convenience and Necessity by the Commission to serve an additional unincorporated area in Platte County effective September 14, 1999. On August 8, 2002, in Case No. SA-2002-404, Timber Creek was granted a Certificate of Convenience and Necessity by the Commission to serve an additional unincorporated area in Platte County effective August 18, 2002. On August 27, 2002, in Case No. SA-2002-1061, Timber Creek was granted a Certificate of Convenience and Necessity by the Commission to serve an additional unincorporated area in Platte County effective August 27, 2002.

Timber Creek is now proposing to serve an unincorporated area in Clay County, Missouri, the "Proposed Service Area", is as follows:

**PROPOSED SERVICE AREA:**

All of a tract of land described as follows: The West ½ of the East ½ of Section 7, Township 52 North, Range 31 West, Clay County, Missouri, Except an area described as Lot 1, Popejoy Acres, a subdivision in Clay County, Missouri.

The Proposed Service Area is shown on the map attached to the Application as **Appendix 3** thereto and incorporated herein by reference.

There are no sanitary sewer facilities in the Proposed Service Area. Timber Creek proposes to provide sanitary sewer service to a new subdivision, to be known as the Oakbrook Subdivision, consisting of 75 lots within a Conservation District of 156.62 more or less located at approximately 12624 NE 136th Street in Clay County, Missouri, which area currently has no existing homes and no residents. The lots in this subdivision are currently vacant and are awaiting sanitary sewers in order to be developed with new single-family residences.

Timber Creek has received a request for sewer service from the developer, 136th Properties, LLC, to provide sanitary sewer service for the entire subdivision. A copy of the letter from the developer is attached as **Appendix 6** to the Application and incorporated herein by reference. This development is currently in the planning stage

and projected starting date is as soon as sewer service from Timber Creek is authorized.

The facilities to be constructed to serve the Oakbrook Subdivision are a treatment plant, sewer mains and service lines. Such will be constructed by Timber Creek or the developer and will be paid for by the developer.

The estimated cost of the construction of the sewer system during the first three (3) years of construction is \$300,000, more or less depending upon what treatment plant is selected. This is to be contributed to Timber Creek by the developer.

The existing rates, rules, connection fees and other charges of the Company would remain unchanged at this time and would apply to the Proposed Service Area. The current rate for residential customers is \$26.97 per month.

An estimate of the number of customers, revenues and expenses during the first three (3) years of operation are contained in **Attachment 1** hereto.

There will be no change in Timber Creek's professional operator responsible for the operation and maintenance of all of Timber Creek's facilities, nor will there be any change in the person responsible for the day-to-day business activities of the Company.

Timber Creek Sewer Company believes that the granting of a certificate of convenience and necessity for this additional area will not only provide a public benefit for the Proposed Service Area to be served by the provision of regulated sewer service in an area heretofore without such service, but also will benefit its customers in

its existing service area by making the Company's future operations more profitable and provide economies of scale, thereby alleviating or easing the need for rate increases in the future.

The granting of the additional service area to Timber Creek Sewer Company will allow it to expand its services to meet the expanding need for sewer service in this area. It will expand the Company's customer base and improve the future profitability of the company. The granting of the Proposed Service Area would allow the Company the capability of providing service to all of the customers who will be located in the Proposed Service Area in the near future.

In addition, property adjacent to the Proposed Service Area is also being considered for development and will need sewer service from Timber Creek as it is developed.

ESTIMATE OF NUMBER OF CUSTOMERS,  
REVENUES AND EXPENSES

**YEAR 1**

Revenues from customers (25 @ \$26.97 x 12) = \$ 8091.00

Expenses

<u>Electricity</u>	\$ 2,400.00
<u>Water</u>	240.00
<u>Operator</u>	7,200.00
<u>Sludge Removal</u>	2,400.00
<u>Miscellaneous</u>	<u>1,200.00</u>

<u>Total Expenses</u>	<u>\$13,440.00</u>
<u>Net Profit (Loss)</u>	<u>(\$ 5349.00)</u>

**YEAR 2**

Revenues from customers (50 @ \$26.97 x 12) = \$16,182.00

Expenses

<u>Electricity</u>	\$ 2,400.00
<u>Water</u>	240.00
<u>Operator</u>	8,400.00
<u>Sludge Removal</u>	3,600.00
<u>Miscellaneous</u>	<u>1,200.00</u>

<u>Total Expenses</u>	<u>\$15,840.00</u>
<u>Net Profit (Loss)</u>	<u>\$ 342.00</u>

ESTIMATE OF NUMBER OF CUSTOMERS,  
REVENUES AND EXPENSES

**YEAR 1**

Revenues from customers (25 @ \$26.97 x 12) = \$ 8091.00

Expenses

<u>Electricity</u>	\$ 2,400.00
<u>Water</u>	240.00
<u>Operator</u>	7,200.00
<u>Sludge Removal</u>	2,400.00
<u>Miscellaneous</u>	<u>1,200.00</u>

<u>Total Expenses</u>	<u>\$13,440.00</u>
<u>Net Profit (Loss)</u>	<u>(\$ 5349.00)</u>

**YEAR 2**

Revenues from customers (50 @ \$26.97 x 12) = \$16,182.00

Expenses

<u>Electricity</u>	\$ 2,400.00
<u>Water</u>	240.00
<u>Operator</u>	8,400.00
<u>Sludge Removal</u>	3,600.00
<u>Miscellaneous</u>	<u>1,200.00</u>

<u>Total Expenses</u>	<u>\$15,840.00</u>
<u>Net Profit (Loss)</u>	<u>\$ 342.00</u>



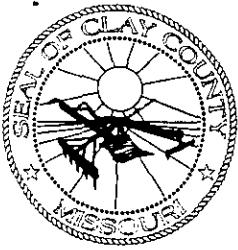
ESTIMATE OF NUMBER OF CUSTOMERS,  
REVENUES AND EXPENSES

YEAR 3

Revenues from customers (75 @ \$26.97 x 12) = \$24,273.00

Expenses

<u>Electricity</u>	\$ 2,400.00	
<u>Water</u>	240.00	
<u>Operator</u>	9,600.00	
<u>Sludge Removal</u>	4,800.00	
<u>Miscellaneous</u>	<u>1,200.00</u>	
<u>Total Expenses</u>		<u>\$18,240.00</u>
<u>Net Profit (Loss)</u>		<u>\$ 6,033.00</u>



# Clay County, Missouri

## Planning and Zoning

234 West Shrader, Suite C  
Liberty, Missouri 64068-2448

Carole R. Bloom  
Director

January 12, 2005

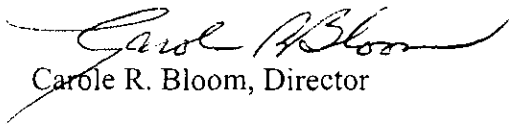
Willis C. Sherry, President  
Timber Creek Sewer Co., Inc.  
PO Box 511  
Platte City, MO 64079

Dear Mr. Sherry,

This letter is to confirm your intention to provide wastewater treatment services for the subdivision known as, "Oakbrook," currently being proposed in Clay County, Missouri by Mr. Brian Burton of 136<sup>th</sup> Street Properties. The application for rezoning and a preliminary plan received a favorable recommendation from the Planning and Zoning Commission at their January 11, 2005 meeting and will be forwarded to the Clay County Board of County Commissioners to be considered at their February 7, 2005 public hearing. I understand the design of the facility will be determined by the number of units it is expected to serve, site design and recent technologies available in sanitary sewer facilities.

In the unincorporated areas of Clay County it our policy to allow private companies to provide sanitary sewer facilities for subdivisions, as long as they are authorized by the Missouri Public Service Commission to operate as a Continuing Authority and permitted by the Missouri Department of Natural Resources. According to your letter of December 15, 2004, Timber Creek Sewer Company meets these criteria.

Sincerely,

  
Carole R. Bloom, Director

Cc: David Pavlich, Aylett Flowers Survey and Engineering  
Case File: Jan 05-104RZ/P

# 136<sup>TH</sup> STREET PROPERTIES, LLC

January 13, 2005


Timber Creek Sewer Co., Inc.  
Mr. Willis Sherry  
P.O. Box 511  
Platte City, MO 64079

Mr. Sherry:

The Clay County, Missouri Planning and Zoning Commission approved our request for rezoning and preliminary plat approval for our 75 lot Conservation District, Oakbrook subdivision, located at approximately 12624 NE 136<sup>th</sup> Street in Clay County, Missouri during last night's meeting.

Per our previous conversation, I would like for Timber Creek Sewer Co., Inc. to be the continuing authority for this subdivision. We would like for you to submit an application to expand your service to include this subdivision.

Sincerely,



Brian Burton  
Manager

607 HARBORVIEW DRIVE • SMITHVILLE, MO • 64089

PHONE: 816-532-9943 • FAX: 816-532-0022

E-MAIL: [bburton@kc.rr.com](mailto:bburton@kc.rr.com)

[www.premiercapitaladvisors.com](http://www.premiercapitaladvisors.com)

Appendix 6