

EXHIBIT

"A"

OUT-OF-CITY WATER AND WASTEWATER SERVICE AGREEMENT

THIS OUT-OF-CITY WATER AND WASTEWATER SERVICE AGREEMENT ("Agreement"), is made and entered by and between JOSEPH CLAYPOOL AND STEPHANIE CLAYPOOL, with a mailing address of 1700 County Road 467, Elgin, Texas 78621, collectively referred to herein as the "Customer," and the CITY OF ROUND ROCK, TEXAS a home-rule municipality located in Williamson and Travis Counties, State of Texas, with office located at 221 East Main Street, Round Rock, Texas, 78664 referred to herein as the "City." The Customer and the City are hereinafter referred to collectively as "the Parties," or individually as a "Party."

RECITALS:

WHEREAS, the Customer owns property at 20 Tate Lane, Round Rock, Texas 78665 (collectively the "Property") as legally described and shown in the attached Exhibit "A," incorporated herein by reference for all purposes, and

WHEREAS, the City has determined that it is desirable for the parties for the Property to receive water and wastewater service from the City notwithstanding the fact that the Property is outside the City's corporate limits, and

WHEREAS, the City does not have an existing Out-of-City Water and Wastewater Service Agreement with the Customer to provide water and wastewater to the Property, and

WHEREAS, the Customer and the City desire to enter into this Agreement to formalize the terms by which the City will provide water and wastewater service to the Property, and

WHEREAS, the Customer and the City desire to enter into this Agreement to formalize the terms by which the City will provide 20.6 living unit equivalents of water and wastewater service to the Property to serve a residential development, and

WHEREAS, pursuant to the Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80, Code of Ordinances (2018 Edition), City of Round Rock, Texas, the City Council hereby determines that there is adequate capacity of water and wastewater treatment services available for the purpose of servicing Customer without impairing services within the City, NOW, THEREFORE:

WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, and the covenants and agreements hereinafter contained to be kept and performed by the respective Parties hereto, it is agreed as follows:

Article I. Customer's Obligations Under this Agreement

1.01 Customer shall be required to install a public water and wastewater line to the Property and shall be responsible for the design and construction of the water and wastewater line and obtaining the necessary easements for the water and wastewater line.

1.02 Customer shall be required to obtain a permit from the City's Planning and Development Services Office for the construction of the water and wastewater line and pay all associated fees.

1.03 Customer shall construct the water and wastewater line in compliance with the City's Code of Ordinance.

1.04 Customer shall comply with all requirements of the Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80, Code of Ordinances (2018 Edition), City of Round Rock, Texas, regarding the furnishing of water and sewer services outside the city limits, a copy of such Sec. 4-80 being attached hereto as Exhibit "B," incorporated herein by reference. Failure to comply with any of these requirements shall give the City the option of terminating this Agreement.

1.05 Customer agrees that in the event the Property becomes contiguous with the City limits of Round Rock, Texas, and meets all requirements of annexation, the owner of the Property shall immediately apply for annexation into the City and cooperate fully with the annexation of the Property into the City and any zoning requirements of the City.

Article II. Provision of Water and Wastewater Services

2.01 City agrees to sell Customer water and wastewater service as required by Customer for domestic use on an as needed basis for the Property.

2.02 The water and wastewater service to be provided herein is for the Property as described in Exhibit "A" and no other property.

Article III. Rates and Fees

3.01 Prior to connecting to the City's water and wastewater system, Customer agrees to pay City a one-time water and wastewater connection fee of \$124,279.80 and any associated inspection fees. Any additional service resulting from future additions built on the Property shall require Customer to pay additional impact fees in accordance with Zoning and Development Code, Chapter 4, Article VI, Sec. 4-82, Code of Ordinances (2018 Edition), City of Round Rock, Texas, and as may be amended from time to time.

3.02 Customer agrees to pay City for all water and wastewater services provided to Customer at the rate authorized by Chapter 44, Article II, Sec. 4-34, Code of Ordinances (2018 Edition), City of Round Rock, Texas, as amended from time to time, applicable to customers located outside the corporate limits of the City.

3.03 The City shall render a monthly bill to Customer for water and wastewater services. Payment shall be made no later than the sixteenth (16th) day following the mailing of the bill. Failure by Customer to make a payment when and as specified will give the City the option to terminate all obligations of the City under this Agreement.

3.04 Customer shall be subject to the penalty provisions for late payment as now exist in Chapter 44, Code of Ordinances (2018 Edition), City of Round Rock, Texas, and as may be amended from time to time.

Article IV. Compliance with Ordinances

4.01 Customer agrees to comply with all of City's ordinances as they now exist or may be amended from time to time regarding the sanitary use of the water and wastewater treatment system.

4.02 Customer agrees to pay the one-time water and wastewater connection fee as set forth in Sec. 3.01 above and to pay all other fees applicable to the water and wastewater service.

4.03 Customer agrees and understands that the City's willingness to provide water and wastewater service to the Property is expressly contingent on the Property being used for a residential development. Customer shall not change or expand the existing uses without the express written consent of the City, which may be withheld for any reason. Any change or expansion of uses without the consent of the City will give the City the option of terminating this Agreement.

Article V. Force Majeure

5.01 In the event either Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, then the obligations of that Party, to the extent affected by the force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of the inability. The cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure" includes acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accidents to equipment, pipelines, or canals, partial or entire failure of water supply, and any other incapacities of either Party, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming the inability and that could not have been avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the Party having the difficulty and that the requirement that any force majeure be acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the Party having the difficulty. Force majeure shall relieve City from liability to Customer for failure to provide water service due to an inability covered by this article. Force majeure shall not relieve Customer of its obligation to make payments to City as provided in this Agreement.

Article VI. Term

6.01 The term of this Agreement shall be for a term of twenty (20) years from the date hereof, unless terminated earlier pursuant to section 1.01.

6.02 This Agreement shall become null and void upon the annexation of the Property by the City.

Article VII. Miscellaneous Provisions

7.01 Customer is prohibited from selling or giving water or wastewater service purchased herein to anyone else.

7.02 Customer shall be permitted to assign its right herein to a bona fide purchaser of the Property as long as the intended use of the service and the Property remains the same or similar.

7.03 This Agreement shall be construed under and in accordance with the laws of the State of Texas, and any and all actions brought to enforce the terms of this Agreement shall be brought in Williamson County, Texas.

7.04 This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

7.05 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

7.06 This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the within subject matter.

7.07 The violation by Customer of any of City's ordinances related to the use or disposition of water or wastewater shall render this Agreement voidable at the option of City

IN WITNESS HEREOF, the parties have executed this Out of City Water and Wastewater Service Agreement in two (2) counterparts, each of which will be deemed an original on this the 19th day of October, 2022.

[Signatures on the following page.]

CUSTOMER

By: 
Joseph Claypool

By: 
Stephanie Claypool

Customer's Address:

Joseph and Stephanie Claypool
1700 County Road 467
Elgin, Texas 78621

CITY OF ROUND ROCK, TEXAS

By: _____
Craig Morgan, Mayor

Attest:

Meagan Spinks, City Clerk

For City, Approved as to Form:

Stephanie L. Sandre, City Attorney

EXHIBIT A
PROPERTY DESCRIPTION



LEGAL DESCRIPTION:

WILLIS DONAHO JR. SURVEY
 ABSTRACT No. 173 (2.00 AC)

ALSO KNOWN AS:

ZIARI ADDITION, LOT 4
 (AN UNRECORDED SUBDIVISION)

PARCEL TAX ID:

R055326

ENTITY:

JOSEPH & STEPHANIE CLAYPOOL

ADDRESS:

20 TATE LN
 ROUND ROCK, TEXAS 78665

REQUESTED LUES:

20.6 LUES

LAND USE:

RESIDENTIAL

28 - TINY HOMES
 1 - EX. SINGLE FAMILY HOME

CLAYPOOL SITE EXHIBIT

NTS



WAELTZ & PRETE, INC.

CIVIL ENGINEERS

211 N. A.W. GRIMES BLVD.

ROUND ROCK, TX, 78665

PH (512) 505-9959

FIRM TX. REG. #F-10308

ALL INFORMATION FURNISHED REGARDING THIS PROPERTY IS FROM SOURCES DEEMED RELIABLE. HOWEVER, WAELTZ & PRETE, INC. HAS NOT INDEPENDENTLY VERIFIED ANY OF THESE SOURCES. NO WARRANTY OR GUARANTEE IS MADE BY WAELTZ & PRETE, INC. AS TO THE ACCURACY. THE INFORMATION SHOWN IS CONCEPTUAL IN NATURE AND DOES NOT REPRESENT ANY REGULATORY APPROVAL.

EXHIBIT B

Zoning and Development Code, Chapter 4, Article VI, Sec. 4-80

Sec. 4-80. - Furnishing of water, reuse water, and sewer services outside city limits.

- (a) *Conditions under which city services will be provided.* The city shall furnish water, sewer and/or reuse water services to residential and commercial users located outside the city limits only upon the following conditions:
- (1) *Adequate capacity exists.* There is adequate capacity of city services available for the purpose of servicing residential and commercial users outside the city without impairing services within the city. Whether such adequate capacity exists shall be determined solely by the city council, and the determination of the city council shall be final.
 - (2) *Owners outside city limits to bear costs of lines and furnish easements.* The construction costs of water, sewer and/or reuse water lines and appurtenances which serve residential and commercial users outside the city limits shall be paid for by the owner, developer, or political entity requesting the service. Such owner, developer, or political entity shall also furnish suitable construction and permanent easements and rights-of-way for utility lines.
 - (3) *Construction to conform to city standards.* All design and construction shall be in accordance with city standards and specifications.
 - (4) *New subdivisions to comply with subdivision regulations.* New subdivisions recorded after the date of passage of this section desiring city water, sewer and/or water reuse services shall comply with the subdivision regulations of the City of Round Rock, Texas, in effect at the time such new subdivision is approved. Existing subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at the time of the passage of the original Ord. No. 269 (January 8, 1976) can be furnished with water and sewer services without the necessity of having sanitary sewer collection and treatment facilities.
 - (5) *City to have right of review.* The city shall have the right to review and approve all plats and plans and inspect and approve all water, sewer and/or reuse water construction within subdivisions where water, sewer, and/or reuse water service is to be provided.
 - (6) *Water and sewer facility requirements.* Except as provided in subsection (4) of this section, all residential and commercial users shall have sanitary sewer collection and treatment facilities. Water will not be provided to residential and commercial users who utilize septic tanks save and except water can be provided to subdivisions whose plats were recorded with the County Clerk of Williamson County, Texas, at the time original Ord. No. 269 was adopted (January 8, 1976).
 - (7) *Water, sewer, and/or reuse water lines to meet ultimate requirements of city.* Where water, sewer, and/or reuse water lines and appurtenances are extended outside the city limits, the lines shall be sized to serve the ultimate requirements of the city.
 - (8) *Extended lines to be designed and inspected by city's engineer.* All water, sewer, and/or reuse water lines and appurtenances extending from existing city facilities to any tract of land outside the city limits requesting water, sewer, and/or reuse water service shall be designed and inspected by the city's engineer. The owner, developer, or political entity requesting the service shall pay for these services in keeping with the current contract between the city and the engineer employed by the city.
 - (9) *City may reimburse owner for oversized lines.* Where the size of the water, sewer, and/or reuse water lines required to meet the ultimate requirements for the city is larger than eight inches and the total capacity is not required to serve the tract of land to be developed, the city may enter into a contract with the owner, developer, or entity constructing the lines for reimbursement for the excess capacity as other users request and are granted service. The developer or entity requesting service from an existing line shall pay a tap fee on a pro rata basis, as hereinafter set forth. The reimbursement to the owner, developer, or entity who paid for the line construction

shall be made only from those tap fees paid to the city by users of the facility paid for by the said owner, developer, or entity.

- (10) *Pro rata basis for tap fee.* The pro rata basis for the tap fee shall be computed based upon the required demand for use and the fire protection as specified by the engineering criteria approved by the city's engineer. The basis for cost shall be the actual total cost of the facility plus five percent (5%) interest. The total cost shall include, but shall not be limited to, construction costs, engineering costs, and inspection costs.
 - (11) *Wholesale bulk rate sales of water.* Facilities constructed and paid for by another public entity or facilities which will later be acquired by a public entity may be owned, operated, and maintained by that entity. Such facilities shall purchase water from the city at a negotiated wholesale bulk rate. The city shall own, operate, and maintain all other facilities.
- (b) *Rates.* The rates paid by residential and commercial users located outside the city limits for the use of the water, sewer, and/or reuse water facilities of the city shall be in accordance with sections 44-32, 44-33, and 44-34 of the Code of Ordinances.