J. & Q 22-20820.00
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CLEAN FALL CREEK REGIONAL WASTE DISTRICT 5.00
F (TOMORROW TODAY!) D Box 44, Pendleton, Indiana 46064
2-0020820.00
APPLICATION FOR SEWER PERMIT Nº 000760
Permit No DateDOV. 22,1985
Permit Void 90 days from Date of Issuance
Owner Name Planter Chargemering
Property Address State Road 95 8504 S. St. Rd. 9
Lot # P.O. Box
Town Peraleton, IN zip code 46064
Phone 778-7110 Water Meter "
\$ 15000 Tap on Fee Paid
DE DO
\$ Inspection fee paid
Application is hereby made for connection to the Fall Creek Regional
Waste District Sewer System for the above listed property - Permit Type:
Residential, Commercial, Industrial, or Governmental/ Institutional User Information
All workmanship and materials shall conform to the standards of the District Ordinance as described in Ordinance 84-2 and 84-3 as amended.
Acceptance and approval must be made by the District inspector or his duly
authorized representative before backfilling and final connection is made
to the main sewer lines. Any violation of applicable regulations will
cause all lines and appurtenances in violation to be removed and replaced
at the owners expense.
The Fall Creek Regional Waste District is responsible for the inspection,
approval of materials, and installation techniques only. All costs for
materials and installation and any liabilities resulting from same is the
sole responsibility of the property owner.
I have read and fully understand the above provisions and agree to

Date inspected -23-85 Appro	INSPECTOR TIM	
Date reinspected	Approved Reje	ected
Notes: Size Pipe <u><u><u>Basement Yes</u> <u>No</u> Sump Pump <u>Yes</u> <u>No</u> Downspout to Ground <u>Yes <u>Y</u>No</u> Septic Tank Pumped, & filled <u>Yes</u> Contractor <u><u>J</u> <u>X</u> <u>A</u>. Special Conditions</u></u></u>	Buibling NoX C.O.	CO
		17

This Agreement made and entered into this $(2^{\frac{1}{6}} \text{ day of } NOVEMBER, 20^{11})$, between Fall Creek Regional Waste District ("District") and <u>RENCON/SHANE SKINNER</u> ("Applicant") regarding the provision of sanitary sewer service, and the assignment of capacity in and connection to, the District's facilities for the premises located at 25045.5R9, PENDLETON

Now therefore, the parties, in consideration of the mutual promises set out in this Agreement, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

- The Applicant agrees that all workmanship and materials shall conform to all District ordinances and the District's construction standards. District must accept and approve all work and materials before backfilling and final connection is made to the sewer mains. Any violation of this provision will cause all lines and appurtenances in violation to be removed and replaced at the Applicant's expense.
- 2. The District shall have the right to enter upon the Applicant's premises at all reasonable times to inspect, repair, or replace any equipment used in connection with the District's service or which has an impact on said service.
- 3. The Applicant shall be responsible for all monthly user rates, capacity charges, and tap fees. The failure to pay any rate charge or fee may result in a lien against the property and/or the termination of service to the property, the cost of which will be borne by Applicant, including, but not limited to, all attorney's fees and collection costs.
- 4. The District shall not be responsible for any damages as a result of any failure to supply service unless said damages are due to default, neglect or culpability on the part of the District.
- 5. If there is an available sanitary sewer within three hundred (300) feet of the property line, the property owner shall be required to connect to the District's sanitary sewer system.
- 6. The Applicant and District agree that the provision of sanitary sewer service touches and concerns the property and the terms of this Agreement bind the District and Applicant and their heirs, executors, administrators, personal representatives, successors, agents, attorneys, assigns, designees, and transferees.

The parties hereto have read and fully understand the above provisions and agree to comply with said provisions.

FALL CREEK REGIONAL WASTE DISTRICT	APPLICANT
Signature	Signature
STATE OF INDIANA)	
) SS: COUNTY OF MADISON)	
SUBSCRIFED and sworn to before me this 18th day	of NOVEMBER, 20 11
My Commission Expores: Signate	ure Relacca f. McClintich
Commission Expires May 19, 2016 A Resident of Printer Madison County, Indiana Rebecca A. McClintick, Notary Public	d Notary Public Resident ofCounty *******************
Inspector Date Inspected Appro Reason for Rejecton	oved Rejected
Reason for Rejecton Date Reinspected Approv Notes:	/ed Rejected
Size Pipe Type Pipe Basement <u>Yes</u> No	
Sump Pump <u>Yes No</u>	See previous
Downspout to Ground <u>Yes No</u> Septic Tank Pumped & Filled <u>Yes No</u> Contractor	Remnit
Special Conditions Existing Home	
New Construction	Already connected
	Per Tim 4.2.12

SANITARY SEWER SERVICE AGREEMENT

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RenCon Services, Inc.

Madison County, Indiana

This Sanitary Sewer Service Agreement ("Agreement"), made and entered into this 17th day of November, 2011, is between the FALL CREEK REGIONAL WASTE DISTRICT ("District") and RENCON SERVICES, INC. ("Developer"), and is regarding the provision of sewer service to a new office building to be owned by the Developer and located at 8504 S. State Road 9, in Pendleton, Madison County, Indiana ("Property").

RECITALS:

A. The Developer proposes to construct and operate an approximately 5,000 square foot two-story office building on the Property that will serve a maximum of six (6) employees and will have no showers.

B. The Property currently has two (2) existing buildings with a single restroom, to which the District has previously allocated one (1) EDU of capacity.

C. The Developer desires wastewater collection and treatment service for the Property from the District.

D. The District anticipates that it will be able to provide adequate capacity in the District's collection, interceptor, and treatment facilities to serve the Property and anticipated flows as represented by the Developer.

E. The Developer desires to obtain a specific assignment of capacity within the District's sewer facilities and assurance of connection to the District's other facilities.

F. The parties desire to enter into an agreement that establishes the terms and conditions for (i) the installation of applicable sewage facilities and interconnection of the Property and new building to the District's sewage disposal facilities; and (ii) the District's service to the Property.

NOW, THEREFORE, in consideration of the mutual agreement and covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties agree as follows:

ARTICLE I RIGHTS AND RESPONSIBILITIES OF THE DISTRICT

Section 1.1. Specifications for Sewage Facilities. Prior to the beginning of construction of any sewage facilities, the District will provide the Developer with: (i) the location, at the District's sole discretion, for the connection of the Property to the

District's facilities; and, where applicable (ii) a copy of the District's construction specifications for the construction of any requisite sewage facilities to be constructed for service to the Property ("Sewage Facilities").

<u>Section 1.2.</u> <u>Approval of Plans for and Construction of Sewage Facilities</u>. Where applicable, the District will be responsible for reviewing and approving or rejecting the plans for any Sewage Facilities as may be necessary to ensure compliance with this Agreement or District rules and regulations.

<u>Section 1.3.</u> <u>Compliance with District's Specifications</u>. The District shall have the authority during all phases of construction and inspection of the Sewage Facilities to notify the Developer of any failure of materials or workmanship to meet the District's specifications and halt construction if the District's specifications are not being met. The District, in its sole discretion, may also direct the Developer to submit change orders to the contractor to cure any defects in material or workmanship revealed by the District's inspection. The District shall not be obligated to accept waste from or provide service to the Property until the Sewage Facilities are completed and any defects cured in accordance with the District's construction specifications.

Section 1.4. Provision of Service. The District agrees to accept up to Three Hundred Ten (310) gallons per day of wastewater from the Property for each equivalent dwelling unit ("EDU") of capacity purchased by the Developer hereunder, subject to the timely and full payment by the Developer of all applicable rates and charges and compliance by the Developer with all provisions of this Agreement. The District will serve the Property following connection and payment of all applicable fees. The Property's use of the District's service must be in conformance with all applicable laws, ordinances, rules and regulations, and this Agreement. The District shall have the exclusive right to terminate this Agreement and use the purchased capacity allocated herein for other customers if the Developer fails to complete construction and connect the Property within five (5) years. The District may further terminate this Agreement and seek all other available legal and/or equitable damages for any material breach of this Agreement.

<u>Section 1.5.</u> <u>Rates and Charges</u>. The District will impose all of the District's prevailing rates and charges, including, but not limited to, the following:

- a. Capacity fees;
- b. Tap fees;

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- c. Monthly user rates; and
- d. Excessive strength surcharges, where applicable.

<u>Section 1.6.</u> <u>Right to Impose Additional Capacity Fees.</u> The District reserves the right to impose additional capacity fees in the event the Developer and/or any future owner/tenant changes its anticipated use, expands the Property, add outlets, and/or hires additional employees which will result in wastewater flows in an amount in excess of the amount of flows anticipated herein. The amount of the additional capacity fee shall be based on the increased flows anticipated to be generated by the new use, expansion, and/or addition of new employees. The District reserves the right to require the Developer to install flow meters and/or provide usage data from any and all sources of water supply the Property.

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<u>Section 1.7.</u> <u>Right to Enter the Property</u>. The District shall have the right to enter onto the Property at all reasonable times to inspect, repair, and/or replace any equipment used in connection with, or which has an impact on, the District's sewer service. However, the District does not, in any way, have or assume any obligation to maintain any facilities on the Property or not owned by the District.

<u>Section 1.8.</u> <u>District's Liability</u>. Absent negligence, the District will not be liable for any damage resulting from the use of the District's sewer service in and around the Property, including, without limitation, damage caused by events of force majeure. For purposes of this Agreement, an event of force majeure means a strike, vandalism, power failure, pipe failure or breakage, lockout, labor dispute, embargo, flood, earthquake, storm, dust storm, lightning, fire, epidemic, act of God or nature, war, national emergency, civil disturbance, riot, act of sabotage or terrorism, restraint by court order or order of another governmental authority, or any other uncontrollable events. The District shall further not be responsible for any indirect, special, incidental, or consequential damages.

<u>Section 1.9.</u> <u>Recovery of Attorneys' Fees</u>. The District is entitled to recover its costs including, but not limited to, reasonable attorneys' fees and court costs in any action brought to enforce the terms of this Agreement.

ARTICLE II <u>RIGHTS AND RESPONSIBILITIES OF THE DEVELOPER</u>

<u>Section 2.1.</u> Cost of Installation and Grease Trap. The Developer shall be responsible for paying the cost of and installing any and all facilities on or around the Property that are necessary for the provision of sewer service. Such facilities may include, but not be limited to, the installation of a grease trap that is in accordance with the District's specifications. The District shall also have the authority to require the Developer to install flow meters to ensure accurate usage readings. Accurate usage records are also a prerequisite to any potential refund under Article III. The Developer shall further take any other measures as may be directed by the District in the future to

ensure accurate testing or to prevent excessive strength effluent from entering into the District's wastewater collection system.

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Section 2.2. Payment of Rates and Charges. The Developer shall be responsible for the timely payment of the District's rates and charges. The Developer shall pay to the District the prevailing tap and capacity fees for the Property, which are currently Five Hundred Seventy Dollars (\$570) (per tap) and Two Thousand Eight Hundred Dollars (\$2,800) (per EDU), respectively. For purposes of this Agreement, the District understands, based upon the Developer's representations, that the anticipated EDUs for the new building on Property will be one (1), which, in addition to the previously allocated capacity, will total two (2) EDUs for the Property ("Initial EDUs"). The initial capacity fee for the new building (for one (1) EDU) will therefore be Two Thousand Eight Hundred Dollars (\$2,800), which shall be paid prior to execution of this Agreement. No tap fees are currently anticipated for the Property. The Developer will pay additional tap and capacity fees at the then-prevailing rate if the Developer and/or any future owner/tenant adds additional taps and/or modifies, expands, or changes its use of the Property so as to discharge more sewage into the District's system, or the District otherwise determines that the Developer or Property is utilizing more capacity than was anticipated for purposes of this Agreement (See also Section 1.6).

<u>Section 2.3.</u> Plans and Specifications for Off-Site Facilities. Prior to initiating any construction, the Developer must provide the District with plans and specifications of any applicable Sewage Facilities for review and approval or rejection. Once the District approves the plans for the Sewage Facilities, the Developer shall install the Sewage Facilities in accordance with the District's construction specifications and pay the cost of any modifications or revisions that are required to any existing District facilities. The Developer shall pay any engineer costs the District incurs for reviewing the Developer's plans for the Sewage Facilities, inspecting the installation of the Sewage Facilities, and any expenses associated with the requisite testing (as required in Section 2.4 below). The Developer will also be responsible for obtaining all easements, permits, approvals, and consents required for the construction of the Sewage Facilities and/or any future sewage disposal facilities required by the Property.

<u>Section 2.4.</u> <u>Testing and As-Built Drawings</u>. The Developer will test any applicable Sewage Facilities as required by the District's standards and remedy any deficiencies as required by the District. Upon completion of the testing (and remediation of all deficiencies), the Developer will provide the District with two (2) copies of as built drawings at a scale of 1" = 50' showing the location of all Sewage Facilities and taps.

Section 2.5. Release and Waiver as to District's Rates and Charges. The Developer hereby releases any right it may have to refuse or remonstrate against future customers and waives any opposition to the District's current rates or charges.

Section 2.6. Use of the District's System. The Developer agrees to obtain sanitary sewer service only from the District; however, the Developer will refrain from discharging or using the District's system in any way which inhibits the District from providing service or causes damage to the District's facilities. In using the District's system, the Developer agrees to abide by the District's current "Sewer Use Policy" or as the same may be revised. The Developer is prohibited from working on or altering the District's facilities, and the Developer will not permit or allow the unauthorized connection or extension of its service line or any part of the District's system.

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<u>Section 2.7.</u> <u>Additional Easements</u>. The Developer (and its grantees, successors, and assigns) agrees to provide additional sewer easements (in, over, and across the Property) without additional compensation, to facilitate the provision of sewer service to future users in and around the Property. The exact location of the easements will be determined at a future date by the mutual cooperation of the parties.

ARTICLE III TRUE-UP

Section 3.1. First True-Up. Due to the lack of data regarding usage history for the Developer, the District will evaluate the Property's usage records two (2) years after the Developer's initial construction and connection to the District's system (provided that accurate usage records are available). At the time of this evaluation, the usage records for the immediately preceding twelve (12) month period will be used to determine whether the Developer is utilizing more capacity than what was estimated for purposes of this Agreement ("First True-Up").

<u>Section 3.2.</u> <u>Calculation of Interim EDUs</u>. If, at the time of the First True-Up, the District determines that the Developer utilized more capacity than originally estimated, the Developer will owe the District additional capacity fees. The Parties will utilize the following to determine the number of EDUs ("Interim EDUs") and the Interim Capacity Fees as calculated below:

Calculate the average usage based upon the usage records for the immediately preceding twelve (12) month period.

Divide the average daily usage by 310 and round up to the nearest whole number to determine the Interim EDUs. (Average daily use \div 310 = Interim EDUs).

<u>Section 3.3.</u> <u>Additional Fees Under First True-Up</u>. If the number of Interim EDUs, as calculated above, is greater than the Initial EDUs, the Developer will owe additional capacity fees to the District to be calculated as follows:

Subtract the Initial EDUs (i.e. 2) from the Interim EDUs and

multiply the difference by the capacity fee charges in effect at the time of the First True-Up, to produce interim additional capacity fees owed the District.

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<u>Section 3.4.</u> Second True-Up and Calculation of Final EDUs. Three (3) years after the First True-Up, the District will evaluate the Property's usage records (for the previous twelve month period) to determine whether the Developer is utilizing more or less capacity than what was estimated during the First True-Up ("Second True-Up"). If, based upon the Second True-Up, the District determines that the Developer is utilizing more or less capacity than what was estimated during the First True-Up, the Developer is utilizing more or less capacity than what was estimated during the First True-Up, the Developer will either owe the District additional capacity fees or will be due a refund. The Parties will utilize the following to determine the number of EDUs ("Final EDUs") and the Final Capacity Fees as calculated below:

Calculate the average daily usage based upon the usage records for the immediately preceding twelve (12) month period.

Divide the average daily water usage by 310 and round up to the nearest whole number to determine the Final EDUs. (average daily water use + 310 = Final EDUs).

<u>Section 3.5.</u> <u>Additional Fees Under Second True-Up</u>. If the number of Final EDUs, as calculated above, is greater than the number of Interim EDUs, the Developer will owe additional capacity fees to the District to be calculated as follows:

Subtract the Interim EDUs from the Final EDUs and multiply the difference by the capacity fee charges in effect at the time of the Second True-Up, to produce the final additional capacity fees owed the District.

<u>Section 3.6.</u> <u>Refund Under Second True-Up</u>. If the number of Final EDUs, as calculated above, is less than the number of Interim EDUs, the Developer will be due a refund to be calculated as follows:

Subtract the Final EDUs from the Interim EDUs and multiply the difference by the capacity fee charges in effect at the time of the First True-Up, to produce the final refund owed the Developer.

Section 3.7. No Refund of Fees. If complete and accurate usage records are not available for the Property, the District will not issue a refund of any previously paid capacity fees when the number of Final EDUs is less than the wastewater capacity calculated pursuant to regulations published by IDEM (e.g., 327 IAC 3-6-11, as amended) or any other regulatory body or agency. Where complete and accurate usage records are available, however, refunds will be provided where applicable. No refunds will be provided for prior capacity credited under Section 2.2, and there will be a minimum of one (1) EDU for the new building (e.g., a two (2) EDU minimum for the Property). The District further will not refund capacity fees should the District terminate this Agreement pursuant to Section 1.4, or the Developer and/or tenant discontinues occupation of the Property.

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<u>Section 3.8.</u> <u>Notice of True-Up Determinations and Payment</u>. The District will provide the Developer with notice of its determinations regarding the true-ups. Any additional capacity fees owed or refund shall be paid within Thirty (30) days of such Notice.

ARTICLE IV MISCELLANEOUS

<u>Section 4.1.</u> <u>Legal Description for Property</u>. The legal description attached hereto as <u>Exhibit A</u> and incorporated herein by reference is a true and accurate legal description of the Property.

Section 4.2. Binding on Successors and Assigns. The parties agree that the District's service touches and concerns the land, and this Agreement shall be binding upon and inure to the benefit of the parties hereto, as well as their grantees, successors, and assigns.

<u>Section 4.3.</u> <u>Entire Agreement</u>. This Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any prior agreements or understandings between the parties pertaining to the subject matter hereof.

Section 4.4. Amendment and Waiver. Neither this Agreement, nor any term hereof may be changed, modified, altered, waived, discharged, or terminated, except by written instrument. Failure to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

<u>Section 4.5.</u> <u>Counterparts</u>. This Agreement may be executed in counterparts, including facsimile or photocopy counterparts, each of which shall be deemed an original, but all of which taken together shall constitute a single document.

Section 4.6. Recordation. The District may record this Agreement at its cost.

<u>Section 4.7.</u> <u>Authority of Parties</u>. Each party and signatory hereto has the authority to enter into this Agreement and at all times has full authority to perform this Agreement. No further approval or consent by any other person or authority is required.

<u>Section 4.8.</u> <u>Captions</u>. The captions to this Agreement are for convenience of reference only and shall not be given any effect in the interpretation of this Agreement.

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Section 4.9. Notices. All notices, consents and other communications (collectively, "Notices") shall be given to the District or the Developer in writing to the addresses set forth below:

The District:	Fall Creek Regional Waste District 9378 South 650 West Pendleton, IN 46064 Attn: Joseph F. Rowlett
With Copy To:	Bose McKinney & Evans LLP 111 Monument Circle, Suite 2700 Indianapolis, IN 46204 Attn: Stephen Unger
Developer:	RenCon Services, Inc. 8504 S. State Road 9 Pendleton, IN 46064 Attn: Shane Skinner

Either party may change its address for Notices by giving written notice to the other party in accordance with this provision.

<u>Section 4.10.</u> <u>Severability</u>. If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining terms hereof will not be affected, and in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision will be added as part of this Agreement that is as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

Section 4.11. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Indiana.

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FALL CREEK REGIONAL WASTE DISTRICT BOARD OF TRUSTEES

Mark A. Jablonski, President

STATE OF INDIANA))SS: COUNTY OF _____)

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Before me, a Notary Public in and for said County and State, personally appeared Mark A. Jablonski, by me known to be the President of the Fall Creek Regional Waste District Board of Trustees, who acknowledged the execution of the foregoing "Sanitary Sewer Service Agreement" on behalf of the Fall Creek Regional Waste District Board of Trustees.

WITNESS my hand and Notarial Seal this _____ day of _____, 2011.

Notary Public

(Printed Signature)

My Commission Expires:

My County of Residence: _____

RENCON SERVICES, INC.

have Shinner Shane Skinner

Title: Resident

STATE OF INDIANA) COUNTY OF MADISON)SS:

Before me, a Notary Public in and for said County and State, personally appeared Shane Skinner, by me known to be the authorized agent of RenCon Services, Inc., who acknowledged the execution of the foregoing "Sanitary Sewer Service Agreement" on behalf of said entity.

WITNESS my hand and Notarial Seal this _____ day of ____ NOVEMBER, 2011.



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Commission Expires May 19, 2016 A Resident of Madison County, Indiana Rebecca A. McClintick, Notary Public

Relace A. McClintick

(Printed Signature)

My Commission Expires:

My County of Residence:

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Stephen C. Unger

This instrument prepared by Stephen C. Unger, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, IN 46204.

2022146_1

<u>Exhibit A</u>

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Legal Description

Duly Entered for Taxation Subject to Final Acceptance for Transfer



AUG 2 3 2011

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Corporate Warranty Deed

THIS INDENTURE WITNESSETH THAT: CONSOLIDATED CONSTRUCTION PRODUCTS, INC., A PENNSYLVANIA CORPORATION, a corporation organized and existing under the laws of the State of Pennsylvania, CONVEYS AND WARRANTS to RENCON SERVICES, INC, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in MADISON County in the State of Indiana:

Beginning at a point on the North line of the Southeast Quarter of Section 29, Township 18 North, Range 7 East, said point being 532 feet West of the Northeast corner of said Southeast Quarter, and running thence West along said North line, a distance of 556.6 feet to the centerline of State Road No. 9, thence turn an angle to the left, 71 degrees and 35 minutes, and measure Southwesterly long said centerline, a distance of 263.5 feet, thence East 639.85 feet, thence North 250 feet to the place of beginning.

Being a part of the Northeast Quarter of the Southeast Quarter of Section 29, Township 18 North, Range 7 East, and containing 3.433 Acres, more or less.

Commonly known as: 8504 SOUTH STATE ROAD 9, PENDLETON, INDIANA 46064 Key No. 999-93-065

Subject to the 2010 taxes due and payable in 2011 and thereafter.

Subject to all easements, restrictions, assessments, rights-of-way of record and all visible unrecorded easements, and to all matters that would be discovered by an accurate inspection and survey of the real estate.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly elected officers of Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporate capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

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RECEIVED

BY:_____



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WQ #: 9521	· · · · ·	Wo	ork Order		· · · · · · · · · · · · · · · · · · ·	1
DUE DATE: 01/19/2	2012			ORDERED BY:	CAROLE	
DATE ORDERED: (01/19/2012	15:47		CONTACT PHONE:		
	R	EN CON SERVIC	ES INC	For Account #:	20010-00	
Service Address 8504 S SR 9	\$2				BK #	10
Location:						l.
Desc:						
Comments:						
Water 🚺 Mete	#i					r i
			Reading			
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Meter Repair Removal Read	Problem WATER TA PAID AND	CAP FEE FOR	So		<u>. </u>	—
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Meter Repair Removal Read Other X Meter Replaced?	Problem WATER TA PAID AND 2 EDU'S PA Old #	CAP FEE FOR ID	So	lution New #		

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