

**SEWER SERVICE AGREEMENT**

**BETWEEN**

**DOUBLE OAK WATER RECLAMATION, LLC**

**AND**

**TWO MOUNTAINS, LLC**

**Subscriber**

**For**

**63,250 Gallons Per Day  
Reserved Sewage Treatment Capacity**

**THE HIGHLANDS SUBDIVISION  
BEHIND CHELSEA HIGH SCHOOL  
PELHAM, ALABAMA 35043**

**Date: September 4<sup>TH</sup>, 2015**

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(STATE OF ALABAMA )  
(SHELBY COUNTY )

**SEWER SERVICE AGREEMENT  
FOR THE HIGHLANDS SUBDIVISION**

This Sewer Service Agreement (“Agreement”) is made and entered into as of the \_\_\_\_\_ day of September, 2015 by and between **DOUBLE OAK WATER RECLAMATION, LLC**, an Alabama limited liability company (herein called the “Company”) and **TWO MOUNTAINS, LLC**, an Alabama limited liability company, or its successors and assigns (herein called “Subscriber”).

**RECITALS:**

**WHEREAS**, Subscriber owns real property in the City of Pelham, Shelby County, Alabama which Subscriber will develop into a residential subdivision with approximately two hundred thirty (230) single family lots; and

**WHEREAS**, the Company owns and operates a sewage collection and treatment facility (the “Plant” as defined below) in Shelby County, Alabama which has limited sewage treatment capacity; and

**WHEREAS**, Subscriber desires to enter into this Agreement with the Company to reserve a portion of the Plant’s available sewage treatment capacity in order to assure the availability, collection and treatment of sewage from Subscriber’s Development, as defined below.

**NOW, THEREFORE**, in consideration of the above Recitals, the premises, and the mutual agreements and covenants contained herein, the Company and Subscriber hereby agree as follows:

**ARTICLE I - DEFINITIONS**

Whenever the words and terms defined in this Article are used in this Agreement, they shall have the meanings assigned to them in this Article.

1.1 **Company’s Real Property:** The real property on which the Plant is located, together with all easements for roadways, utility lines and Trunk Lines, owned by the Company, and which are related to the collection of sewage and/or the operation of the Plant.



1.2 **Company's Main Line:** The sewage collection main situated within the right of way of Shelby County Highway 11 near the Development to which Subscriber Lines connect or will connect, as applicable.

1.3 **Composite Sample:** A sample of Subscriber's effluent, taken from Subscriber Lines, and based on a composite of two or more equal size samples taken either at regular intervals over a 24-hour period, or at uniform increments of gallonage or flow over a 24-hour period.

1.4 **Date of this Agreement:** The date set forth on the cover page and first page of this Agreement. The Company and Subscriber shall be fully bound by the terms and provisions hereof as of the Date of this Agreement.

1.5 **Development:** The real property owned by Subscriber which is more particularly described in Exhibit A, and the improvements now or hereafter constructed thereon, for which Subscriber has hereby reserved sewage treatment capacity from the Plant pursuant to the terms and provisions hereof. Subscriber represents and warrants that Subscriber currently owns the real property comprising the Development and that Subscriber has the authority to enter into this Agreement with regard to the Development.

The rights granted by the Company hereunder and the obligations of the Subscriber hereunder shall run with the land, and as portions of the lands comprising the Development are conveyed by Subscriber and reservation capacity and other rights under this Agreement are assigned by Subscriber, such rights and obligations shall follow such conveyance and the Company shall perform its obligations and provide the services required under this Agreement with respect to the land so conveyed for the benefit of the grantee of such land and such grantee's successors and assigns, and thereafter shall look solely to such Subscriber Assignee (or subsequent Subscriber Assignee(s), as applicable) for the performance of all obligations under this Agreement with respect to the lands so conveyed and each Subscriber Assignee (and subsequent Subscriber Assignee(s), as applicable) shall be entitled to the benefits of this Agreement to the extent of such assignment and be liable for all obligations under this Agreement with respect to the land so conveyed.

1.6 **Meter:** A measuring device which may be provided by the Company to measure the total effluent from any lot, parcel, building or improvement within the Development into a Trunk Line. If a Meter is installed, it shall be installed according to the Company Engineer's specifications and located at, or as close as possible to, the point where a Service Line connects to a Trunk Line. The Company shall have no obligation to install a Meter, but may do so at any time, and from time to time, on a temporary, long-term or permanent basis. Subscriber shall not have the right to require the Company to install a Meter. Alternatively, the Company may at any time require Subscriber to install a Meter at Subscriber's sole expense on a temporary, long-term or permanent basis.



1.7 **Metering Manhole:** A permanent means of access to a Subscriber Line in which the Company may install a Meter at its sole discretion. The Metering Manholes are to be located as close as possible to the point where a Service Line connects to a Trunk Line and the location of the Metering Manholes shall be approved by the Company's Engineer prior to installation.

1.8 **Metered Sewage:** If a Meter has not been installed, or has been installed but is not being used, "Metered Sewage" shall mean the number of gallons of sewage, water or other effluent from the lots, parcels, buildings and improvements within the Development which passes through a Subscriber Line, and the volume of such sewage, water or other effluent which passes through a Subscriber Line during any period shall be considered to be eighty-five percent (85%) of the number of gallons of water used by the Subscriber during such period, as measured by the water meter or water meters which serve the lots, parcels, buildings and improvements within the Development, or the percent of measured potable water used by the Development as determined by the Company's Engineer, regardless of the actual volume of such sewage, water or other effluent which passes through a Subscriber Line during such period. If a Meter has been installed and is being used, "Metered Sewage" shall mean the actual volume of sewage, water or other effluent from the lots, parcels, buildings and improvements within the Development which passes through and is measured by the Meter(s) between the Service Line(s) and Trunk Line(s).

1.9 **Plant:** The Company's sewage treatment facility in Shelby County, Alabama, including all appurtenances, additions and expansions thereto, and any additional sewage treatment facilities which the Company may hereafter acquire or construct, including all appurtenances, additions and expansions to such additional sewage treatment facilities.

1.10 **Plant Capacity:** The total number of gallons per day ("gpd") of effluent which may be treated by the Plant under all permits of the Company for the Plant issued by the Alabama Department of Environmental Management, whether such permits are now in effect or are hereafter issued, and any renewal or extension of any such permits.

1.11 **Qualified Independent Laboratory:** A commercial laboratory licensed to perform the analytical tests in Exhibit B in accordance with standard methods and procedures and approved by the Alabama Department of Environmental Management as qualified.

1.12 **Service Line:** A sanitary sewage collection line which transports sewage from the lots, parcels, buildings or improvements within the Development to a Trunk Line within the rights of way or easements within the Development. Service Lines shall also include any pipes, grinder pumps or other appurtenances which are used as a part of the sanitary sewage collection line of any building or dwelling within any lot or parcel up to its connection with the Trunk Line.

1.13 **Sewage:** Domestic wastewater which does not exceed the maximum Wastewater Standards set forth in Exhibit B or the requirements of Exhibits H or I.



1.14 **Sewer Charges:** Other than the Sewer Reservation Fee, any and all charges and fees payable by Subscriber to the Company hereunder including, but not limited to, the Monthly Sewer Fees, Surcharges and additional fees and charges described in Section 4.3.

1.15 **Sewer Reservation Fee:** The fee payable to the Company for each gallon per day (“gpd”) of sewage treatment capacity reserved by Subscriber under this Agreement as described in Section 3.1.

1.16 **Subscriber** (not capitalized): a person, firm or corporation executing a sewer service agreement with the Company for the purpose of reserving capacity for and/or obtaining sewage treatment services from the Company at the Plant, and its successors and assigns.

1.17 **Subscriber** (capitalized): **Two Mountains, LLC**, an Alabama limited liability company, which is executing this Agreement with the Company for the purpose of reserving and obtaining sewage treatment services for the Development from the Company.

1.18 **Subscriber Assignee:** a commercial, residential or other purchaser, lessee or developer of real property within Subscriber’s Development (including home builders and any other entity acquiring a portion of the Development) and their heirs, successors and assigns, who will be reserving and/or obtaining sewage treatment services from the Company at the Plant and which is a successor and assignee of a portion of the sewage treatment capacity reserved hereby. Subscriber’s reservation of sewage treatment capacity hereby is for the benefit of Subscriber and Subscriber Assignees. Subscriber or a Subscriber Assignee may assign a portion of the sewage treatment capacity reserved hereunder. Prior to or at the time of the assignment of a portion of the sewage treatment capacity reserved hereby, the assignee shall execute an assignment of sewage treatment capacity and sewer service agreement (“Subscriber Assignee’s SSA”) with the Company and the assignee shall assume the obligations of assignor for that portion of the sewage treatment capacity assigned to the assignee. Upon execution of Subscriber Assignee’s SSA by the Company and the assignee, the assignee shall be deemed to be a Subscriber Assignee with respect to the assigned sewage treatment capacity covered by the Subscriber Assignee’s SSA and the assignor shall be released from any obligations in connection therewith. The Company reserves the right to refuse sewage treatment service to an assignee if such assignee fails to agree to be bound by all the terms and provisions of Subscriber Assignee’s SSA for that portion of the sewage treatment capacity assigned to the assignee. The terms of this Agreement shall be binding upon each Subscriber Assignee; provided that for purposes thereof, the term “Development” under Subscriber Assignee’s SSA shall mean only that portion of the Development with respect to which the applicable sewer capacity reservation is being assigned to Subscriber Assignee.

1.19 **Subscriber Lines:** Collectively, Subscriber Trunk Lines, Service Lines, lift stations, Water Lock-out Valves, Meters, and any other facilities and equipment used in the transportation of effluent within or adjacent to the Development up to the point of connection with the Company’s Main Line.

1.20 **Subscriber Obligations:** Collectively, all Sewer Reservation Fees, Sewer Charges, Surcharges, and all other fees, charges, costs and expenses payable by Subscriber to the Company in accordance with the provisions of this Agreement. Subscriber Obligations shall also include all construction, installation, operation, maintenance and repair obligations of Subscriber with regard to Subscriber Lines and any and all damages, costs and expenses incurred by the Company resulting from or arising out of Subscriber's construction, installation, operation, maintenance and repair obligations with regard to Subscriber Lines.

1.21 **Subscriber Trunk Lines:** The Trunk Lines, lift stations and other facilities and equipment within the easements or rights of way of the Development or within or adjacent to the Development up to the point of connection with the Company's Main Line. Subscriber Trunk Lines shall not extend to or include any Service Lines, pipes, grinder pumps or other appurtenances of a Service Line which connect the sanitary sewage collection line of any building or dwelling within any lot or parcel to Subscriber Trunk Lines within the easements or rights of way within the Development.

1.22 **Surcharge:** As described in Section 4.3, an incremental charge to a subscriber for treatment of sewage in excess of a subscriber's reserved sewage treatment capacity or which exceeds the maximum Wastewater Standards as set forth in Exhibits B, H and I.

1.23 **Term of this Agreement:** The initial term shall be as set forth in Section 5.1 hereof.

1.24 **Trunk Line:** A sanitary sewer collection main within easements or rights of way to which Service Lines connect.

1.25 **Water Consumption:** Subscriber's water consumption as evidenced by the billing from the water utility company serving the Development.

1.26 **Water Lock-out Valve:** A valve required and specified by the Company and installed by Subscriber at Subscriber's sole expense on the building or dwelling side of the primary potable water meter installed by the water utility company to serve potable water to the building or dwelling on the lots or parcels within the Development.

## ARTICLE II - SUBSCRIBER LINES

2.1 **Company's Representation:** The Company represents that it has and will maintain all permits necessary to operate the Plant in substantial compliance with all applicable local, state and federal laws, rules and regulations, including, but not limited to, a discharge permit from the Alabama Department of Environmental Management.

2.2 **Subscriber Trunk Lines:** As a Subscriber Obligation, Subscriber agrees to engineer, construct, install, own, operate, maintain and repair, at its expense and in good order,



the Trunk Lines, lift stations and all other facilities and equipment related thereto, whether within or outside the Development, (collectively, as defined in Section 1.22, "Subscriber Trunk Lines") which are necessary to transport sewage from the streets, alleys, easements or other common areas or public rights of way within the Development to the Company's Main Line in the right of way of Shelby County Highway 11. Subscriber Trunk Lines shall connect to the Company's Main Line at a point or points to be determined by the Company in the Company's sole discretion, such connection to be in accordance with Section 2.3. All plans and specifications for Subscriber Trunk Lines are subject to the prior approval of the Company, in the Company's sole discretion. As part of Subscriber Trunk Lines to serve the Development, the Company hereby agrees to allow Subscriber to design, construct and install a low pressure force main; provided, however, such low pressure force main shall be subject to the Company's prior approval of the plans and specifications therefor and to the Company's inspection and approval thereof pursuant to Section 2.3 below.

**2.3 Inspection and Connection of Subscriber Trunk Lines:** The Company shall have the right to inspect, at Subscriber's expense, Subscriber Trunk Lines engineered, constructed, installed, connected, operated, maintained and repaired by Subscriber at any and all times during construction, installation, connection, operation and maintenance. Subscriber shall give the Company written notice of its intention to install a Subscriber Trunk Line at least three (3) working days in advance of the commencement of such construction. Subscriber shall notify the Company at least seven (7) days in advance of the time when it intends to connect a Subscriber Trunk Line to the Company's Main Line in the right of way of Shelby County Highway 11. Such connections and the Company's inspections thereof shall be performed by the Company's Engineer at Subscriber's expense and shall be subject to review and approval by the Company. It is agreed and understood that the Company shall have the absolute right and privilege to refuse and prohibit the connection of Subscriber Trunk Lines to the Company's Main Line if the wastewater volumes, as estimated in accordance with Exhibit E, necessary to serve the improvements in the Development exceed the amount of capacity reserved in Article III hereof, and/or if Subscriber Trunk Lines, in the reasonable opinion of the Company, are installed in a manner which may present operational or maintenance problems for the Company. After the installation of a Subscriber Trunk Line, the Company shall have the right, at any time and at Subscriber's expense, to inspect the Subscriber Trunk Line for the purpose of determining the amount and content of the effluent being put into the Trunk Line. The Company reserves the right to install a Meter and Metering Manhole, at Subscriber's expense, for the purpose of measuring the sewage. The Company shall have the right, but shall not be obligated, to install a Meter to measure the effluent into a Trunk Line at any time, and from time to time, on a temporary, long-term or permanent basis. Subscriber shall not have the right to require the Company to install a Meter. Any Meter installed by the Subscriber shall meet the specifications of the Company's Engineer and be installed according to detailed drawings submitted by Subscriber and approved by the Company's Engineer. One year after completion and satisfactory final inspection of Subscriber's construction, installation and maintenance of Subscriber Trunk Lines in accordance herewith, Subscriber may, at Subscriber's option, convey the Subscriber Trunk Lines and assign the responsibility therefor to the subdivision's



homeowners association which shall thereafter own, operate, maintain and repair the Subscriber Trunk Lines; otherwise, such responsibility shall remain with Subscriber.

2.4 **Service Lines:** Subscriber agrees to connect its Service Lines to Subscriber Trunk Lines within the Development. As a Subscriber Obligation, Subscriber shall engineer, construct, install, connect, own, operate, maintain and repair, at Subscriber's expense and in good order, its Service Lines and other facilities and equipment necessary to transport sewage from the buildings, dwellings and other improvements within a lot or parcel of the Development to Subscriber Trunk Lines within the Development.

2.5 **Inspection and Connection of a Service Line:** The Company shall have the right to inspect, at Subscriber's expense, the Service Lines at any and all times during their construction, installation, connection, operation, maintenance and repair. Subscriber shall give the Company written notice of its intention to install a Service Line at least three (3) working days in advance of the commencement of such installation. Subscriber shall notify the Company at least seven (7) days in advance of the time when it intends to connect a Service Line to a Trunk Line. Such connection and the Company's inspection thereof shall be performed by the Company's Engineer at Subscriber's expense, in accordance with Exhibit D, and shall be reviewed and approved by the Company. It is agreed and understood that the Company shall have the absolute right and privilege to refuse and prohibit the initial connection of a Service Line to a Trunk Line if the wastewater volumes, as estimated in accordance with Exhibit E, necessary to serve the building, dwelling or improvements served by a Service Line within a lot or parcel of the Development exceed the amount of capacity reserved in Article III hereof, and/or if a Service Line, in the reasonable opinion of the Company, is installed in a manner which may present operational or maintenance problems for the Company. After the installation of a Service Line, the Company shall have the right, at any time and at Subscriber's expense, to inspect the lot or parcel within the Development, and all improvements therein, and the Service Lines for the purpose of determining the amount and content of the effluent being put into a Trunk Line through such Service Line. The Company reserves the right to install a Meter and Metering Manhole, at Subscriber's expense, for the purpose of measuring the sewage. The Company shall have the right, but shall not be obligated, to install a Meter to measure the effluent from any Service Line into a Trunk Line at any time, and from time to time, on a temporary, long-term or permanent basis. Subscriber shall not have the right to require the Company to install a Meter. Any Meter installed by the Subscriber shall meet the specifications of the Company's Engineer and be installed according to detailed drawings submitted by Subscriber and approved by the Company's Engineer.

2.7 **Water Lock-out Valve:** At Subscriber's sole expense, Subscriber shall install a Water Lock-out Valve on the building or dwelling side of the water utility company's main water meter that serves such building or dwelling. The Water Lock-out Valve and its installation shall comply with the Company's requirements and specifications therefor. The schematic for the Water Lock-out Valve is set forth in Exhibit J attached hereto and made a part hereof.