

State of Missouri                     )  
  ) ss.  
County of   Saint Louis   )

**AFFIDAVIT OF JOHN HOLBOROW**

**COMES NOW** John F. Holborow, Affiant, and first being duly sworn, states as follows:

1. My name is John F. Holborow and my business address is Holborow Builders Group, LLC, 806 Woodpoint Drive, Chesterfield, Missouri.

2. I am the duly appointed and authorized receiver for H&H Development Group, Inc. ("H&H"), per order issued on August 21, 2012, in Case No. 12SL-CC03091, *Simmons First National Bank v. H&H Development Group, Inc.*, pending in the Circuit Court of St. Louis County, Missouri.

3. Among the properties that I administer as receiver for H&H is the Valle Creek Condominiums in Barnhart, Jefferson County, Missouri ("the Development").

4. The Development is located within the territorial boundaries of Consolidated Public Water Supply District C-1 of Jefferson County, Missouri ("C-1"), but C-1's water mains do not extend to the Development. The water mains of the City of Pevely ("Pevely") do extend to the Development.

5. On information and belief, C-1 and Pevely entered into a purported Territorial Agreement on or about November 12, 2007, a true and correct copy of which is attached hereto as Exhibit A and incorporated herein for all purposes by reference, governing Pevely's service to various locations within C-1's boundaries, including the Development.

6. On June 30, 2008, H&H entered into an agreement ("the Main Extension Agreement") with C-1, a true and correct copy of which is attached hereto as Exhibit B and incorporated herein for all purposes by reference, pursuant to which H&H undertook to install, at its expense, a water main extension connecting the Development to C-1's system.

7. The Main Extension Agreement provided that this work was to be completed by February 1, 2009, and, if still incomplete by March 1, 2009, "then the water service line from Pevely's water main will be terminated on that date" and "C-1 water meters will be removed, and the Developer [= H&H] will make other provisions to legally serve Valle Creek Condominiums customers at that time."

8. The water main extension contemplated by the Main Extension Agreement was never completed and remains incomplete today.

9. The Main Extension Agreement expressly contemplated interim water

## AFFIDAVIT OF JOHN F. HOLBOROW

service to the Development by Pevely and C-1 and Pevely made a verbal side agreement ("the Temporary Service Agreement") providing for such service.

10. Pevely provided water to the Development from June 30, 2008, until October 1, 2012, under the Temporary Service Agreement. During that period, the meters on the lines by which the Pevely served the Development belonged to C-1. C-1 billed H&H monthly for the water provided to the Development and reimbursed Pevely semi-annually for the cost of the water.

11. In September of 2012, a territorial dispute arose between C-1 and Pevely, pursuant to which, on October 1, 2012, Pevely removed C-1's meters from the Development and replaced them with its own; thereafter, Pevely billed H&H directly for the water service provided to the Development.

12. On November 1, 2012, C-1 filed suit against Pevely, Case No. 12JE-CC01024, in the Circuit Court of Jefferson County, Missouri. A true and correct copy of the Petition filed by C-1 is attached hereto as Exhibit 2 and incorporated herein for all purposes by reference.

13. In April 2013, C-1 removed Pevely's meters from the Development and replaced them with its own; thereafter, C-1 billed H&H directly for the water service provided to the Development.

14. Also in April 2013, C-1 by letter to John F. Holborow, Receiver, demanded that H&H complete within 180 days the main extension contemplated by the Main Extension Agreement, or face service termination.

15. H&H lacks funds to complete the contemplated main extension and I fear that C-1 will terminate water service to the Development.

**FURTHER** the Affiant sayeth not.

  
\_\_\_\_\_  
**JOHN F. HOLBOROW**

### Jurat

**JOHN F. HOLBOROW**, being of lawful age and duly sworn, upon his oath states that he has read the foregoing Affidavit, and that the facts stated therein are true according to his best knowledge and belief.

  
\_\_\_\_\_  
**JOHN F. HOLBOROW**

**AFFIDAVIT OF JOHN F. HOLBOROW**

**SUBSCRIBED AND SWORN** before me this 24 day of March,  
2014.

  
\_\_\_\_\_  
**NOTARY PUBLIC**

My Commission expires \_\_\_\_\_.







TERRITORIAL AGREEMENT  
BETWEEN  
THE CONSOLIDATED PUBLIC WATER  
SUPPLY DISTRICT NO. C-1 OF  
JEFFERSON COUNTY, MISSOURI,  
AND THE CITY OF PEVELY, MISSOURI

WHEREAS, this Agreement is made and entered into this 12<sup>th</sup> day of November, 2007, by and between the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, P.O. Box 430, Barnhart, Missouri 63012, hereinafter referred to as "District" and the City of Pevely, Missouri, City Hall, 301 Main Street, Pevely, Missouri 63070, hereinafter referred to as "Pevely".

WHEREAS, District is a public water supply district organized pursuant to the provisions of Chapter 247 of the Revised Statutes of Missouri, distributing potable water within its corporate boundaries in Jefferson County, Missouri; and

WHEREAS, Pevely is a municipal corporation of the Fourth Class which also furnishes potable water as part of its municipal services within areas defined by its corporate boundaries; and

WHEREAS, City is presently providing potable water to areas within the District generally located within all or parts of subdivisions known as "Hunters Glen", "Tiara at the Abbey", and "Vinyards at Bushberg"; and

WHEREAS, the parties desire to stipulate and agree with respect to the geographic areas which each will serve, in order to facilitate development of areas within the City of Pevely and the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri.

NOW, THEREFORE, the parties agree as follows:

1. The parties hereto acknowledge the geographical corporate boundaries of each entity and agree that such boundaries shall be in full force and effect as they presently exist and as may be subsequently modified by annexation and/or detachment in conformance with applicable provisions of Missouri Law pertaining to cities of the Fourth Class and Public Water Supply Districts.

2. Pevely shall continue to provide water service to those portions of the Hunters Glen subdivision, Tiara at the Abbey subdivision, and Vinyards at Bushberg subdivision as shown by plats by the subdivisions which are recorded with the Recorder of Deeds Office in Jefferson County, Missouri.

3. Pevely also agrees to cease all plans to extend water service within the current geographic boundaries of the District. Any future development which is within corporate boundaries of both the City of Pevely and the District, including the development presently known as Valle Creek Condominiums, shall be served by the District unless the

EX. A



rights to serve such development are assigned in writing to the City by the District.

4. Should the City of Pevely be requested by any person or entity to provide water service within the corporate boundaries of the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, Pevely shall forthwith inform C-1 of such request in writing, and shall further direct any developing person or entity to the offices C-1 for purposes of determining whether C-1 has the desire or ability to extend water service to the area proposed for development. Thereafter, C-1 shall have sixty (60) days to make a determination whether to extend water service to the area proposed for development. If C-1 chooses not to extend water service to the area of proposed development, C-1, within said sixty (60) day period, shall notify the City of Pevely in writing of its decision. The parties agree that neither shall attempt to subvert the other's Regulations, Rules of Fee Structure for the sole purpose of causing a person or entity seeking water service to choose one entity over the other or to obtain unfair advantage over the signatory to this Agreement, it being the intention of the parties hereto that they shall not be in competition with each other for purposes of providing water service, but rather, that the parties shall cooperate for purposes of facilitating development within areas located within both entities.

5. It is the intention of the parties that this Agreement shall be a permanent determination as to which party shall provide water service to the areas specifically described in this Agreement, and neither party shall in the future attempt to alter the terms of this Territorial Agreement.

6. The parties further agree that all other territory within the District boundaries shall remain the exclusive territory of the District, and Pevely covenants and agrees that during the terms of this Agreement as specified hereafter it shall not, without the written consent of the District (a) seek detachment of any additional territory now within the boundaries of the District; (b) provide water service to any additional territory now within the boundaries of the District that is hereafter detached from the District; (c) seek to develop an agreement to provide water service to any additional territory now within the boundaries of the District that may be hereafter annexed by the City; and (d) directly or indirectly seek to dissolve the District or hold itself out as an alternative water supplier in any dissolution proceeding.

7. The terms of this Agreement shall be for a period of ten (10) years unless same is terminated earlier by virtue of the District having the ability to serve the areas referred to herein.

8. Pevely shall enact a Resolution and/or Ordinance approving the execution of this Agreement by the duly elected officials, and the District shall adopt a Resolution or Ordinance by its Board of Directors approving this Territorial Agreement and execution by its duly elected officials.

9. The terms of this Agreement shall be in full force and effect from the time the last of the signatories hereto approve same by an Ordinance duly enacted by its governing body.

10. Upon the execution and approval of the terms of this Agreement by each of the signatories hereto, the parties shall execute Stipulations of Dismissal With Prejudice, at each party's cost, of certain litigation currently pending within the Circuit Court of Jefferson County, Missouri, styled The Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, vs. City of Pevely, Missouri, Case No: CV306-1286-CC-J2, and the execution of this Agreement shall constitute and full and complete release of any and all claims, whether statutory, contractual, or tort either party may have against the other predicated upon the provision of water services within those geographic areas located within the corporate boundaries of both the City of Pevely and the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, whether such claims may be presently apparent or may be discovered in the future.

11. Any written notices referred to in this Agreement shall be mailed to the parties at the following addresses:

Consolidated Public Water  
Supply Dist. No. C-1  
Attn: District Engineer  
6645 Moss Hollow Road  
P.O. Box 430  
Barnhart, MO 63012


City of Pevely  
Attn: Mayor and  
Director of Public Works  
City Hall  
301 Main Street  
Pevely, MO 63070

IN WITNESS WHEREOF, the City of Pevely has caused this Territorial Agreement to be executed by its Mayor and attested by its Clerk pursuant to Resolution adopted by the Board of Alderman of the City; and the District has caused the same to be executed by the Board of Directors of said District and attested by the Clerk of said District pursuant to a Resolution or Ordinance adopted by the District's Board of Directors.

CONSOLIDATED PUBLIC WATER SUPPLY DISTRICT  
NO. C-1 OF JEFFERSON COUNTY, MISSOURI

By: 

Richard Hammond - President

ATTESTED TO: 

Christine Hamilton - Clerk

CITY OF PEVELY, MISSOURI

BY:

John Knobloch  
John Knobloch - Mayor

ATTESTED TO:

Betty S. Ashley, CMC  
City Clerk



H+H Agreement

### AGREEMENT

On this 30<sup>th</sup> day of June, 2008, Consolidated Public Water Supply District No. C-1 of Jefferson County, Box 430, Barnhart, MO 63012 (the Water District), and H and H Development Company, P.O. Box 550, Imperial, MO 63052 (the Developer) agree to cooperate in the installation of the off site water pipe and appurtenances to serve the Valle Creek Condominiums (the Development) from a connection to the Water District system at approximately 2040 Engle Ridge Road, Imperial to approximately Morgan Road and Metropolitan Boulevard, Imperial, where the pipe will be connected to the water pipe within the Valle Creek Condominiums, under the following conditions.

- The Developer will follow all Water District rules except as modified herein.
- The purchase of all anticipated pipe materials and other equipment, as determined by the Water District, must be undertaken immediately by the Developer, quit claimed to the Water District, and stored on the Development's site where access to all parties will be provided. Other unanticipated but necessary materials will be purchased by the Developer as needed as construction progresses. It appears a pressure reducing valve / vault will need to be installed along the line.
- Offsite pipe described herein must be completed, connected at both ends, and accepted into the Water District's system before any service is provided to the Development (exception: the existing service to the club house and new services to Building A will be temporarily connected to the Pevely water system, and will be transferred at the time of the noted pipe's completion).
- If the Developer does not complete the off site water pipe by February 1, 2009, unless due to Acts of God (or by a time extension approved in writing by the Water District), the Water District must enter into good faith negotiations with the developer to complete the work via another method. If no agreement to complete the water main work by other methods is reached by March 1, 2009, then the water service line from Pevely's water main will be terminated on that date. C-1 water meters will be removed, and the Developer will make other provisions to legally serve Valle Creek Condominiums customers at that time. The Water District retains the right use the remaining materials after this point in any way it chooses.
- The allowance for partial reimbursement for off site pipe costs to the Developer as described in Section 8.2.7 of the Water District rules (attached) will apply.

EX. B

IN WITNESS WHEREOF, the DEVELOPER and DISTRICT have set their hands and seals the day, month and year first above written.

DEVELOPER:

H AND H DEVELOPMENT COMPANY

By

(Signature)

(Printed Name and Title)

STATE OF Missouri )  
COUNTY OF St. Francois ) SS

STACY M. EMS  
Notary Public - Notary Seal  
STATE OF MISSOURI  
St. Francois County  
My Commission Expires: Aug. 28, 2011  
Commission # 07222386

On this 18<sup>th</sup> day of June in the year 2008 before me,  
Stacy M. EMS, a Notary Public in and for said state,  
personally appeared Roy Holley, known to me to be the  
person who executed the within AGREEMENT in behalf of said corporation and  
acknowledged to me that he/she executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal  
in the County and State aforesaid, the day and year first above written.

Notary Public in and for said County and State

My Commission Expires: 02-21-11

WATER DISTRICT: CONSOLIDATED PUBLIC WATER SUPPLY DISTRICT  
NO. C-1 OF JEFFERSON COUNTY, MISSOURI

By

Ronald L. Smith, Manager

STATE OF Missouri )  
COUNTY OF Jefferson ) SS

On this 30<sup>th</sup> day of June in the year 2008 before me,  
Linda Stewart, a Notary Public in and for said state,  
personally appeared Ronald L. Smith, known to me to be the  
person who executed within AGREEMENT in behalf of said corporation and  
acknowledged to me that he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal  
in the County and State aforesaid, the day and year first above written.

Linda Stewart  
Notary Public in and for said County and State

My Commission Expires: 02-21-11

LINDA STEWART  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Jefferson County  
My Commission Expires: February 21, 2011  
Commission Number: 07034013

What is status of This suit.

FILED  
NOV 01 2012

STATE OF MISSOURI     )  
                                  ) SS.  
COUNTY OF JEFFERSON )

HOWARD WAGNER  
CIRCUIT CLERK

IN THE CIRCUIT COURT OF THE TWENTY-THIRD JUDICIAL CIRCUIT  
AT HILLSBORO, JEFFERSON COUNTY, MISSOURI

THE CONSOLIDATED PUBLIC WATER     )  
SUPPLY DISTRICT NO. C-1 OF     )  
JEFFERSON COUNTY, MISSOURI,     )

Petitioner,     )

vs.     )

CITY OF PEVELY, MISSOURI,     )  
a City of the Fourth Class,     )

Serve: John Knobloch, Mayor     )  
City Hall     )  
301 Main Street     )  
Pevely, MO 63070,     )

Respondent.     )

Case No. 12JECCD1024

**PETITION**

COMES NOW the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, by and through counsel, and for its Petition against the City of Pevely, Missouri, a City of the Fourth Class, states to the court as follows:

**Allegations Common To All Counts (General Allegations)**

1. The Public Water Supply District No. C-1 of Jefferson County, Missouri (C-1) is a public entity organized pursuant to the provisions of Chapter 247 of the Revised Statutes of Missouri for purposes of supplying water to the residents within its corporate boundaries which are located within Jefferson County, Missouri.

2. The City of Pevely is a City of the Fourth Class located within Jefferson County, Missouri, and John Knobloch is the duly elected Mayor for purposes of receiving service of process.



3. Portions of Pevely lie within the corporate boundaries of C-1 as shown on **Exhibits "A", "B", "C", "D", "E" and "F"** attached hereto and incorporated herein by this reference.
4. The property described in **Exhibit "A"** attached is more generally described as the "Tiara at the Abbey" Subdivision (Tiara) a subdivision as shown by plat on file with the Recorder's Office of Jefferson County, Missouri, at Plat Book 156, Page 10; Plat Book 162, Page 12; Plat Book 175, Page 7; Plat Book 185, Page 21; Plat Book 188, Page 13; and Plat Book 197, Page 25; and "The Vinyards at Bushberg", a subdivision as shown by Plat on file with the Recorder's Office of Jefferson County, Missouri, at Plat Book 226, Page 2-4.
5. The property shown on **Exhibit "B"** attached hereto lies within a subdivision known as "Hunters Glen" as shown by plat on file with the Recorder's Office of Jefferson County, Missouri, at Plat Book 197, Pages 11-18.
6. The property shown on **Exhibit "C"** attached hereto lies within a subdivision known as "Valle Creek Condo's" (sic) (hereinafter referred to as Valle Creek Condominiums) as shown by plat on file with the Recorder's Office of Jefferson County, Missouri, at Plat Book 255, Page 27.
7. The property shown on **Exhibit "D"** attached hereto is a mobile home community known as Mason Woods.
8. The property shown on **Exhibit "E"** attached hereto are mobile home communities known as Glenoma Trailer Park and Kenmon Valley Mobile Home Park.
9. The property shown on **Exhibit "F"** attached hereto lies within a subdivision known as "I-55 Business Park" as shown by plat on file with the Recorder's Office of Jefferson County, Missouri at Plat Book 115, Pages 2 and 3; Plat Book 116, Pages 7 and 8; and Plat Book 133, Page 21B.
10. Petitioner and Respondent entered into a territorial agreement in settlement of

23CV306-1286 on or about 12<sup>th</sup> day of November, 2007 (hereinafter referred to as "Territorial Agreement"). A copy of said Territorial Agreement is attached hereto as Exhibit "G".

11. Pursuant to paragraph 2 of the Territorial Agreement Respondent has been providing water services to the residents within the real property described on Exhibits "A" and "B".

12. On information and belief, Respondent has been providing water services to the residents with the real property described on Exhibits "D", "E" and "F".

13. Pursuant to paragraph 3 of the Territorial Agreement, Valle Creek Condominiums shall be served by Petitioner unless Petitioner assigns in writing the rights to serve Valle Creek Condominiums to Respondent.

14. On or about the 1<sup>st</sup> day of October, 2012, Respondent removed the meters of Petitioner from Valle Creek Condominiums and installed Respondent's meters at the property and are directly billing the owner of the property for water service.

15. C-1 presently has no general obligation bonds outstanding.

16. C-1 presently has an issue of revenue bonds outstanding, the payment of which are dependent upon the receipt of monies from the sale of water and charges incurred for accessing C-1's water system.

17. None of the parcels of real property described on Exhibits "A" or "B" or "C" or "D" or "E" or "F" has been detached from C-1 in conformance with the provisions of Chapter 247 of the Revised Statutes of Missouri.

18. Upon information and belief, the City of Pevely intends to continue to extend its water distribution system within the geographic boundaries of the District without complying with the provisions of Section 247.170 for the detachment of such areas and the protection of bondholders of the District.

## COUNT I – BREACH OF TERRITORIAL AGREEMENT

1. Petitioner incorporates each and every allegation contained in its General Allegations as if same were more fully set out hereat.
2. On or about the 30<sup>th</sup> day of June, 2008, Petitioner, in conformance with its rules and regulations, entered into an agreement with H and H Development Company, whereby H and H Development as the owner and developer of Valle Creek Condominiums would install water pipe and appurtenances to allow connection of Valle Creek Condominiums to the water delivery system of Petitioner.
3. That on or about June 30, 2008, Petitioner and Respondent reached a verbal agreement for temporary service to Valle Creek Condominiums wherein Petitioner would purchase water from Respondent for Valle Creek Condominiums. Under said agreement the Respondent would provide water which was metered by Petitioner. Petitioner would bill the owner of Valle Creek Condominiums monthly and biannually reimburse Respondent for the cost of the water.
4. That from June 30, 2008 to October 1, 2012, the parties acted under said verbal agreement.
5. That on or about the 3<sup>rd</sup> day of March, 2012, Respondent's Mayor John Knobloch contacted Petitioner to request that Petitioner's meters be removed and Respondent's installed at Valle Creek Condominiums.
6. That on or about the 2<sup>nd</sup> day of August, 2012, the parties met to discuss an extension of the temporary agreement.
7. That on or about the 28<sup>th</sup> day of August, 2012, Respondent via its attorney sent a letter to Petitioner demanding removal of Petitioners meters by September 30, 2012, and



~~PERVEM~~

indicating that after September 30, 2012, Respondent would continue providing water service to Valle Creek Condominiums and bill the owner for same. A copy of the letter is attached hereto as Exhibit "H".

8. That on or about the 11<sup>th</sup> day of September, 2012, Petitioner via its attorney sent a letter to Respondent's attorney indicating that a written assignment of rights to serve Valle Creek Condominiums had not been made to Respondent. A copy of the letter is attached hereto as Exhibit "I".

9. That on or about the 1<sup>st</sup> day of October, 2012, Respondent's employees delivered Petitioner's meters which had been metering the water at Valle Creek Condominiums to Petitioner's home office and installed Respondent's meters at Valle Creek Condominiums.

10. That the actions of Respondent are in breach of the Territorial Agreement.

11. That Petitioner has lost revenues and profits as a result of the actions of Respondent.

WHEREFORE Petitioner prays for judgment against Respondent for its lost revenues and profits from the date of the breach until such time as Respondent cures its breach of the Territorial Agreement and for such other and further relief as is just under the circumstances.

#### **COUNT II – INJUNCTION FOR SPECIFIC PERFORMANCE**

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count I as if same were more fully set out hereat.

2. That the parties herein in prior litigation negotiated a settlement declaring the territory of the parties which overlap, excluding the territory described in Exhibits "A" and "B", to be the exclusive territory of Petitioner.

3. That the acts of Respondent are continuing in nature.

4. That under the terms of paragraph 6 of the Territorial Agreement, Respondent is precluded for the term of the Territorial Agreement from seeking detachment of any territory within the boundaries of Petitioner without the written consent of Petitioner.

5. Petitioner has no adequate remedy at law, in that, absent this court entering an order restraining the City of Pevely from extending its water distribution services within the corporate boundaries of the District as set forth in the Territorial Agreement, Petitioner will be unable to protect the interests of the holders of the revenue bonds which have been issued and which are presently outstanding.

WHEREFORE, on Count III of plaintiff's Petition, plaintiff prays this court enter its Judgment and Order against the City of Pevely as follows:

- Valle Creek is not only piece in question!*
- (a) Restraining the City of Pevely from extending its water distribution system within the corporate boundaries of the District absent compliance with the Territorial Agreement.
  - (b) For attorney's fees;
  - (c) For costs and such other relief as the court deems just and proper in the circumstances.

#### COUNT III - CONVERSION

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count I as if same were more fully set out hereat.

2. That pursuant to the rules and regulations of Petitioner, the meter boxes and yokes with check valve and shut off valve become the property of Petitioner upon acceptance of the lines installed by the developer and prior to water service being provided to the property owner.

3. That on or about the 1st day of October, 2012, Petitioner was lawfully possessed of the meter boxes and yokes with check valve and shut off valve located at Valle Creek Condominiums.

4. That Respondent installed its meter in the meter box of Petitioner and unlawfully converted two meter boxes and yokes with check valve and shut off valve located at Valle Creek Condominiums to Respondent's own use to Petitioner's damage in the amount of \$300.00.

WHEREFORE Petitioner prays the court enter judgment for the value of the property converted and for such other and further orders as are just under the circumstances.

#### **COUNT IV – DECLARATORY JUDGMENT**

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count I as if same were more fully set out hereat.

2. Pursuant to paragraph 7 of the Territorial Agreement the term of the agreement between the parties was for a period of ten years unless the agreement is terminated by virtue of Petitioner "having the ability to serve the areas referred to" in the Territorial Agreement.

3. That on or about the 7<sup>th</sup> day of November, 2011, the parties established an emergency connection between Petitioner and Respondent at or near the west end of Reisling Lane in The Vinyards at Bushberg approximately 700 feet east of on Highway 61-67.

4. By virtue of the emergency connection, Petitioner now has the ability to serve those areas described on Exhibit A, more commonly known as Tiarra at the Abbey and the Vineyards at Bushberg.

5. By virtue of the emergency connection, Petitioner also has the ability to serve those areas described on Exhibits "D", "E" and "F", which properties are not addressed in the Territorial Agreement.



6. That a controversy exists between Petitioner and Respondent in that Respondent has not turned over service of the properties described in Exhibits "A", "D", "E", and "F" even though Petitioner has the ability to serve same.

7. That by reason of the above and foregoing it is necessary for Petitioner to secure a Declaratory Judgment declaring the Territorial Agreement terminated as to the properties described in Exhibit "A".

WHEREFORE, Petitioner prays the court enter a Declaratory Judgment declaring the Territorial Agreement terminated as to the property described in Exhibit "A" and for such other and further orders as are just under the circumstances.

**COUNT V - INJUNCTION AS TO PROPERTIES  
DESCRIBED IN EXHIBITS "A", "D", "E", AND "F"**

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count IV as if same were more fully set out hereat.

2. Petitioner has no adequate remedy at law, in that, absent this court entering an order mandating Respondent City of Pevely to turn over the water distribution services within the corporate boundaries of the District to the Petitioner until such time as Respondent has complied with the statutory provisions for detachment contained in Chapter 247.170, District will be unable to protect its boundaries and the interests of the holders of the revenue bonds which have been issued and which are presently outstanding.

WHEREFORE, on Count V of Petitioner's Petition, Petitioner prays this court enter its Judgment and Order against the City of Pevely as follows:

- (a) Mandate the City of Pevely turn over the water distribution system within the corporate boundaries of the District to the District until such time as Respondent City

No Mention OF EXHIBIT<sup>8</sup> "C"

of Pevely complies with the provisions of Section 247.170 of the Revised Statutes of Missouri.

- (b) For attorney's fees;
- (c) For costs and such other relief as the court deems just and proper in the circumstances.

**COUNT VI, IN THE ALTERNATIVE, PETITION FOR RECISSION OF  
TERRITORIAL AGREEMENT**

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count I as if same were more fully set out hereat.
2. That Respondent's action in removing the meters of Petitioner and beginning to provide direct water service to Valle Creek Condominiums is a material breach of the Territorial Agreement.
3. The purpose of the Territorial Agreement was to insure that Respondent would not, during the time period of the Agreement, extend water service to those properties not served by Respondent at the time of the execution of the Territorial Agreement without the permission of Petitioner.
4. Respondent received the benefit of not being forced to comply with the provisions of section 247.170 RSMo for detachment of the properties described in Exhibits "A" and "B".
5. Petitioner cannot be adequately compensated for the breach by Respondent.

WHEREFORE, Petitioner prays the Court declare the Territorial Agreement null and void and for such other and further orders as are just under the circumstances.

**COUNT VII, IN THE ALTERNATIVE, INJUNCTION**

1. Petitioner incorporates each and every allegation contained in its General Allegations

and Count VI as if same were more fully set out hereat.

2. Petitioner has no adequate remedy at law, in that, absent an order from this court restraining the City of Pevely from providing water service to the properties described in Exhibits "A" through "F" until such time as the City of Pevely complies with the detachment provision of section 247.170 RSMo, Petitioner will be unable to protect the interests of the holders of its revenue bonds which are presently issued and outstanding.

WHEREFORE, petitioner prays this court enter its Judgment and Order against the City of Pevely as follows:

- (a) Restraining the City of Pevely from providing water service to the properties described in Exhibits "A" through "F" absent compliance with the provisions for detachment contained in Section 247.170 of the Revised Statutes of Missouri.
- (b) For attorney's fees;
- (c) For costs and such other relief as the court deems just and proper in the circumstances.

#### **COUNT VIII, IN THE ALTERNATIVE, MONETARY DAMAGES**

1. Petitioner incorporates each and every allegation contained in its General Allegations and Count VI as if same were more fully set out hereat.

2. As a direct and proximate result of the City's deliberate failure to comply with the provisions of Section 247.170 of the Revised Statutes of Missouri in extending its water distribution system and providing water services to the real property described on Exhibits "A" through "F" attached hereto, District has been damaged in an amount as yet to be determined including, but not limited to:



- (a) lost connection fees calculated on the basis of the date each connection to City's distribution system was made;
- (b) lost profits on the sale of water in the amount of Five Dollars and Seventy-Five Cents (\$5.75) per thousand gallons of water sold from the date each such connection was made; and
- (c) an amount calculated in conformance with the provisions of Section 247.170.1(5) of the Revised Statutes of Missouri necessary to protect the interests of District's bondholders.

WHEREFORE, petitioner prays this court enter its Judgment and Order against the City of Pevely for damages in an amount as yet to be determined, for costs, and such other relief as the court deems just and proper in the circumstances.

WEGMANN, STEWART, TESREAU, SHERMAN  
EDEN, MIKALE & BISHOP, P.C.  
Attorneys for Petitioner C-1 Water District  
P.O. Box 740  
455 Maple Street  
Hillsboro, MO 63050  
(636) 797-2665 or 296-5769  
[beden@wegmannlaw.com](mailto:beden@wegmannlaw.com)

By: 

Bianca L. Eden #50301

By: 

Randall D. Sherman #34715

EXHIBIT "A"

A TRACT OF LAND BEING A PART OF SECTIONS 7 AND 8 IN TOWNSHIP 41 NORTH RANGE 6 EAST IN JEFFERSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT A OF THE VINEYARDS AT BUSHBERG, RECORDED IN PLAT BOOK 226, PAGES 2,3 AND 4 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE WEST LINE OF BUSHBERG ROAD, AS DEDICATED ON SAID PLAT, FOR A DISTANCE OF 700.00 FEET MORE OR LESS TO THE SOUTH LINE OF THE VINEYARDS AT BUSHBERG; THENCE SOUTH 89 DEGREES 53 MINUTES 44 SECONDS EAST ALONG THE EXTENSION OF SAID SOUTH LINE FOR A DISTANCE OF 46.00 FEET MORE OR LESS TO THE EAST LINE OF BUSHBERG ROAD; THENCE IN A SOUTHERLY DIRECTION ALONG SAID EAST LINE FOR A DISTANCE OF 2026.00 FEET MORE OR LESS TO THE MOST NORTHWEST CORNER OF A TRACT OF LAND DEEDED TO THOMAS BATCH AND TONI BATCH, RECORDED IN DEED BOOK 991 PAGE 2177 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE LEAVING SAID BUSHBERG ROAD, NORTH 89 DEGREES 20 MINUTES 12 SECONDS EAST FOR A DISTANCE OF 1943.43 FEET; THENCE SOUTH 00 DEGREES 34 MINUTES 22 SECONDS EAST FOR A DISTANCE OF 300.36 FEET; THENCE NORTH 89 DEGREES 05 MINUTES 45 SECONDS WEST FOR A DISTANCE OF 108.30 FEET; THENCE SOUTH 00 DEGREES 34 MINUTES 45 SECONDS EAST FOR A DISTANCE OF 258.91 FEET; THENCE SOUTH 86 DEGREES 23 MINUTES 22 SECONDS EAST FOR A DISTANCE OF 767.57 FEET MORE OR LESS TO THE WEST BANK OF THE MISSISSIPPI RIVER; THENCE IN A SOUTHERLY DIRECTION FOR A DISTANCE OF 1340.00 FEET MORE OR LESS TO THE INTERSECTION OF SAID EAST BANK WITH THE EXTENSION OF THE SOUTH LINE OF SAID THOMAS AND TONI BATSCH TRACT; THENCE LEAVING SAID CHANNEL, SOUTH 89 DEGREES 51 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 1151.76 FEET MORE OR LESS TO THE WEST CORNER OF SAID SOUTH LINE; THENCE NORTH 29 DEGREES 37 MINUTES 21 SECONDS WEST FOR A DISTANCE OF 737.28 FEET; THENCE NORTH 04 DEGREES 15 MINUTES 32 SECONDS EAST FOR A DISTANCE OF 381.76 FEET; THENCE NORTH 08 DEGREES 43 MINUTES 53 SECONDS EAST FOR A DISTANCE OF 615.22 FEET; THENCE NORTH 15 DEGREES 09 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 291.36 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 1205.76 TO THE EAST LINE OF ABBEY LANE; THENCE SOUTH 00 DEGREES 56 MINUTES 02 SECONDS EAST ALONG SAID EAST LINE FOR A DISTANCE OF 1400.00 FEET MORE OR LESS TO THE POINT OF CURVATURE OF SAID ABBEY LANE; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE SOUTHEASTERLY LINE OF ABBEY LANE CURVATURES FOR A DISTANCE OF 841.00 FEET MORE OR LESS TO THE SOUTH LINE OF SAID SECTION 7; THENCE SOUTH 89 DEGREES 57 MINUTES 36 SECONDS WEST ALONG SAID SOUTH LINE FOR A DISTANCE



OF 70.00 FEET MORE OR LESS TO THE NORTHWESTERLY LINE OF ABBEY LANE; THENCE IN A NORTHEASTERLY DIRECTION ALONG THE NORTHWESTERLY LINE OF ABBEY LANE CURVATURES FOR A DISTANCE OF 876.00 FEET MORE OR LESS TO THE EAST LINE OF SAID SECTION 7; THENCE NORTH 00 DEGREES 56 MINUTES 02 SECONDS WEST ALONG SAID EAST LINE FOR A DISTANCE OF 287.00 FEET MORE OR LESS TO THE SOUTHEASTERLY LINE OF THE AMENDED PLAT OF TIARA AT THE ABBEY; THENCE LEAVING SAID EAST LINE OF SECTION 7, SOUTH 73 DEGREES 59 MINUTES 50 SECONDS WEST FOR A DISTANCE OF 1241.57 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 10 SECONDS WEST FOR A DISTANCE OF 514.92 FEET TO THE MOST SOUTHEASTERLY CORNER OF SAID AMENDED PLAT OF TIARA AT THE ABBEY; THENCE ALONG THE SOUTH LINE OF SAID SECTION 7, SOUTH 89 DEGREES 57 MINUTES 36 SECONDS WEST 134.27 FEET AND SOUTH 89 DEGREES 52 MINUTES 00 SECONDS WEST FOR A DISTANCE OF 2410.00 FEET MORE OR LESS TO THE EAST LINE OF U.S. HIGHWAY 61 & 67; THENCE NORTHWESTERLY ALONG SAID EAST LINE FOR A DISTANCE OF 1735.00 FEET MORE OR LESS TO THE BEGINNING OF A CURVE; THENCE IN A NORTHEASTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING AN ARC LENGTH OF 575.00 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF A TRACT OF LAND DEEDED TO KENNETH R. SMITH LIMITED PARTNERSHIP, RECORDED IN DEED BOOK 817 PAGE 1488 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE NORTHEASTERLY ALONG SAID EAST LINE OF U.S. HIGHWAY 61 & 67 FOR A DISTANCE OF 920.00 FEET TO THE SOUTHWEST CORNER OF A TRACT OF A LAND DEEDED TO HENRY L. BLECHLE AND LOUIS J. BLECHLE, RECORDED IN DOCUMENT NUMBER 040074698 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE NORTH 22 DEGREES 30 MINUTES EAST FOR A DISTANCE OF 122.00 FEET TO THE NORTHWEST CORNER OF SAID BLECHLE TRACT; THENCE CONTINUING ALONG SAID EAST LINE OF U.S. HIGHWAY 61 & 67 IN A NORTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING AN ARC LENGTH OF 1016.00 MORE OR LESS TO THE NORTHWEST CORNER OF A TRACT OF LAND DEEDED TO H & H FAMILY LIMITED PARTNERSHIP, RECORDED IN DEED BOOK 635 PAGE 907 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE NORTH 88 DEGREES 45 MINUTES EAST ALONG THE EXTENSION OF THE NORTH LINE OF SAID H & H FAMILY LIMITED PARTNERSHIP FOR A DISTANCE OF 661.00 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF THE VINEYARDS AT BUSHBERG; THENCE NORTH 03 DEGREES 56 MINUTES 15 SECONDS EAST FOR A DISTANCE OF 622.00 FEET TO THE NORTHWEST CORNER OF THE VINEYARDS AT BUSHBERG; THENCE SOUTH 89 DEGREES 53 MINUTES 44 SECONDS EAST FOR A DISTANCE OF 3727.79 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 455 ACRES MORE OR LESS.



EXHIBIT "B"

A TRACT OF LAND BEING LOCATED IN THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 41 NORTH RANGE 5 EAST AND ALSO THE NORTHWEST AND SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 41 NORTH, RANGE 6 EAST, ALL IN JEFFERSON COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE SOUTH 83 DEGREES 31 MINUTES 31 SECONDS WEST ALONG THE SOUTH LINE OF SAID SECTION 1 FOR A DISTANCE OF 2954.00 FEET, SAID SOUTH LINE BEING ALSO THE SOUTH LINE OF HUNTERS GLEN PLAT ONE AND TWO, RECORDED IN PLAT BOOK 197, PAGE 11 THRU 17 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE LEAVING SAID SOUTH LINES, NORTH 01 DEGREES 07 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 1 FOR A DISTANCE OF 1368.41 FEET TO THE NORTHWEST CORNER OF THE SOUTH ½ OF THE SOUTHEAST QUARTER OF SAID SECTION 1, ALSO BEING THE WEST LINE OF SAID HUNTERS GLEN PLAT TWO; THENCE NORTH 83 DEGREES 33 MINUTES 56 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTH ½ FOR A DISTANCE OF 1475.64 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, ALSO BEING THE NORTH LINE OF SAID HUNTERS GLEN PLAT TWO; THENCE NORTH 00 DEGREES 28 MINUTES 58 SECONDS EAST FOR A DISTANCE OF 92.00 FEET TO THE SOUTHWEST CORNER OF LOT 1 OF HOLLEY ACRES, RECORDED IN PLAT BOOK 208, PAGE 18 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE ALONG THE NORTHWESTERLY LINES OF LOT 1 AND LOT 2 OF SAID HOLLEY ACRES THE FOLLOWING COURSES, NORTH 00 DEGREES 34 MINUTES 20 SECONDS WEST FOR A DISTANCE OF 120.81 FEET; THENCE NORTH 56 DEGREES 56 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 162.94 FEET; THENCE NORTH 65 DEGREES 16 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 299.16 FEET; THENCE NORTH 51 DEGREES 50 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 340.69 FEET; THENCE NORTH 39 DEGREES 40 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 213.86 FEET; THENCE NORTH 50 DEGREES 46 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 328.86 FEET; THENCE NORTH 39 DEGREES 44 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 498.60 FEET TO A POINT; THENCE NORTH 33 DEGREES 11 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 143.04 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST FOR A DISTANCE OF 92.86 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE NORTH 88 DEGREES 49 MINUTES 08 SECONDS EAST ALONG THE NORTH LINE OF THE SAID NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6 FOR A DISTANCE OF 138.00 FEET TO THE NORTHEAST CORNER OF LOT 3 OF SAID HOLLEY ACRES; THENCE IN A EASTERLY DIRECTION ALONG THE NORTH LINE OF THE SAID SOUTHWEST QUARTER OF SECTION 6 FOR A DISTANCE

OF 660.00 FEET MORE OR LESS TO THE EAST LINE OF INTERSTATE HIGHWAY 55, ALSO BEING THE WEST LINE OF A TRACT OF LAND DEEDED TO GARY F. JURKOWSKI AND LISA L. JURKOWSKI PER DEED BOOK 709 PAGE 71 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE IN A SOUTHWESTERLY DIRECTION ALONG THE EAST LINE OF SAID INTERSTATE 55, FOR A DISTANCE OF 1470.00 FEET MORE OR LESS TO THE NORTH LINE OF A TRACT DEEDED TO DAVID GUTHREL AND SUSAN GUTHREL PER DOCUMENT NUMBER 040073355 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE LEAVING SAID EAST LINE, SOUTH 88 DEGREES 55 MINUTES 46 SECONDS EAST ALONG THE NORTH LINE OF SAID DAVID AND SUSAN GUTHREL TRACT FOR A DISTANCE OF 521.31 FEET TO THE WEST LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE ALONG SAID WEST LINE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 2914.79 FEET AND AN ARC LENGTH OF 26.07 FEET; THENCE SOUTH 03 DEGREES 56 MINUTES 10 SECONDS WEST ALONG SAID WEST LINE FOR A DISTANCE OF 1344.00 FEET MORE OR LESS TO THE SOUTH LINE OF SAID SECTION 6; THENCE LEAVING SAID WEST LINE OF BURLINGTON NORTHERN RAILROAD, IN A WESTERLY DIRECTION ALONG SAID SOUTH LINE OF SECTION 6 FOR A DISTANCE OF 1065.00 FEET MORE OR LESS; THENCE NORTH 88 DEGREES 55 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 9.93 FEET TO THE POINT OF BEGINNING AND CONTAINING AN AREA OF 171.00 ACRES MORE OR LESS.



EXHIBIT C

A TRACT OF LAND BEING PART OF "RECREATION CAMPING" A SUBDIVISION RECORDED IN PLAT BOOK 47 PAGE 6, JEFFERSON COUNTY RECORDS, IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 41 NORTH, RANGE 5 EAST, AND PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST OF SECTION 6, TOWNSHIP 41 NORTH, RANGE 6 EAST, CITY OF PEVELY, JEFFERSON COUNTY MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN OLD LIME STONE WITH CROSS AT THE SOUTHWESTERLY CORNER OF LOT 1 OF SAID "RECREATION CAMPING"; THENCE ALONG THE WESTERLY LINE OF SAID LOT NORTH 00 DEGREES 34 MINUTES 20 SECONDS WEST 92.00 FEET TO AN IRON ROD (SET) AT THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 00 DEGREES 34 MINUTES 20 SECONDS WEST 120.81 FEET TO AN IRON ROD (SET) ON THE SOUTHERLY LINE OF A 50 FEET WIDE ROADWAY; THENCE ALONG SAID SOUTHERLY LINE NORTH 56 DEGREES 56 MINUTES 48 SECONDS EAST 162.94 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 65 DEGREES 16 MINUTES 48 SECONDS EAST 299.16 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 51 DEGREES 50 MINUTES 48 SECONDS EAST 340.69 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 39 DEGREES 40 MINUTES 43 SECONDS EAST 213.86 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 50 DEGREES 56 MINUTES 43 SECONDS EAST 328.86 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 39 DEGREES 44 MINUTES 43 SECONDS EAST 498.60 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID SOUTHERLY LINE NORTH 33 DEGREES 11 MINUTES 43 SECONDS EAST 143.04 FEET TO AN IRON ROD (SET) ON THE EAST LINE OF SAID SECTION 1; THENCE ALONG SAID EAST LINE NORTH 00 DEGREES 00 MINUTES 52 SECONDS WEST 92.86 FEET TO AN IRON ROD (SET) AT THE WEST QUARTER CORNER OF SAID SECTION 6; THENCE ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6 NORTH 88 DEGREES 49 MINUTES 08 SECONDS EAST 138.00 FEET TO AN IRON (SET) ON THE WESTERLY RIGHT OF WAY OF INTERSTATE 55; THENCE ALONG SAID WESTERLY LINE SOUTH 02 DEGREES 49 MINUTES 33 SECONDS WEST 382.72 FEET TO A RIGHT-OF-WAY MARKER; THENCE CONTINUING ALONG SAID WESTERLY LINE SOUTH 03 DEGREES 33 MINUTES 18 SECONDS WEST 500.20 FEET TO A RIGHT-OF-WAY MARKER; THENCE CONTINUING ALONG SAID WESTERLY LINE SOUTH 01 DEGREES 25 MINUTES 29 SECONDS EAST 531.68 FEET TO AN OLD IRON ROD ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 6; THENCE ALONG SAID SOUTH LINE NORTH 89 DEGREES 59 MINUTES 18 SECONDS WEST 100.95 FEET TO AN OLD IRON ROD AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 1; THENCE ALONG SAID LINE SOUTH 82 DEGREES 25 MINUTES 00 SECONDS WEST 961.35 FEET TO THE NORTHERLY LINE OF THE LAND OF M. B. VALLEY, AS RECORDED AS DOCUMENT NO. 0200337611, JEFFERSON COUNTY RECORDS; THENCE ALONG SAID NORTHERLY LINE NORTH 43 DEGREES 26 MINUTES 42 SECONDS WEST 176.64 FEET TO AN IRON ROD (SET); THENCE CONTINUING ALONG SAID NORTHERLY OF LINE SOUTH 75 DEGREES 02 MINUTES 16 SECONDS WEST 403.66 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION AND CONTAINING 24.243 ACRES, MORE OR LESS, SUBJECT TO ALL EASEMENT, CONDITION AND RESTRICTION OF RECORD IF ANY.



**EXHIBIT "D"**

A TRACT OF LAND IN PART OF FRACTIONAL SECTION 7, TOWNSHIP 41 NORTH RANGE 6 EAST, IN JEFFERSON COUNTY, MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN OLD STONE MARKING THE CENTER OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 6 EAST, AND FOLLOWING THE EAST-WEST CENTER LINE OF SECTION 7, SOUTH 89 DEGREES 41 MINUTES 19 SECONDS WEST, 1682.63 FEET TO A SET 112 INCH IRON PIN ON THE EASTERN RIGHT OF WAY OF STATE HIGHWAY 61-67, AKA COMMERCE BOULEVARD; THENCE FOLLOWING SAID RIGHT OF WAY, NORTH 12 DEGREES 29 MINUTES 23 SECONDS EAST, 71.66 FEET TO A SET 112 INCH IRON PIN, SAID PIN MARKING THE ENTRANCE TO A 30 FOOT ROAD EASEMENT RECORDED AS MASON WOODS EASEMENT PLAT IN PLAT BOOK 128 PAGE 5 OF THE JEFFERSON COUNTY LAND RECORDS; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 1950.08 FEET AND AN ARC DISTANCE OF 78.99 FEET TO A SET ½ INCH IRON PIN; THENCE LEAVING SAID RIGHT OF WAY AND FOLLOWING THE NORTH LINE OF SAID EASEMENT, ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET WITH AN ARC DISTANCE OF 39.21 FEET TO A SET 112 INCH IRON PIN; THENCE SOUTH 71 DEGREES 39 MINUTES 18 SECONDS EAST, 106.86 FEET TO A SET 112 INCH IRON PIN; THENCE LEAVING SAID EASEMENT, NORTH 12 DEGREES 29 MINUTES AND 22 SECONDS EAST, 945.41 FEET TO A SET 112 INCH IRON PIN; THENCE NORTH 88 DEGREES 31 MINUTES 12 SECONDS EAST, 637.95 FEET TO A FOUND 112 INCH IRON PIN; THENCE SOUTH 33 DEGREES 53 MINUTES 23 SECONDS EAST, 1214.33 FEET TO THE POINT OF BEGINNING, BEING THE SAME PROPERTY AS CONVEYED IN BOOK 962 PAGE 1589 AND BOOK 962 PAGE 1586.

NOTE: PART OF THE ABOVE DESCRIBED PROPERTY HAS BEEN SUBDIVIDED AND IS NOW KNOWN AS MASON WOODS MANUFACTURED HOME PARK- ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 184 PAGE 15 AND PLAT BOOK 185 PAGE 20 OF THE JEFFERSON COUNTY RECORDS.

EXHIBIT "E"

THE FOLLOWING DESCRIBED REAL ESTATE, SITUATED IN THE COUNTY OF JEFFERSON CITY OF PEVELY AND PART OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 6 EAST AND PART OF U.S. SURVEY STATE OF MISSOURI TO-WIT: 420 IN JEFFERSON COUNTY, MISSOURI, DESCRIBED AS FOLLOWS:

BEGINNING ON THE CENTER LINE OF SECTION 7, TOWNSHIP 41, RANGE 6 EAST, AT A POINT OF 15.55 CHAINS SOUTH OF THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION, RUNNING THENCE NORTH 89 DEGREES 30 MINUTES WEST 27.98 CHAINS TO A STAKE IN THE CENTER OF THE STATE ROAD; THENCE ALONG THE MIDDLE OF SAID ROAD SOUTH 25 DEGREES 30 MINUTES WEST 6 CHAINS; THENCE SOUTH 18 DEGREES 15 MINUTES WEST 6.50 CHAINS, THENCE SOUTH 1.43 CHAINS TO A STAKE IN SAID ROAD; THENCE SOUTH 89 ½ DEGREES EAST 32.60 CHAINS TO A STAKE IN THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 13.03 CHAINS TO THE PLACE OF BEGINNING, AND BEING A PART OF SAID SECTION 7, AND A PART OF U.S. SURVEY 420, AND CONTAINING 40 ACRES, MORE OR LESS. SITUATED IN THE COUNTY OF JEFFERSON, STATE OF MISSOURI. LESS AND EXCEPTING THE FOLLOWING TRACT OF LAND LOCATED IN JEFFERSON COUNTY, MISSOURI, TO-WIT: TWO AND ONE HUNDREDTHS (2:01) ACRES BEING PART OF A LARGER TRACT OF LAND LOCATED IN FRACTIONAL SECTION SEVEN (7), TOWNSHIP FORTY-ONE (41) NORTH, RANGE SIX (6) EAST, CONVEYED BY GEORGE M. C. ENGLEBACH AND WIFE TO GLEN OTIS DANCE AND WIFE BY DEED DATED SEPTEMBER 29, 1950, RECORDED IN BOOK 194 AT PAGE 489 OF THE JEFFERSON COUNTY LAND RECORDS, DESCRIBED AS FOLLOWS: BEGINNING AT AN IRON PIN IN THE EASTERN RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 61-67, SAID POINT MARKING THE NORTHWEST CORNER OF SAID DANCE TRACT; PROCEED THENCE WITH THE NORTHERN BOUNDARY LINE THEREOF, NORTH 89 DEGREES 47 MINUTES EAST 475 FEET TO AN IRON PIN; THENCE SOUTH 13 DEGREES 44 MINUTES WEST 253.55 FEET TO AN IRON PIN; THENCE NORTH 74 DEGREES 04 MINUTES WEST 480 FEET TO AN IRON PIN IN THE EASTERN RIGHT-OF-WAY LINE OF STATE HIGHWAY NO.: 61-67; THENCE NORTH 22 DEGREES 30 MINUTES EAST 122 FEET TO THE PLACE OF THE BEGINNING. SUBJECT TO EASEMENTS OF RECORD.



EXHIBIT "F"

TRACT C

ALL THAT PART OF U.S. SURVEY 429, FRACTIONAL SECTIONS 7 & 18, TOWNSHIP 41 NORTH, RANGE 6 EAST, JEFFERSON COUNTY, MISSOURI, AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE QUARTER SECTION CORNER ON THE SOUTH LINE OF SAID SECTION 7, THENCE EAST ALONG SAID SOUTH LINE FOR 144.00 FEET TO THE NORTHEAST CORNER OF A 9.59 ACRE TRACT CONVEYED TO JOSEPH E. RITTER, ARCHBISHOP OF ST. LOUIS, BY WARRANTY DEED DATED JUNE 9, 1958 AND RECORDED IN BOOK 274, PAGE 469 OF THE JEFFERSON COUNTY RECORDS, THENCE SOUTH 532.53 FEET TO A POINT IN THE NORTH LINE OF GLEN PARK COUNTY ROAD, THENCE NORTH 51 DEGREES 57 MINUTES EAST FOR 25, 40 FEET TO THE MOST SOUTHERN CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM C. MCNUTT AND WIFE TO WALTER T. PETERMAN, BY DEED RECORDED IN BOOK 267, PAGE 513 OF THE JEFFERSON COUNTY RECORDS, THENCE NORTH FOR 517.17 FEET TO THE NORTHWEST CORNER OF SAID PETERMAN TRACT, SAID POINT BEING IN THE SOUTH LINE OF SAID SECTION 7, THENCE EAST ALONG SAID SOUTH LINE FOR 1331.9 FEET TO THE SOUTHWEST CORNER OF A 14.725 ACRE TRACT CONVEYED BY WILLIAM C. MCNUTT AND WIFE TO CHAS. G. RUEBEL AND WIFE BY DEED RECORDED IN BOOK 213, PAGE 217 ON MAY 6, 1953 OF THE JEFFERSON COUNTY RECORDS, THENCE NORTH 515.00 FEET TO THE NORTHWEST CORNER OF SAID RUEBEL TRACT, THENCE NORTHWESTERLY FOR 2270 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF A TRACT CONVEYED BY GEORGE M.C. ENGELBACH AND WIFE TO GLEN OTIS DANCE AND WIFE ON SEPTEMBER 29, 1950 IN BOOK 194, PAGE 489 OF THE JEFFERSON COUNTY RECORDS, SAID POINT BEING IN THE CENTERLINE OF SAID SECTION 7, THENCE SOUTH 89 DEGREES 47 MINUTES WEST FOR 2064.8 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF STATE HIGHWAY 61-67, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID DANCE PROPERTY, THENCE SOUTHWARDLY ALONG SAID EAST LINE OF STATE HIGHWAY 61-67 TO THE MOST WESTERN CORNER OF A 9.59 ACRE TRACT CONVEYED TO JOSEPH E. RITTER AS PREVIOUSLY MENTIONED, THENCE NORTH 52 DEGREES 10 MINUTES EAST FOR 850.10 FEET TO THE POINT OF BEGINNING.





TERRITORIAL AGREEMENT  
BETWEEN  
THE CONSOLIDATED PUBLIC WATER  
SUPPLY DISTRICT NO. C-1 OF  
JEFFERSON COUNTY, MISSOURI,  
AND THE CITY OF PEVELY, MISSOURI

WHEREAS, this Agreement is made and entered into this 12<sup>th</sup> day of November, 2007, by and between the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, P.O. Box 430, Barnhart, Missouri 63012, hereinafter referred to as "District" and the City of Pevely, Missouri, City Hall, 301 Main Street, Pevely, Missouri 63070, hereinafter referred to as "Pevely".

WHEREAS, District is a public water supply district organized pursuant to the provisions of Chapter 247 of the Revised Statutes of Missouri, distributing potable water within its corporate boundaries in Jefferson County, Missouri; and

WHEREAS, Pevely is a municipal corporation of the Fourth Class which also furnishes potable water as part of its municipal services within areas defined by its corporate boundaries; and

WHEREAS, City is presently providing potable water to areas within the District generally located within all or parts of subdivisions known as "Hunters Glen", "Tiara at the Abbey", and "Vinyards at Bushberg"; and

WHEREAS, the parties desire to stipulate and agree with respect to the geographic areas which each will serve, in order to facilitate development of areas within the City of Pevely and the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri.

NOW, THEREFORE, the parties agree as follows:

1. The parties hereto acknowledge the geographical corporate boundaries of each entity and agree that such boundaries shall be in full force and effect as they presently exist and as may be subsequently modified by annexation and/or detachment in conformance with applicable provisions of Missouri Law pertaining to cities of the Fourth Class and Public Water Supply Districts.

2. Pevely shall continue to provide water service to those portions of the Hunters Glen subdivision, Tiara at the Abbey subdivision, and Vinyards at Bushberg subdivision as shown by plats by the subdivisions which are recorded with the Recorder of Deeds Office in Jefferson County, Missouri.

3. Pevely also agrees to cease all plans to extend water service within the current geographic boundaries of the District. Any future development which is within corporate boundaries of both the City of Pevely and the District, including the development presently known as Valle Creek Condominiums, shall be served by the District unless the

rights to serve such development are assigned in writing to the City by the District.

4. Should the City of Pevely be requested by any person or entity to provide water service within the corporate boundaries of the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, Pevely shall forthwith inform C-1 of such request in writing, and shall further direct any developing person or entity to the offices C-1 for purposes of determining whether C-1 has the desire or ability to extend water service to the area proposed for development. Thereafter, C-1 shall have sixty (60) days to make a determination whether to extend water service to the area proposed for development. If C-1 chooses not to extend water service to the area of proposed development, C-1, within said sixty (60) day period, shall notify the City of Pevely in writing of its decision. The parties agree that neither shall attempt to subvert the other's Regulations, Rules of Fee Structure for the sole purpose of causing a person or entity seeking water service to choose one entity over the other or to obtain unfair advantage over the signatory to this Agreement, it being the intention of the parties hereto that they shall not be in competition with each other for purposes of providing water service, but rather, that the parties shall cooperate for purposes of facilitating development within areas located within both entities.

5. It is the intention of the parties that this Agreement shall be a permanent determination as to which party shall provide water service to the areas specifically described in this Agreement, and neither party shall in the future attempt to alter the terms of this Territorial Agreement.

6. The parties further agree that all other territory within the District boundaries shall remain the exclusive territory of the District, and Pevely covenants and agrees that during the terms of this Agreement as specified hereafter it shall not, without the written consent of the District (a) seek detachment of any additional territory now within the boundaries of the District; (b) provide water service to any additional territory now within the boundaries of the District that is hereafter detached from the District; (c) seek to develop an agreement to provide water service to any additional territory now within the boundaries of the District that may be hereafter annexed by the City; and (d) directly or indirectly seek to dissolve the District or hold itself out as an alternative water supplier in any dissolution proceeding.

7. The terms of this Agreement shall be for a period of ten (10) years unless same is terminated earlier by virtue of the District having the ability to serve the areas referred to herein.

8. Pevely shall enact a Resolution and/or Ordinance approving the execution of this Agreement by the duly elected officials, and the District shall adopt a Resolution or Ordinance by its Board of Directors approving this Territorial Agreement and execution by its duly elected officials.



9. The terms of this Agreement shall be in full force and effect from the time the last of the signatories hereto approve same by an Ordinance duly enacted by its governing body.

10. Upon the execution and approval of the terms of this Agreement by each of the signatories hereto, the parties shall execute Stipulations of Dismissal With Prejudice, at each party's cost, of certain litigation currently pending within the Circuit Court of Jefferson County, Missouri, styled The Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, vs. City of Pevely, Missouri, Case No: CV306-1286-CC-J2, and the execution of this Agreement shall constitute and full and complete release of any and all claims, whether statutory, contractual, or tort either party may have against the other predicated upon the provision of water services within those geographic areas located within the corporate boundaries of both the City of Pevely and the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri, whether such claims may be presently apparent or may be discovered in the future.

11. Any written notices referred to in this Agreement shall be mailed to the parties at the following addresses:

Consolidated Public Water  
Supply Dist. No. C-1  
Attn: District Engineer  
6645 Moss Hollow Road  
P.O. Box 430  
Barnhart, MO 63012

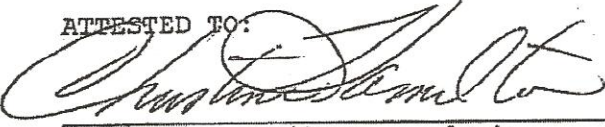
City of Pevely  
Attn: Mayor and  
Director of Public Works  
City Hall  
301 Main Street  
Pevely, MO 63070

IN WITNESS WHEREOF, the City of Pevely has caused this Territorial Agreement to be executed by its Mayor and attested by its Clerk pursuant to Resolution adopted by the Board of Alderman of the City; and the District has caused the same to be executed by the Board of Directors of said District and attested by the Clerk of said District pursuant to a Resolution or Ordinance adopted by the District's Board of Directors.

CONSOLIDATED PUBLIC WATER SUPPLY DISTRICT  
NO. C-1 OF JEFFERSON COUNTY, MISSOURI

By:   
Richard Hammond - President

ATTESTED TO:

  
Christine Hamilton - Clerk



CITY OF PEVELY, MISSOURI

BY:

John Knobloch  
John Knobloch - Mayor

ATTESTED TO:

Betty Stachley, CMC  
City Clerk

RECEIVED FROM BANK COUNSEL  
April 25, 2013 VIA EMAIL



## SHEPHERD TAYLOR KORUM & CURTIS, L.L.P.

CHARLES M. M. SHEPHERD  
ADMITTED TO THE SUPREME COURT  
OF THE UNITED STATES  
CHARLES E. TAYLOR  
DAVID M. KORUM  
FRANK B. CURTIS

ATTORNEYS AT LAW  
A PARTNERSHIP OF PROFESSIONALS AND PROFESSIONAL CORPORATIONS  
222 SOUTH CENTRAL AVENUE, SUITE 804  
ST. LOUIS (CLAYTON), MISSOURI 63105-3592

WRITER'S DIRECT: davidkorum@stklaw.com

MICHAEL B. SMALLWOOD  
FORREST S. FITZROY  
OF COUNSEL

Tel: (314) 727-8677  
Fax: (314) 727-8678

KEVIN M. WHITELEY

August 28, 2012

The Consolidated Public Water Supply District No. C-1  
Of Jefferson County  
6645 Moss Hollow Road  
P.O. Box 430  
Barnhart, MO 63012

RE: Valle Creek Condominium Development

Ladies and Gentlemen:

Please be advised that the undersigned is the City Attorney for Pevely, Missouri. As you may be aware, a Territorial Agreement between the Consolidated Public Water Supply District No. C-1 of Jefferson County, Missouri ("C-1") and the City of Pevely ("Pevely") was entered into November 12, 2007. H & H Development came to Pevely and processed the necessary paperwork and filings in order to begin and complete construction of Valle Creek Condominium ("Valle Creek"), and in response to H & H's request, Pevely, pursuant to Paragraph 4 of the Agreement, notified C-1 requesting whether C-1 had "... the desire or ability to extend water service to the area purposed for development ..." It is my understanding that the end of the closest extension of water service by C-1 does not service Valle Creek, and is approximately one mile from Valle Creek. Since 2007, Pevely has been furnishing water to Valle Creek, through meters installed and owned by C-1, and C-1 has been collecting the revenues therefor.

On Thursday, August 23, 2012, Pevely was notified by service of a Court Order issued by the St. Louis County Circuit Court notifying Pevely that a receiver had been appointed to replace the management and operations at H & H. In response, Pevely reviewed its historical files concerning Valle Creek and has determined that C-1 has not in fact extended service in order to provide water service to Valle Creek, nor has C-1 formally notified Pevely within the 60 day requirements of the Agreement of either its lack of desire or lack of ability to provide such service. As a result of the above, I am directed by Pevely to notify C-1 to remove its two meters at the Valle Creek project in a peaceful and orderly fashion, to coordinate same with contact of Stephanie Haas at Pevely (636) 475-4452, in order that Pevely may instantly place its meter(s) at all Valle Creek locations. Pevely will provide C-1 with an accounting and billing, as finally adjusted between Pevely and C-1 not later than September 30, 2012.

The Consolidated Public Water Supply District No. C-1  
Of Jefferson County  
August 28, 2012  
Page 2 of 2

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Going forward, Pevely will continue the billing and providing water service to Valle Creek Condominium. Your attention to these matters will be greatly appreciated and assist both C-1 and Pevely in going forward in a seamless and orderly fashion to continue to provide service to the public. Lastly, please be advised that Pevely will continue to honor the territorial agreement as we go forward.

Very truly yours,



DAVID M. KORUM

DMK/mbe

cc: Jason Eisenbeis, City Administrator





**WEGMANN, STEWART, TESREAU, SHERMAN,  
EDEN, MIKALE & BISHOP, P.C.**  
**LAWYERS**

-SINCE 1947-

*Roland A. (Ray) Wegmann*  
*Jack C. Stewart*  
*Dennis H. Tesreau*  
*Randall D. Sherman*  
*Bianca L. Eden*  
*Jessica A. Mikale*  
*Mark T. Bishop*

*P.O. Box 740*  
*Court House Square*  
*Hillsboro, MO*  
*63050-0740*

*(636) 797-2665*  
*(636) 296-5769*  
*Fax (636) 797-3505*

*Retired: Nicholas G. Gasaway*  
*A.W. Dieffenbach, Jr.*

*Will H. Dearing (1902-1975)*  
*Samuel Richeson (1904-1976)*  
*J. Richard Roberts (1928-1975)*  
*John A. Schneider (1942-1992)*

*E-MAIL ADDRESS:*  
*bodax@wegmannlaw.com*

September 11, 2012

Mr. David M. Korum  
Attorney at Law  
222 South Central Avenue, Suite 804  
St. Louis, MO 63105-3592

Re: Valle Creek Condominium Development

Dear Mr. Korum:

My client, Consolidated Public Water Supply District No. C-1 of Jefferson County, received your letter of August 28, 2012, written on the behalf of the City of Pevely. Thank you for the opportunity to clarify the situation regarding water service to Valle Creek Condominiums. You may know that an agreement was made between this Water District and H&H Development regarding Valle Creek Condominiums on June 30, 2008 a copy of which is attached. Pursuant to that contract H&H Development was to complete the water main extension to Valle Creek Condominiums. Note that its terms were violated on February 1, 2009 as the extension was not complete. This District has not yet entered into negotiations with the developer because Pevely has been willing to continue their temporary service, and H&H Development has stated that no assets yet exist to fulfill the Agreement.

Pevely has had the right to withdraw its service on March 1, 2009. They have not yet done so.

If the developer made other provisions to legally serve Valle Creek Condominium's customers, he would have to dig a well, since the agreement between this Water District and Pevely (Territorial Agreement dated November 12, 2007 attached) requires that (Paragraph 6).

Note further that this District has not assigned rights to serve the development to the City pursuant to Paragraph 3 of the Territorial Agreement which specifically references Valle Creek Condominiums.

WEGMANN, STEWART, TESREAU, SHERMAN, EDEN, MIKALE & BISHOP, P.C.  
September 11, 2012  
Page 2

Pursuant to the Territorial Agreement, if Pevely had been requested by H&H Development to provide service (which would violate Paragraph 6), they would have informed this District (Paragraph 4) and would have directed the Developer to discuss the request with this District.

In fact, this District has already shown a desire to extend water service to Valle Creek Condominiums (the area proposed for development) in the normal and routine manner (installed by a contractor that is approved by this District, under the inspection of this District, financed by the Developer, and accepted for continued maintenance by this District upon completion). See the Agreement dated June 30, 2008. Such requirements are in this District's rules and regulations and pursuant to paragraph 4 of the Territorial Agreement, your client agreed to not attempt to subvert same.

Since Pevely is not in competition with this District for the purposes of providing water service, we expect Pevely to cooperate for purposes of facilitating development of Valle Creek Condominiums within our area. For that reason, we hope to agree on a continued service by Pevely to Valle Creek Condominiums for a temporary period (to be negotiated), during which time H&H Development will find a way to extend the pipe from this District's nearby piping network, as agreed upon, or dig a well. My client would like to set up a meeting with your client to further discuss same and to negotiate the terms of service for a temporary period in conformance with paragraph 3 of the Territorial Agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Bianca L. Eden", with a large, stylized flourish at the end.

Bianca L. Eden

BLE/ka  
cc: Donovan Larson  
Enc.