

CONSOLIDATION OF AND AMENDMENTS TO DEVELOPMENT AGREEMENTS

THIS AGREEMENT, made and entered into as of the ___ day of June, 2006, by and between SHAWNEE BEND DEVELOPMENT CO., L.L.C., and T.H.B. DEVELOPMENT CO. LLC., Missouri limited liability companies, with their principal offices located at 100 Villages Way, Sunrise Beach, MO 65079, (sometimes hereinafter referred to as “SHAWNEE BEND”), and MAJESTIC POINTE DEVELOPMENT COMPANY, L.L.C., a Missouri limited liability company with its principal office located at 568 Linn Creek Road, Lake Ozark, MO 65049, (sometimes hereinafter referred to as “MAJESTIC POINTE”); and LAKE REGION WATER AND SEWER CO., a Missouri corporation with its principal office located at Number 1, Grand Point Boulevard, Sunrise Beach, Missouri 65079, (sometimes hereinafter referred to as “LRWS”)(all collectively referred to as the “Parties”);

WITNESSETH:

WHEREAS, MAJESTIC POINTE is the owner and developer of a single family residential condominium development in Camden County, Missouri. Said development is planned to comprise approximately Two Hundred Fifteen (215) residential condominium units and common areas, and is sometimes referred to herein as the Majestic Pointe Condominium Project; and,

WHEREAS, SHAWNEE BEND is the owner and developer of a single family residential development in Camden County, Missouri. Said development is sometimes referred to herein as the Shawnee Bend Project; and,

WHEREAS, LRWS currently provides potable water and wastewater sewer services in the general geographic area of the Majestic Pointe Condominium Project and the Shawnee Bend Project, said geographic area is sometimes referred to herein as the “Project Area”); and,

WHEREAS, LRWS has communicated its desire to enter into a contractual agreement with Shawnee Bend and Majestic Pointe to provide potable water flow, and sprinkler water to, and to collect and treat wastewater from, the Majestic Pointe Condominium Project under the terms and conditions as set forth herein; and

WHEREAS, SHAWNEE BEND has a mutual interest in the Majestic Pointe Condominium Project because the Shawnee Bend Project will be serviced by LRWS through approximately twelve thousand five hundred (12,500) feet (the “Shawnee Bend Portion of the Extensions”) of the approximately twenty-two thousand (22,000) feet of the Water and Sewer Lines that are to be extended to Majestic Point (the “Extensions”)¹ ; and,

¹ The Extensions have also been referred to by the Parties and Missouri Public Service Commission staff as the “MM-Chimney Point water and/or sewer pipelines,” and that reference is synonymous with the term Extensions as used herein.

WHEREAS, to achieve economies of scale in connection with the Extensions, SHAWNEE BEND has agreed to contribute the sum of up to Two Hundred Thousand Dollars (\$200,000) toward the payment of the costs of the construction of Shawnee Bend portion of the Extensions;

WHEREAS, the Water and Sewer Lines comprising the Extensions are to be located and installed in and along the Northern portion of an easement now owned by, or under the legal control of, Central Electric Company. (Said easement is sometimes referred to herein as the "Central Electric Company Easement", the location of which is depicted in the diagram marked Exhibit "A" attached hereto and incorporated herein by this reference).

WHEREAS, the parties have previously entered two agreements,(the Initial Agreements) one dated May 26, 2004 (hereinafter "the Effective Date") and the other on May 28, 2004 pertaining to the Majestic Point Project and the Shawnee Bend Project and the extension of water and wastewater utilities thereto: and

WHEREAS, pursuant to the Initial Agreements, LRWS has filed application(s) with the Missouri Public Service Commission (Commission) by which to acquire the necessary certification to lawfully supply service, and the Commission staff has preliminarily reviewed the application(s); and

WHEREAS, the parties desire to restate the Initial Agreements in combined and consolidated form and to amend the same to comply with recommendations of the Commission staff so that approval of the applications can advance.

NOW, THEREFORE, in exchange for the promises and other consideration set out herein, it is agreed by the parties as follows:

1. **Consolidation of and Modification to Initial Agreements.** The parties acknowledge that in reliance on the terms of the Initial Agreements, they have partially performed their obligations thereunder, and by executing this Agreement it is not their intention to supersede the Initial Agreements. This Agreement shall be construed to modify and supplement the Initial Agreements. In the event of inconsistency between the Initial Agreements and this Agreement, this Agreement shall govern.
2. **Parties to Share Cost of Extensions.** The Parties hereby agree to share the costs of construction of the Extensions, in accordance with the terms and provisions of this Agreement.
3. **Legal Description of Shawnee Bend Property.** The real property currently owned by SHAWNEE BEND which is to be served by the Water and Sewer Lines comprising the Extensions is legally described as follows:

See Exhibit “B” attached hereto and incorporated herein by reference.

4. **Legal Description of Majestic Pointe Property** The real property currently owned by MAJESTIC POINTE, including the Majestic Pointe Condominium Development and other land owned by MAJESTIC POINTE contiguous therewith, which is to be served by the Water and Sewer Lines comprising the Extensions is legally described as follows:

See Exhibit “C” attached hereto and incorporated herein by this reference.

5. Representations and Warranties of LRWS

- 5.1 *Sufficiency of Size of Water Line.* According to the plans and specifications for the Extensions which were prepared by Midwest Engineering Company, L.L.C. (sometimes referred to herein as the “Project Engineer”), the Water Line component of the Project shall be 12” in diameter from the Villages to Chimney Point Road (Wilmore Road on Shawnee Bend #2), and then 8” diameter north on Chimney Point Road to Majestic Pointe, which LRWS represents and warrants to SHAWNEE BEND and MAJESTIC POINTE, is of sufficient size and capacity to deliver adequate supplies of potable water to serve the present and future needs for the full development of both the Majestic Pointe Condominium Project and the Shawnee Bend Project, and LRWS further represents and warrants to SHAWNEE BEND and MAJESTIC POINTE that after completion of the Extensions it will have available to it sufficient water to flow through the Water Line, including potable water flow, and sprinkler water, and that it will serve both the Majestic Pointe Condominium Project and the Shawnee Bend Project in accordance with its usual and customary charges, as approved by the Missouri Public Service Commission.
- 5.2 *Sufficiency of Size of Sewer Line.* According to the plans and specifications for the Project which were prepared by the Project Engineer, the Sewer Line component of the Project shall be 6” in diameter, which LRWS represents and warrants to SHAWNEE BEND and MAJESTIC POINTE, is a sufficient size and capacity to collect and treat wastewater to serve the present and future needs for the full development of both the Majestic Pointe Condominium Project and the Shawnee Bend Project, and LRWS further represents and warrants to SHAWNEE BEND and MAJESTIC POINTE that after completion of the Extensions that it will have available to it sufficient capacity to treat the wastewater from both the Majestic Pointe Condominium Project and the Shawnee Bend Project through the wastewater component of the Water and Sewer Lines, and that it will serve both the Majestic Pointe Condominium Project and the Shawnee Bend Project in accordance with its usual and customary charges, as approved by the Missouri Public Service Commission.

- 5.3 *Applications.* LRWS acknowledges that it currently has pending before the Missouri Public Service Commission various applications seeking authority to provide services to both the Majestic Pointe Condominium Project and the Shawnee Bend Project, and hereby represents and warrants to MAJESTIC POINTE and SHAWNEE BEND that, if necessary, it shall use its best efforts to immediately and timely submit and process revised applications, in such form which can be approved, to the Missouri Public Service Commission, for issuance of Certificates of Convenience authorizing LRWS to provide potable water and wastewater sewer services to both the Majestic Pointe Condominium Project and the Shawnee Bend Project. LRWS shall promptly correct any defects in any pending applications, or supply such analysis, information or assurances as may be required or requested by the Missouri Public Service Commission in order to receive the necessary authority to provide service to both the Majestic Pointe Condominium Project and the Shawnee Bend Project. The Parties acknowledge that this Agreement has been entered in part pursuant to the request of the Commission staff for additional information, analysis and assurance in connection with the pending applications.
- 5.4 *Compliance.* LRWS represents and warrants to SHAWNEE BEND and MAJESTIC POINTE that from and after the execution of this Agreement, it shall take such action as shall be necessary or required to remain in compliance with the rules and regulations of the Missouri Public Service Commission, the Missouri Department of Natural Resources and all other governmental entities having authority over the operation and conduct of LRWS and its business.
- 5.5 *Easements.* LRWS represents and warrants to SHAWNEE BEND and MAJESTIC POINTE that on or before the completion of the Project, it shall have obtained (including the proper recording thereof), ownership of, or easements or rights-of-way for, all land upon which the Water and Sewer Lines and all appurtenances thereof shall be installed, including such easements necessary for the construction and subsequent operation and repair (said easements are sometimes collectively referred to herein as the “LRWS Easements”), and LRWS shall, at its sole cost and expense, provide satisfactory proof that it has obtained such easements to SHAWNEE BEND and MAJESTIC POINTE whenever reasonably requested by any party to this Agreement.
- 5.6 *Organization, Powers and Qualifications of LRWS.* LRWS represents and warrants to the other parties, that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Missouri, has all requisite corporate power and authority to own its properties and assets and carry on its business as now conducted.

6. Representations and Warranties of MAJESTIC POINTE.

- 6.1 *Construction.* Construction of the Extensions shall be undertaken by MAJESTIC POINTE on behalf of itself, SHAWNEE BEND and LRWS, in accordance with the plans and specifications prepared by the Project Engineer, except that, the plans and specifications for that portion of the Project which covers the Water and Sewer Lines to be installed on property owned by SHAWNEE BEND shall be prepared by an engineer retained by SHAWNEE BEND at its sole cost and expense, but such plans and specifications shall be used, and incorporated in the overall plan prepared by the Project Engineer. Subject to the rights, obligations and benefits of the parties hereto, MAJESTIC POINTE shall contract, in its own name for the construction of the Project, and shall receive contributions from LRWS and SHAWNEE BEND in accordance with the terms and provisions contained in this Agreement.
- 6.2 *Organization, Powers and Qualifications of MAJESTIC POINTE.* MAJESTIC POINTE represents and warrants to the other parties, that it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri, has all requisite corporate power and authority to own its properties and assets and carry on its business as now conducted.
7. **Representations and Warranties of SHAWNEE BEND.** SHAWNEE BEND represents and warrants to the other parties, that SHAWNEE BEND DEVELOPMENT CO., L.L.C., and T.H.B. Development Co. LLC are both limited liability companies duly organized, validly existing and in good standing under the laws of the State of Missouri, and have all requisite corporate power and authority to own their properties and assets and carry on their business as now conducted.
8. **Conditions.** The obligations of MAJESTIC POINTE to commence construction of the Project are subject to and conditioned upon the following events and conditions, any of which may be waived in whole or in part at the sole discretion of MAJESTIC POINTE:
- 8.1 The following are conditions precedent to the obligations of MAJESTIC POINTE to execute contracts for the Project:
- 8.1.1 *Easements.* LRWS shall at its sole cost and expense, have obtained (including the proper recording thereof), and shall maintain at all times during the construction of the Extensions and during the operation of the Water and Sewer Lines, valid ownership of, or easements or rights-of-way for, all land upon which the Water and Sewer Lines and all appurtenances thereof will be installed, for both the construction and maintenance of the Extensions, and LRWS shall, at its sole cost and expense, provide satisfactory proof thereof to SHAWNEE BEND and MAJESTIC POINTE whenever reasonably requested by any party to this Agreement. All costs and expenses, including but not limited to professional fees and recording fees incurred in connection with obtaining all such ownership,

easements, and rights-of-way shall be at the sole expense of LRWS and shall be paid directly by LRWS; and,

8.1.2 *Certificates of Convenience and Necessity.* LRWS shall at its sole cost and expense, have received valid Certificates of Convenience and Necessity (the “Certificates”) issued by the Missouri Public Service Commission, authorizing LRWS to provide potable water flow, and sprinkler water to, and to collect and treat wastewater from, both the Majestic Pointe Condominium Project and the Shawnee Bend Project, provided, however, the parties hereto agree to use their best efforts to assist LRWS in obtaining such Certificates. All costs and expenses, including but not limited to professional fees and filing fees incurred in connection with obtaining all such Certificates shall be at the sole expense of LRWS and shall be paid directly by LRWS; and,

8.1.3 *Approval of the Plans and Specifications.* MAJESTIC POINTE shall have received final approval of the plans and specifications for the Extensions, to the extent required, from LRWS, SHAWNEE BEND, the Department of Natural Resources, and all other local governmental entities from which approval is required for the Extensions, provided, however, the parties hereto agree to use their best efforts to assist MAJESTIC POINTE in obtaining such final approvals; and,

8.1.4 *Certificates of Occupancy.* MAJESTIC POINTE shall have received from the Sunrise Beach Fire Protection District and all other local governmental entities from which approval is required for occupancy of the Majestic Pointe Condominium Project, adequate assurances of the issuance of certificates of occupancy for the Majestic Pointe Condominium Project based on its agreements to obtain water from adjacent developments, provided, however, the parties hereto agree to use their best efforts to assist MAJESTIC POINTE in obtaining such approvals.

9. **LRWS Obligations Pending Approval of Certificates.** In the event that the Certificates of Convenience and Necessity are not issued by the Missouri Public Service Commission within one hundred twenty (120) days from the date the Extensions are completed, LRWS agrees that it shall sell potable water and sewer services to MAJESTIC POINTE on a wholesale basis at such rates as may be specified in its wholesale tariffs on file with the Missouri Public Service Commission as of the Effective Date of this Agreement.

10. **Maintenance of Water and Sewer Lines.** After completion of the Extensions, LRWS shall at its sole cost and expense, be solely responsible for the operation and maintenance of the Water and Sewer Lines. In the event LRWS does not receive Certificates from the Missouri Public Service Commission P.S.C. as set forth in 8.1.2, then maintenance and operations of said water & sewer lines will revert to MAJESTIC POINTE.

11. Cash Contributions of the Parties in Payment for the Extensions.

- 11.1 *Advance Costs.* Subject to the obligations of SHAWNEE BEND for contributions, MAJESTIC POINTE shall advance the total cost of the design and construction of the Extensions, provided, however, prior to remitting any payments, MAJESTIC POINTE shall have received mechanic's lien releases from the contractor, all sub-contractors and all suppliers.
- 11.2 *Payments.* MAJESTIC POINTE shall from time to time during construction of the Extensions, deliver written notice to SHAWNEE BEND describing the amount due as their contribution to the construction cost of the Extensions as determined in accordance with the terms and provisions of this Agreement, and SHAWNEE BEND shall remit such payments to MAJESTIC POINTE within twenty (20) days from the date of each such notice.
- 11.3 *Contribution of Costs.* For its contribution to the Extensions, and in consideration of the benefits to be derived from the completion of the Extensions, the sufficiency of which is hereby acknowledged, SHAWNEE BEND shall pay to MAJESTIC POINTE one-half (1/2) of the actual cost for construction of the Water Line component of the Extensions, plus one-half (1/2) of the actual cost for construction of the Sewer Line component of the Extensions (said amounts are sometime referred to herein as the "Shawnee Bend Contribution", provided, however, in no event shall the aggregate amount of the Shawnee Bend Contribution be greater than an amount equal to Sixteen Dollars (\$16.00) times the actual number of lineal feet for the Water Line component of the Extensions plus the actual number of lineal feet for the Sewer Line component of the Extensions, (said amount is sometime referred to herein as the "Shawnee Bend Contribution").
- 11.4 *Additional Contributions.* The Shawnee Bend Contribution shall also include: (1) Two thousand four hundred eighteen dollars (\$2,418.00) to legal fees; and (2) One hundred seventy seven dollars (\$177.00) for permit fees without delay or set-off within ten (10) days of its receipt of a copy of the Invoice(s) by the contractor installing the Extensions. This dollar amount is to equal approximately 29% of total.
- 11.5 *Initial Payment.* In part payment of the Shawnee Bend Contribution, SHAWNEE BEND shall pay MAJESTIC POINTE the approximate sum of Forty one thousand one hundred fifteen dollars and sixty four cents (\$41,115.64) within ten (10) days of its receipt of a copy of the Invoice(s) covering the purchase of materials for the Extensions by the contractor installing the Extensions. This dollar amount to equal approximately 29% of total.

12. Future Revenues.

- 12.1 ***Contribution In Aid of Construction Surcharge.*** Subject to the approval of the Commission, LRWS shall collect a **Contribution in Aid of Construction (CIAC) Surcharge** from each newly connected customer that is located within LRWS's certificated utility service area, and who is connected directly or indirectly to the Extensions² but who is not located inside either the Majestic Pointe Condominium Project (or Development) or the Shawnee Bend Project (or Development). For single family residential customers, and for each unit of multi-family residential buildings, LRWS shall propose that the Commission approve a CIAC Surcharge of \$675.00 for water service and \$675.00 for sewer service. The amount for commercial customers, if any, shall be based upon an estimated customer water usage of 6,000 gallons per month. The CIAC Surcharge amounts shall be included in LRWS's approved Schedules of Rates, Rules and Regulations (tariffs), and shall be paid in addition to any other authorized fees and charges. The amount of the CIAC Surcharge shall in all respects be subject to Commission approval.
- 12.2 ***Refunds to Majestic Pointe and Shawnee Bend.*** CIAC Surcharges shall be collected by LRWS and shall be paid to MAJESTIC POINTE and SHAWNEE BEND on December 30 of each year for no longer than 15 years (the Refund Period) at a 71% - 29% ratio free of interest. CIAC Surcharges shall not be collected from new customers within the Majestic Pointe Condominium Project (or Development) or the Shawnee Bend Project (or Development). The total amount to be refunded to MAJESTIC POINTE and SHAWNEE BEND, in the aggregate, shall not exceed \$ _____, the total cost of the Extensions, minus \$675 multiplied by the number of water connections and the number of sewer connections in the Majestic Pointe Condominium Project (or Development) and the Shawnee Bend Project (or Development).
- 12.3 ***No Other Compensation.*** Except as set forth in the preceding subsections, MAJESTIC POINTE and SHAWNEE BEND shall be entitled to no other compensation under the Initial Agreements or this Agreement and LRWS shall not be entitled to any extraordinary ratemaking treatment with respect to CIAC or any other costs or expenses related to the Extensions.
13. **Transfers of Real Property Interests and Installed Lines.** Within thirty (30) days of the effective date of the Commission order approving LRWS's application in Case Nos. WA-2005-0463 and SA-2005-0464, MAJESTIC POINTE and SHAWNEE BEND shall transfer and convey to LRWS all their right, title and interest in all easements, real property, pipelines, and any appurtenant equipment, facilities or personal property related thereto that are associated with the Extensions.
14. **Effect of Transfers of Real Property and Installed Lines.** Any transfer or conveyance to LRWS of interests in any property, real or personal, pursuant to this Agreement shall be unconditional and without possibility of reverter for any reason, it being the intention of the

² See footnote 1.

parties that after any such property is transferred and conveyed to LRWS it shall become part and parcel of the regulated company to be used to provide water service and/or sewer service to the public. Any subsequent sale, transfer or use of such property shall be subject to the Public Service Commission Law of the State of Missouri. Further extensions of the water and sewer systems will be made off of the subject pipelines pursuant to the provisions of LRWS's approved tariffs on file at the Missouri Public Service Commission.

15. **Attorney's Fees.** In the event of any suit or action to enforce or interpret this Agreement or any provision thereof, the prevailing party shall be entitled to recover its costs, expenses and reasonable attorney fees, both at trial and on appeal, in addition to all other sums allowed by law from the non-prevailing party or parties.

16. **Events of Default.**

16.1 The following occurrences are **Events of Default**:

16.1.1 *Monetary Default.* A failure by a party to this Agreement in the prompt payment of all or part of any sums required by it to be paid under the terms of this Agreement;

16.1.2 *Material Breach of Agreement.* A material breach is made by a party to this Agreement or a default occurs under any warranty, representation, statement, promise, covenant, understanding, term or condition contained in this Agreement;

16.1.3 *False Statement.* Any false statement or representation contained in this Agreement or in any document furnished pursuant hereto, made by a party to this Agreement for the purpose of inducing another party to this Agreement to enter into this Agreement; and;

16.1.4 *Insolvency and Bankruptcy.* If a party to this Agreement becomes insolvent, admits in writing its inability to pay its debts as they mature, makes a general assignment for the benefit of creditors, or shall have an Order for Relief under The United States Bankruptcy Code entered with respect to it, or shall have filed a voluntary petition in bankruptcy or for reorganization or to effect a plan or other arrangement with creditors, or shall have filed an answer to a petition filed against it (admitting the material allegations thereof) for an adjudication in bankruptcy or for a reorganization, or shall have a receiver or trustee or custodian appointed to administer any of its assets, provided however, that upon the involuntary filing of a petition in bankruptcy, no Event of Default shall exist for as long as that party is contesting the adjudication of bankruptcy;

16.1.5 *Cessation of Business.* If prior to at anytime prior to, or during the Refund Period, LRWS ceases the operation of its business in its normal course for any reason.

16.2 ***Remedies upon Default***

16.2.1 *Remedies.* Upon the occurrence of an Event of Default specified in Section 16.1 of this Agreement by any party hereto, any other party shall, after first giving five (5) day's written notice to the defaulting party of the Event of Default, have the right, at its option and without further demand upon or notice to, pursue any and all rights and remedies available to it under this Agreement and/or applicable law and/or the principles of equity, all in such order and manner as it may elect from time to time in its sole and absolute discretion.

16.2.2 *Equitable Remedies.* All covenants and undertakings by any party under the terms and conditions of this Agreement are of the essence, and the parties agree that they will suffer irreparable harm and have no adequate remedy at law unless equitable remedies such as injunctive relief and specific performance are available to them to enforce their respective rights and remedies afforded under the terms and provisions of this Agreement. Accordingly, each Party hereto agrees that, upon application to a Court of competent jurisdiction, it shall be entitled to one or more decrees of injunctive relief and one or more decrees of specific performance with respect to a material breach of any undertaking or covenant made by the other under the terms and provisions of this Agreement.

16.2.3 *Alternative Remedies.* Any party shall have the right to enforce any or all of its rights or remedies partially, successively or concurrently, and any such action shall not stop or prevent said party from pursuing any further remedy that it may have under this Agreement or by law.

17. **Notices.** All notices required or permitted under the terms of this Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when personally delivered or mailed by certified mail:

17.1 If to Lake Region Water and Sewer Company: P.O.Box 9, Lake Ozark, Missouri, 65049 Attention: John R. Summers, General Manager

17.2 If to Majestic Pointe Development Company, L.L.C.: 568 Linn Creek Road Lake Ozark, MO 65049 Attention: _____, Managing Member with a copy to: Constructive Engineering Design, Inc. 9091 State Line Road Suite 300 Kansas City, MO 64114 Attention: Michael J. Farrahi, M.S., P.E.

17.3 If to Shawnee Bend Development Company, L.L.C.: Shawnee Bend Development Company, L.L.C. 100 Villages Way, Sunrise Beach, MO 65079 Attention: Thomas H. Biggs, Managing Member

17.4 If to Midwest Engineering Company, L.L.C.: Midwest Engineering Company, L.L.C. Stone Castle Centre Suite 204 237 West Highway 54 Camdenton, MO 65020

18. Relationship of the Parties. The relationship of the parties to this Agreement is and at all times shall remain one of independent contractors. Neither party is in any way a partner, joint venturer, agent, employee or legal representative of the other for any purpose whatsoever, nor has any legal right or authority to make any representation, promise or agreement in the name of or for the account of the other or any affiliate of the other. Each party shall have no authority to employ persons on behalf of the other, and no employee of either party shall be deemed to be an employee or agent of the other, with said employee at all times remaining that party's employee. No employee of either party shall be represented as, or represent himself/herself as, an employee, partner or agent of the other. Each party shall have sole and exclusive control over its labor and employee relations, and is solely responsible for all payment to employees or applicable governmental agencies and subdivisions as required by any and all federal, state, or local laws and regulations. Each party shall meet all other legal requirements relating to its employer/employee relationship.

19. Indemnification. LRWS shall indemnify, defend and hold MAJESTIC POINTE and SHAWNEE BEND, and their respective members, managers, officers, directors, employees, agents and shareholders, and their respective assigns, heirs, successors and legal representatives, harmless from and against, any and all costs, losses, liabilities, damages, lawsuits, judgments, claims, actions, penalties, fines and expenses (including, without limitation, interest, penalties, reasonable attorneys' fees and all monies paid in the investigation, defense or settlement of any or all of the foregoing) ("Claims"), that arise out of, or are incurred in connection with: (i) the performance or failure of performance of LRWS under this Agreement and any direct or indirect results thereof; (ii) the lawful or unlawful acts or omissions of LRWS (or those of any of its employees or agents, whether or not such acts are within the scope of employment or authority of such employees or agents) relating to the Project; (iii) the breach of any of the representations or warranties of LRWS made herein; (iv) all purchases, contracts, debts and/or obligations made or incurred by LRWS; (v) the failure of LRWS to comply with, or any actual or alleged violation of, any applicable laws, statute, ordinance, governmental administrative order, rule or regulation; (vi) the failure of LRWS to comply with any provision of this Agreement; and (vii) the failure of LRWS to collect and disburse the CIAC Surcharges to MAJESTIC POINTE or SHAWNEE BEND as required herein. The provisions of this Section 17 shall survive expiration or termination of this Agreement.

20. Governing Law. This Agreement and the relationship between the parties, including all disputes and claims, whether arising in contract, tort or under statute, shall be governed by,

interpreted under and enforced in accordance with the laws of the State of Missouri. The federal and state courts of the State of Missouri shall have exclusive jurisdiction to hear and determine any claims, disputes, actions, or suits which may arise under or with respect to this Agreement. The parties agree and voluntarily consent to submit themselves to the personal jurisdiction and venue of such courts for such purposes. LRWS, SHAWNEE BEND and MAJESTIC POINTE each acknowledge and agree that it and their respective counsel have reviewed, or have been given a reasonable opportunity to review, this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or Exhibits hereto, if any.

21. **Requisite Authority.** Each party to this Agreement represents and warrants to the other parties, that: (1) the execution and delivery of this Agreement and the performance by said party of its obligations hereunder have been approved by appropriate resolution of its Board of Directors (if LRWS) or by its Members (if MAJESTIC POINTE or SHAWNEE BEND) at a meeting thereof, duly called and held prior to the execution of this Agreement; (2) that such resolutions shall remain in full force and effect, will not constitute a default under or violate (whether by the lapse of time, the giving of notice or otherwise) any provision of the Articles of Incorporation or Articles of Organization (as the case may be), its By-Laws or Operating Agreement (as the case may be) or any contract, deed, lease, agreement or other instrument to which the said party or any of its assets are bound; (3) that this Agreement is a valid and binding obligation of the representing party, and is enforceable in accordance with its terms; and (4) that neither the execution and delivery by the representing party of this Agreement nor the consummation by the representing party of the transactions contemplated hereby, nor compliance by the representing party with any of the provisions hereof will: (a) cause a default (or give rise to any right to termination, cancellation or acceleration) under any of the terms, conditions or provisions of any agreement, instrument or obligation to which the representing party is a party, or by which it or any of its operations, business or assets may be bound, except for such conflict, breach or default as to which requisite waivers or consents shall have been obtained prior to the effective date of this Agreement; or (b) violate or require any consent, approval, notice or filing pursuant to any statute, rule or regulation or any judgment, order, writ, injunction or decree of any court, arbitrator, mediator, administrative agency or governmental body, in each case applicable to the representing party or any of its operations, business or assets.
22. **Waiver.** The failure of any party to insist upon strict performance of any provision of this Agreement shall not be construed as a waiver of any subsequent breach of the same or similar nature. All rights and remedies reserved to any party shall be cumulative and shall not be in limitation of any other right or remedy which such party may have at law or in equity.
23. **Binding Agreement.** This Agreement and the obligations of the parties hereunder is binding upon the heirs, legal representatives, successors and assigns of the parties hereto. In the event that LRWS shall cease to exist, or in the event that a controlling interest in LRWS is

transferred, the obligations of LRWS hereunder shall survive such event, and such obligations shall be enforceable by both SHAWNEE BEND and MAJESTIC POINTE against the successors of LRWS.

24. **Entire Agreement.** This Agreement, together with the Exhibits hereto and the final plans and specifications for the Project after approval by the parties, is the full and complete understanding between all of the parties and supersedes any and all prior or contemporaneous oral or written understandings or agreements except as set forth in Section 1 of this Agreement.. Except as otherwise provided herein, this Agreement shall only be modified in writing by mutual agreement between the parties, unless otherwise provided in this Agreement. No party is relying on any representations other than as expressly set forth in this Agreement. Any provision of this Agreement which logically would be expected to survive termination or expiration, shall survive for a reasonable time period under the circumstances, whether or not specifically provided in this Agreement.

25. **Headings.** Headings in this Agreement are intended for reference and convenience only and shall not be used to interpret or construe any provisions contained in this Agreement.

26. **TIME OF ESSENCE.** Time is of the essence under the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties, by their authorized representatives, have executed this agreement on the day and date first above written, intending to bind themselves, their successors, personal representatives and assigns.

SHAWNEE BEND DEVLEOPMENT CO. L.L.C.

By: _____
Thomas H. Biggs, Managing Member

T.H.B. DEVELOPMENT CO. L.L.C.

By: _____

MAJESTIC POINTE DEVELOPMENT CO., L.L.C.

By: _____
_____, Managing Member

LAKE REGION WATER AND SEWER CO.

By: _____
Robert P. Schwermann, President