

## MEMORANDUM

TO: April Sound Community and residents of Montgomery County Utility District #3.  
FROM: Board of Directors, Montgomery County Utility District #3  
DATE: September 7, 2022 [updated September 13, 2022](#)  
SUBJECT: Consolidation of Montgomery County Utility District #3 and Montgomery County Utility District #4

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Over a year ago, MCUD3 and MCUD4 appointed representatives to a committee tasked with negotiating a path toward consolidation of the two districts. The goal was to create an agreement to put before the voters of both districts. Regretfully, the MCUD3 Board informs you that MUD4 has walked away from that effort.

**Background:** MCUD3 and MCUD4 were created by the developer of April Sound as part of a phased development plan which shifted the original cost of building water and sewer infrastructure onto the tax base of property owners. Over the years, the two districts have tried to maintain similar water/sewer and tax rates. These rates are among the lowest in the region and compare very favorably to other districts and water providers in the area.

Despite being separate districts, MCUD3 and MCUD4 share an interconnected system where MCUD4 water and MCUD4 sewage are transmitted through the original MCUD3 lines. MCUD4 does not pay for maintenance or upgrades to many of the MCUD3 lines which it uses. MCUD3 operates the wastewater treatment plant (WWTP) which serves the two districts, and the costs are split between MCUD3, MCUD4 and the City of Conroe. Even though MCUD3 is a smaller district with about half the taxable value of MCUD4, MCUD3 has more cash reserves and less debt. Infrastructure in each district, however, is comparably maintained and rehabilitated.

The two districts are structurally intertwined, but they have separate Boards of Directors meeting on separate days, which makes planning, service, and communication cumbersome. Both districts were advised several years ago, in a rare joint board meeting, that consolidating would save hundreds of thousands of dollars annually in redundant costs, including legal, engineering and Director fees paid by each District. MCUD3 was committed to pursuing these savings.

The two districts are entering the design phase of an expansion of the WWTP. The design work is required by TCEQ rules, because flow levels have exceeded 75% of current capacity. The current cost estimate for the expansion is \$15,860,000. Each district has received TCEQ approval to sell up to \$6.835 million in bonds for the expansion.

**Consolidation Questions.** In considering consolidating the two districts, two fundamental questions arose. 1) How should each district's debt be managed? and 2) How should each district's cash reserves be managed? The negotiators agreed that legacy (current) debt would continue to be repaid from separate property tax levies in each original district's boundaries and that debt issued for the WWTP expansion would be added to the current amount for each district. While that would create two different tax rates within the consolidated district, it was judged to be acceptable to both boards. What proved to be more difficult was how to use each district's cash reserves.

In negotiations, MCUD3 insisted the two districts settle on an adequate amount of cash that each district should contribute from its reserves to start-up the new consolidated district. MCUD3 wanted to use its reserves for two main purposes, 1) to make its start-up contribution and 2) to pay part of its share of the WWTP expansion. MCUD3 would then only sell the amount of bonds needed to cover the rest of its share of the expansion. This plan would both fund the expansion and reduce the amount of legacy debt MCUD3 property owners would have to pay back through future property taxes. MCUD4 insisted that MCUD3 immediately sell all \$6.835 million of its approved bonds, without the option to minimize future debt by paying part of the WWTP expansion with cash reserves. Without that option, MCUD3 would have been forced to choose between spending down its cash reserves or surrendering the reserves to the new consolidated district. The directors felt that would be unfair to MCUD3 property owners.

Even though MCUD3 agreed to other MCUD4 proposals during the negotiations (like the WWTP cost shares and separate tax levies for legacy debt), MCUD3's Board of Directors would not yield to MCUD4's insistence that MCUD3 maximize legacy debt with no option to use cash reserves. The cost savings of consolidating the districts, while attractive, would not offset the debt MCUD4 was insisting that MCUD3 take on. MCUD3 is committed to keeping property taxes as low as possible and is proposing a reduction in its 2022 tax rate.

A timeline of events and copies of key documents will be added to this memorandum (on <https://mcud3.com>) soon.

Update September 13, 2022: [Timeline of events with copies of key documents were attached.](#)

**Proposed consolidation of Montgomery County Utility District No. 3 (MCUD3) and Montgomery County Utility District No. 4 (MCUD4)**

**Timeline of Events, with copies of key documents**

Year	Month	Event(s)
2021	January	Both Districts agree to form consolidation study committee and appoint reps. See: <a href="#">[LINK]</a>
	March	Committee reps estimate bonds and expenditures needed before consolidation <a href="#">[LINK]</a> --MCUD4 estimates \$2.8 million (from cash on hand) mostly for MCUD4 facilities (Jasper Replacement Well and Transfer Line), also \$2.561 million for WWTP expansion (from new bonds) --MCUD3 estimates \$1.7 million (from cash on hand), mostly for joint facilities
	Mar.-June	Committee works on consolidation issues.
	July	MCUD4 agrees to some MCUD3 edits to consolidation agreement and proposes wording to: (1) require each District to finance an equal share of the WWTP expansion (previously estimated at \$2.561 million each); (2) specify that bonds issued for WWTP expansion would be "legacy" debt, to be paid from taxes levied only within the District that issues the bonds; (3) "grandfather" two MCUD4 projects. <a href="#">[LINK]</a> MCUD4 sends letter to postpone consolidation election from November 2021 to November 2022 <a href="#">[LINK]</a>
	July-October	Committee works out Sections 1-8 of draft consolidation agreement. MCUD3 reps accept wording proposed by MCUD4 in early July (see above). See: <a href="#">[LINK]</a> (Draft lacks cost estimate for WWTP expansion and debt info--especially debt amounts for WWTP expansion and use of cash for that purpose--also lacks bond propositions and other items.)
	December	WWTP engineers release estimates for WWTP expansion, with proposed sludge-management facility, totaling \$15.86 million (implying \$5.947 million for each District's share, after deducting City of Conroe share). <a href="#">[LINK]</a> MCUD4 Board proposes revision of the 2011 WWTP agreement. <a href="#">[LINK]</a> MCUD3 agrees.
2022	Jan.-May	Negotiators work on amendments to WWTP agreements. Committee works on consolidation agreement.
	May	MCUD4 and MCUD3 exchange letters about amendments to WWTP agreement. <a href="#">[LINK]</a> <a href="#">[LINK]</a> MCUD4 Board sends letter withdrawing from negotiations on the WWTP agreement and containing other provisions, including request for MCUD3 debt info (for consolidation agreement). <a href="#">[LINK]</a>
	May-June	MCUD3 reps propose a basic approach for managing debt and cash reserves (for consolidation agreement): (1) require each District to provide an agreed amount of cash to start up consolidated district and (2) allow each District the option to finance its share of the WWTP expansion with both cash and debt.  MCUD4 committee reps cancel or postpone consolidation committee meetings, but, informally, MCUD4 reps speak in favor of allowing each District the option to finance its share of the WWTP expansion with both cash and debt.
	July	MCUD3 circulates wording to implement the basic approach. <a href="#">[LINK]</a> See Exhibit "G" and supporting amendments, also notes for final draft. Proposed split of start-up cash for the consolidated district is based on ratio of taxable value in each District.  MCUD4 sends letter dated July 26 rejecting basic approach--and, instead, imposing conditions, including: (1) MCUD3 should commit to sell \$6.5 million in bonds for the WWTP ( <i>by the following day</i> ) and (2) MCUD3 should turn over \$4.5 million in cash reserves to the consolidated district. <a href="#">[LINK]</a> (Apparently, \$4.5 million figure was in error, later reduced to \$3 million)  MCUD3 President replies to July 26 letter by email, pointing out the impossibility of meeting the conditions but offering to meet with committee reps and to call special Board meeting, etc. <a href="#">[LINK]</a>  MCUD4 President sends letter dated July 29 requiring MCUD3 to: (1) sell maximum amount of bonds authorized (\$6.835 million) and (2) turn over \$3 million of MCUD3 cash reserves (virtually all of MCUD3's available cash--and about twice what MCUD4 would turn over). <a href="#">[LINK]</a>
	August	MCUD3 holds special Board meeting and approves changes to Exhibit "G," including increased cash for starting-up the consolidated district (proposed split of start-up cash is based on gallons of water usage in each District, increasing proposed MCUD3 share to \$1,034,000).  MCUD3 Board sends letter dated August 2 replying to July 29 letter and offering to enter into the consolidation agreement. <a href="#">[LINK]</a>  MCUD4 Board sends letter dated August 10 withdrawing "from consolidation conversations for the foreseeable future" and expressing its views on MCUD3's offer. <a href="#">[LINK]</a>

**Montgomery County Utility District No. 3**

c/o Hays Utility North Corporation  
375 Lake Meadows Drive  
Montgomery, TX 77356-1268

January 26, 2021

Montgomery County Utility District No. 4  
c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

Subject: Consolidation of the April Sound utility districts (UD3 and UD4)

Dear Montgomery County Utility District No. 4,

We received your January 21 letter about consolidation. It was discussed at the advisory committee meeting held last Thursday and also at a special UD3 Board meeting held yesterday. Mr. Maurice Williams also participated in the UD3 Board meeting.

After yesterday's discussion, the UD3 Board voted to authorize the existing advisory committee members (Ms. Hickman and Ms. Boulware) to move ahead on the approach described in the January 21 letter, looking toward a November election. We understand the committee would work on a consolidation agreement and make a recommendation to the Board.

Please let us know when UD4 has named or confirmed its advisory committee members. We look forward to working with you on this important matter.

Sincerely, MONTGOMERY COUNTY UTILITY DISTRICT NO. 3

By: Doris Hickman Doris Hickman, President

## Bond and expenditure comparisons

2021-03-19rev

Category	UD4 letter (3-4-2021)	UD3 comparable
<b>Tax Bonds</b> Authorized/ Issued/ Remaining	\$35,160,000/ \$21,910,000/ \$13,250,000*	\$28,935,000/ \$11,175,000/ \$17,760,000
<b>Refund Bonds</b> Authorized/ Issued/ Remaining	\$14,160,000/ \$8,916,317/ \$5,243,683*	\$11,175,000/ \$225,000/ \$10,950,000
<b>Estimated Additional Capital Costs to Feb 2022</b> <i>(understood to mean expenditures to be made with cash on hand, not from new bonds)</i>	\$2,835,000 (predominantly new water well, transfer line, and booster pumps)	-0- (but planned major repairs and maintenance projects are estimated at \$1,769,000, excluding work on Capetown Lift Station and HUNC-provided repairs and maintenance---and with no reduction to reflect cost splits or payments from UD4)
<b>Estimated Capital Commitments/Escrow by Feb 2022</b> <i>(understood to mean proceeds to be received from new bonds)</i>	\$2,561,250** (Waste Water Treatment Plant [WWTP] Phase I and II UD4 37.5% Share, 1.2 MGD design)	-0- (no new bonds expected to be issued by February 2022)

\* From Audited Annual Financial Report December 31 , 2019)

\*\* Note from letter dated 3-4-2021 on forecast capital spending: "an additional contingent amount of \$1,616,250.00 (37.5% of estimated de-watering facility) is also presently being included in a total of \$4,177,500 to be financed for the WWTP - the current plan is to fund these projects through the Texas Water Development Board's Clean Water State Revolving Fund, and the total amount will be adjusted as expansion plans and construction estimates are agreed."

Scroll to p. 5 for wording on shares of the WWTP expansion, bonds issued for WWTP expansion and "grandfathering" two MCUD4 projects.

CONSOLIDATION AGREEMENT  
BY AND BETWEEN  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 3  
AND  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 4

THE STATE OF TEXAS  
COUNTY OF  
MONTGOMERY

THIS CONSOLIDATION AGREEMENT (this "Agreement") is made and entered into as of August 1, 2021, by and between MONTGOMERY COUNTY UTILITY DISTRICT NO. 3 of Montgomery County, Texas ("MCUD 3"), a political subdivision of the State of Texas operating pursuant to Chapters 49 and 54 of the Texas Water Code, as amended (the "Water Code"), and MONTGOMERY COUNTY UTILITY DISTRICT NO. 4 of Montgomery County, Texas ("MCUD 4", and collectively with MCUD 3, the "Original Districts"), a political subdivision of the State of Texas operating pursuant to chapters 49 and 54 of the Texas Water Code, as amended.

WITNESSETH:

1. MCUD 3 has been heretofore created and organized in Montgomery County, Texas.
2. MCUD 4 has been heretofore created and organized in Montgomery County, Texas.
3. The Boards of Directors of the Original Districts have determined that it is in the best interest of each Original District and the taxpayers and landowners therein to consolidate the Original Districts into one district (the "Consolidated District"), as provided by chapter 54 of the Texas Water Code, as amended, particularly by sections 54.728-54.733 thereof (the "Act").
4. The Original Districts desire to enter into this Agreement for the purposes of providing for (i) the terms and conditions under which the Original Districts will be consolidated into the Consolidated District, (ii) the assumption of each Original District's authorized but unissued bonding authority; (iii) the levy of a separate debt service tax rate by each Original District to pay for each Original District's outstanding bonds, notes, or other obligations through the 91<sup>st</sup> day after the November 2021 election, (v) the levy of a uniform maintenance and operations tax rate by the Consolidated District, (vi) the adoption of a name for the Consolidated District, (vii) the administration of the Consolidated District, and (viii) the calling of elections in each Original District to confirm the consolidation (the collectively, the "Consolidation Elections") described herein, all on the terms and subject to the conditions set forth in this Agreement.

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5. The Boards of Directors of the Original Districts have determined to contract in the manner hereinafter set forth for the consolidation of the Original Districts, and have further determined that the terms and conditions of this Agreement are desirable, fair and advantageous and that the Original Districts are authorized to enter into this Agreement pursuant to the terms of the Act.

#### DEFINITIONS

Section 1.1: Definitions. Capitalized terms used in this Agreement shall have the meanings provided below unless otherwise defined or the context clearly requires otherwise.

(a) “Consolidated District” means the successor to the Original Districts, such that all powers, duties, liabilities, obligations, property, and assets transfer pursuant to the terms of this Agreement from the Original Districts to the Consolidated District on the Consolidation Date.

(b) “Consolidation Date” means the 91st day after the Consolidation Election.

(c) “Consolidation Elections” means the consolidation elections held in each Original District called by the Boards of Directors of each Original District, which will take place on November 2, 2021.

(d) “Original Districts” means Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4.

(e) “Original Districts’ Debt” means all bonds, notes, or other obligations of such Original District created before the 91<sup>st</sup> day after the Consolidation Election.

(f) “MCUD3” means Montgomery County Utility District No. 3 of Montgomery County, Texas whose boundaries are described in Exhibit “A”.

(g) “MCUD4” means Montgomery County Utility District No. 4 of Montgomery County, Texas whose boundaries are described in Exhibit “B”.

#### AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the Original Districts contract and agree as follows:

##### SECTION 1. Consolidation Elections.

(a) Pursuant to the Act, the Original Districts hereby agree to proceed with all due diligence to consolidate the Original Districts into the Consolidated District, subject

to the successful passage of the Consolidation Elections hereinafter described and the remaining terms and provisions of this Agreement

(b) The Boards of Directors of the Original Districts shall proceed with all due diligence to call, hold, conduct, canvass and declare results of a Consolidation Election in each Original District at each Original Districts' expense to do the following, upon the terms and conditions stated in this Agreement: (i) confirm the consolidation of the Original Districts into the Consolidated District, (ii) confirm that the Consolidated District shall levy a separate debt service tax on the land in each of the respective Original Districts as if they had not been consolidated sufficient to pay the Original Districts' Debt as such indebtedness becomes due and payable, and (iii) confirm that the Consolidated District will be authorized to issue the aggregated voted but unissued bonds of the Original Districts in the name of the Consolidated District, and (iv) confirm that the Consolidated District will levy a uniform maintenance and operations tax on all taxable property in the Consolidated District, and (v) confirm that the Consolidated District will levy an additional uniform tax on all taxable property in the Consolidated District to pay for all future bonds, notes, and other obligations of the Consolidated District.

(c) As of the Consolidation Date, (i) the amounts of the Original Districts' Debt, which shall be payable from time to time by taxes levied by the Consolidated District on the land in each of the respective Original Districts as if they had not been consolidated, and (ii) the authorized but unissued debt of the Consolidated District upon the consolidation of the Original Districts, are as shown in Exhibit "C".

(d) The Consolidation Elections described in Subsection 1(b) above shall be held, pursuant to the Texas Election Code, on the uniform election date of November 2, 2021, and the Board of Directors of each Original District shall give notice of such Election in the manner provided by law for bond elections. The ballot proposition is attached as Exhibit "D".

(e) Upon Consolidation, the name of the Consolidated District shall be "Montgomery County Utility District No. 7", or such other name as may be decreed by appropriate state or county agencies, and as agreed by the Board of Directors of the Consolidated District (the "Consolidated Board").

#### SECTION 2. Failure of Elections.

If the proposition(s) submitted at the Consolidation Elections fails to receive a majority of votes cast at such Election in each of the Original Districts, then this Agreement is automatically terminated and of no further force and effect. The Original Districts agree, in such event, to take such actions and proceedings and to pass, adopt, enter, approve, and record such orders, resolutions, and documents as may be necessary and appropriate to evidence the failure to consolidate the Original Districts.

#### SECTION 3. Passage of Elections.

Should the propositions submitted at the Consolidation Election pass, then the Boards of Directors of the Original Districts agree that they and subsequently the Consolidated Board (as hereinafter defined) shall promptly pass, adopt, enter into, approve, and record in the manner required by law such orders, resolutions, conveyance instruments and other documents as necessary or appropriate to evidence the consolidation of the Original Districts into the Consolidated District as provided herein.

#### SECTION 4. Governing Consolidated District.

(a) The members of the Boards of Directors of the Original Districts agree to operate jointly-separately for 90 days following the date of the passage of the Consolidation Election as defined in Section 3 to settle the affairs of the respective Original Districts, and call combined meetings of both Boards to discuss matters of mutual concern prior to the Consolidation Date.

(b) The members of the Boards of Directors of the Original Districts shall continue to act jointly as the directors of the Consolidated District from the Consolidation Date as defined in Section 3 until the next general election in May 2022, with officers of the Consolidated Board appointed by the vote of such board on the first meeting thereof. The Directors of the Consolidated Board must meet qualifications to assume their offices at the Consolidation Date.

(c) At such next general election, all director positions shall be subject to election, and the terms of such positions shall be staggered, as provided by law for a director election. The top three candidates in the next general election shall serve a four-year term and the next highest two candidates shall serve a two-year term.

#### SECTION 5. Other Rights and Obligations.

The Original Districts agree that, upon the Consolidation Date, all of the powers, duties, liabilities, obligations, property, and assets, including contractual rights and obligations of the Original Districts, shall transfer to the Consolidated District, as the successor to the Original Districts, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement. The Original Districts, in such event, agree that the Consolidated Board shall take such actions and to pass, adopt, enter into, approve, and record such orders, resolutions and other documents as may be necessary and appropriate to evidence the assumption by the Consolidated District of such rights and obligations of the Original Districts.

#### SECTION 6. Transfer of Funds, Accounts and Other Property.

(a) The Original Districts agree that upon the Consolidation Date, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement, all powers, duties, liabilities, obligations, property and assets of the Original Districts in and to the real and personal property, including any and all existing funds and accounts, of each Original District (collectively, the "Consolidated Property") will become the property of the

Consolidated District, including, without limitation, the property described on Exhibit “E” attached hereto.

(b) Until the Consolidation Date, the Original Districts agree to: (i) maintain and operate their systems and facilities in the normal and customary manner; (ii) manage their respective Districts to minimize changes before the Consolidation Date; and (iii) work together to plan and prepare projects, contracts, etc. for consideration by the Consolidated Board. For these purposes:

(1) The Original Districts agree that their consultants are authorized and encouraged to exchange plans and information and to meet and confer as directed by the Original Boards;

(2) The parties agree to defer approvals of any additional indebtedness and major projects and contracts so that they can be considered by the Consolidated Board. *Exceptions:*

--Deferral is not required in case of emergency, when it is necessary to act in a timely manner to avoid loss of life, damage to property or significant economic loss;

--Deferral is not required where both Boards concur that a major project or contract may proceed prior to the Consolidation Date.

--Deferral does not apply to the following projects or contracts:

(i) Waste Water Treatment Plant Expansion and Dewatering Project (the “WWTP Project”), as defined in Exhibit “F”. In addition to the Original Districts’ Debt as defined in Section 1.1(e), the Original Districts agree that each Original District’s Debt will include each Original District’s share of the financing of the Wastewater Treatment Plant Expansion and Dewatering Project (the “WWTP Project”) as outlined in Exhibit “F” attached hereto. The Original Districts are individually responsible for obtaining the required financing for the WWTP Project. If either Original District sells bonds, or issues any financial debt, to finance its portion of the WWTP Project, such debt will be the responsibility of only the Original District which incurred the debt and the Original Districts agree that any debt issued for the WWTP Project will not become a Consolidated District Debt.

(ii) MCUD4 Jasper Replacement Well.

(iii) MCUD4 Transfer Line (for eastern District pressure maintenance).

(3) The parties agree not to change the boundaries shown in Exhibit “A” or Exhibit “B” or any of the amounts shown in Exhibit “C” for Original

Districts' Debt or voted but unissued bonds, unless the Boards of both Original Districts approve an exception.

In this section, a project or contract is "major" if it involves an expected aggregate expenditure of \$100,000 or more.

SECTION 7. Adoption of MCUD 4 Rate Orders.

The Original Districts agree that upon passage of the Consolidation Election and before the Consolidation Date, the Board of Directors of the Original Districts agree to jointly work together to make any revisions and/or amendments to MCUD 4's Consolidated Rate Order dated December 17, 2020 to address all present rate categories and/or conditions existing in the Original Districts, for the purpose of preparing a uniform rate order for recommendation to and approval by the Consolidated Board at the Consolidation Date or as soon thereafter as is practicable.

~~(a) — Until the Consolidation Date, the Original Districts agree to: (i) maintain and operate their systems and facilities in the normal and customary manner; (ii) manage their respective Districts to minimize changes before the Consolidation Date; and (iii) work together to plan and prepare projects, contracts, etc. for consideration by the Consolidated Board. For these purposes:~~

~~(1) The Original Districts agree that their consultants are authorized and encouraged to exchange plans and information and to meet and confer frequently;~~

~~(2) The parties agree to defer approvals of any additional indebtedness and major projects and contracts so that they can be considered by the Consolidated Board. *Exceptions:*~~

~~—Deferral is not required in case of emergency, when it is necessary to act in a timely manner to avoid loss of life, damage to property or significant economic loss;~~

~~—Deferral is not required where both Boards concur that a major project or contract may proceed prior to the Consolidation Date.~~

~~—Deferral does not apply to the following projects or contracts:~~

~~—(i)~~

~~—(ii)~~

~~—(iii)~~

~~(3) The parties agree not to change the boundaries shown in Exhibit "A" or Exhibit "B" or any of the amounts shown in Exhibit "C" for Original Districts' Debt or voted but unissued bonds, unless the Boards of both Original Districts approve an exception.~~

~~In this section, a project or contract is "major" if it involves an expected aggregate expenditure of \$100,000 or more.~~

#### SECTION 8. General Provisions.

(a) This Agreement is not assignable by either party and may not be amended, altered or revised except by mutual written agreement of the parties hereto.

(b) This Agreement shall be for the sole and exclusive benefit of the parties to this Agreement and their respective successors and assigns. This Agreement shall not be construed to confer any benefit or right upon any other person or entity.

~~(c) The covenants, agreements and obligations made and undertaken by each party hereto are material inducements to the other party to make and enter this Agreement. If any material part or provision of this Agreement is determined by a court of competent jurisdiction to be void or unenforceable for any reason, the remaining provisions shall remain in effect and enforceable, but subject to reformation as provided in this section. In case of such a determination, (i) either Original District, if materially and adversely affected by a finding of unenforceability, make seek equitable reformation of this Agreement to restore a balance of rights and duties equivalent to the balance they anticipated when they entered into this Agreement (and as confirmed by the voters, if the Consolidation Elections have been held at that time), or (ii) the Original Districts may amend or supplement this Agreement, in writing, to accomplish such purposes. Because both parties mutually agree that all parts of this Agreement are enforceable, a finding that a part is unenforceable would indicate that their belief is in error and that the parties are mutually mistaken. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof to any party or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to the other parties or circumstances shall not be affected thereby.~~

(d) This Agreement is and will remain in full force and effect for a term commencing with the date hereof and extending until the earlier of: (i) the failure of either of the Consolidation Elections, or (ii) 90 days after the successful passage of the Consolidation Elections.

(e) This Agreement is subject to the laws, rules and regulations of the United States and the State of Texas, and all rights and duties shall be interpreted and applied in accordance therewith. The parties agree to cooperate to achieve and maintain compliance with such laws, rules and regulations. Notwithstanding any other provision of this Agreement, the

parties (and the Consolidation Elections called for by this Agreement) shall comply with such laws, rules and regulations. [The exclusive venue for any action under or related to the Agreement is in a court of competent jurisdiction in Montgomery County, Texas.](#)

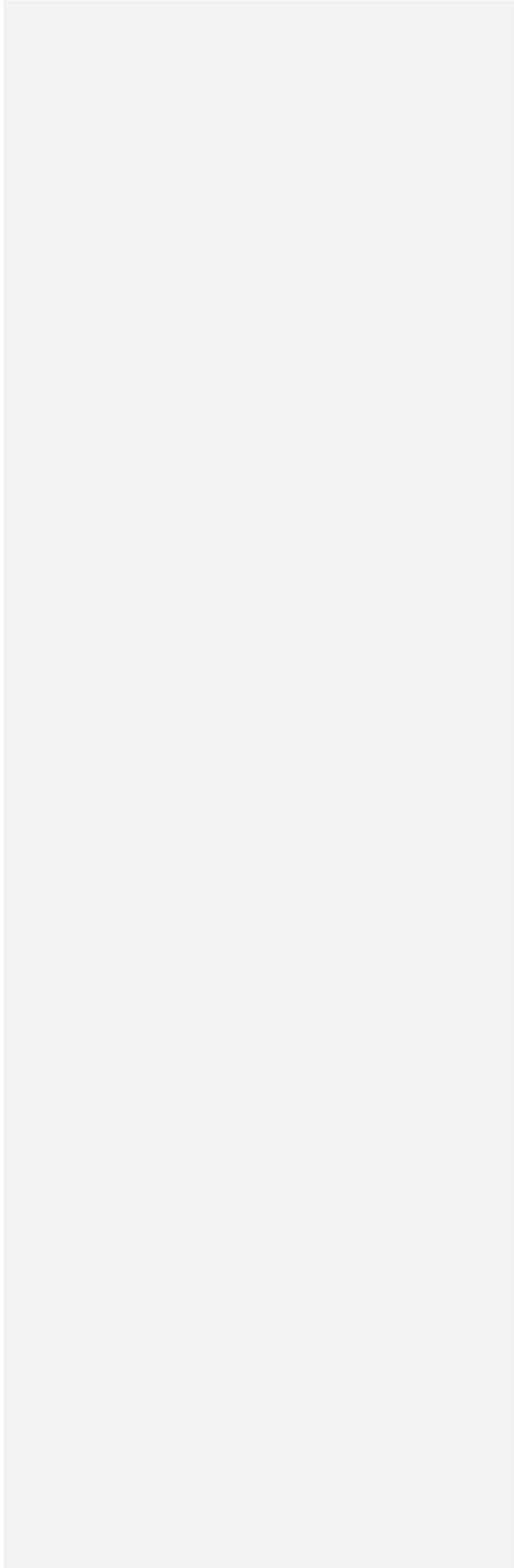
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple original counterparts as of the date hereinabove first written.

MONTGOMERY COUNTY UTILITY  
DISTRICT NO. 3

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MONTGOMERY COUNTY UTILITY  
DISTRICT NO. 4

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



LIST OF EXHIBITS

EXHIBIT A – BOUNDARIES OF MONTGOMERY COUNTY UD 3

EXHIBIT B – BOUNDARIES OF MONTGOMERY COUNTY UD 4

EXHIBIT C – ORIGINAL DISTRICTS’ DEBT AND ASSUMED BUT UNISSUED BOND

AUTHORITY OF THE CONSOLIDATED DISTRICT AS OF THE CONSOLIDATION

DATE

EXHIBIT D – CONSOLIDATION BALLOT PROPOSITIONS

EXHIBIT E – ~~GOOD FAITH FINANCIAL DISCLOSURE~~ LIST OF CURRENT

~~PROPERTIES, EASEMENTS, AND CONTRACTS AND AGREEMENTS~~

EXHIBIT F – ORIGINAL JONES & CARTER WWTP PROJECT COST ESTIMATE

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

26 July 2021

Doris Hickman  
President, Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

**Re: Consolidation Agreement**

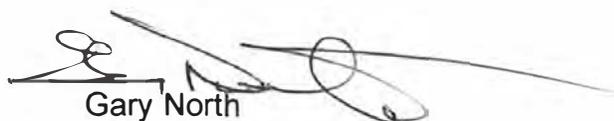
Dear Ms. Hickman,

Directors Lamey and Williams conveyed UD3's offer to undertake emergency actions and extraordinary efforts to conclude our present Consolidation Agreement negotiations to support a November 2021 Consolidation election. Although we do appreciate the offer, we do not believe the deadline date of August 2, 2021 can be met with extraordinary efforts or emergency actions for either the Agreement or its provisions given present status, most particularly drawing attention to the presently unpopulated Exhibits.

UD4 would respectfully wish to propose an alternative to UD3 to revise the Consolidation Agreement timeline to support a November 2022 Consolidation Election, followed by a May 2023 Consolidated (5-Member) Board Election. UD4 proposes utilizing the currently proposed Agreement (appropriately amended for the revised timeline herein suggested) and its Exhibits to this end. We also believe the WWTP expansion scope, schedule, and estimated cost must be fully defined and fully funded by both Districts prior to the Consolidation Election, as incorporated to the most recent version of the Consolidation Agreement.

We hope UD3 wishes to continue working toward a mutually agreeable Consolidation Agreement to support a November 2022 Consolidation Election. Messrs. Lamey and Williams look forward to continuing the Consolidation Committee meetings toward this end.

Sincerely,



Gary North  
President

CONSOLIDATION AGREEMENT  
BY AND BETWEEN  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 3  
AND  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 4

THE STATE OF TEXAS  
COUNTY OF  
MONTGOMERY

THIS CONSOLIDATION AGREEMENT (this "Agreement") is made and entered into as of ~~April 1, 2022~~April 1, 2022, by and between MONTGOMERY COUNTY UTILITY DISTRICT NO. 3 of Montgomery County, Texas ("MCUD 3"), a political subdivision of the State of Texas operating pursuant to Chapters 49 and 54 of the Texas Water Code, as amended (the "Water Code"), and MONTGOMERY COUNTY UTILITY DISTRICT NO. 4 of Montgomery County, Texas ("MCUD 4", and collectively with MCUD 3, the "Original Districts"), a political subdivision of the State of Texas operating pursuant to chapters 49 and 54 of the Texas Water Code, as amended.

WITNESSETH:

1. MCUD 3 has been heretofore created and organized in Montgomery County, Texas.
2. MCUD 4 has been heretofore created and organized in Montgomery County, Texas.
3. The Boards of Directors of the Original Districts have determined that it is in the best interest of each Original District and the taxpayers and landowners therein to consolidate the Original Districts into one district (the "Consolidated District"), as provided by chapter 54 of the Texas Water Code, as amended particularly by sections 54.728-54.733 thereof (the "Act").
4. The Original Districts desire to enter into this Agreement for the purposes of providing for (i) the terms and conditions under which the Original Districts will be consolidated into the Consolidated District, (ii) the assumption of each Original District's authorized but unissued bonding authority; (iii) the levy of a separate debt service tax rate by each Original District to pay for each Original District's outstanding bonds, notes, or other obligations through the 91<sup>st</sup> day after the November 2022 election, (v) the levy of a uniform maintenance and operations tax rate by the Consolidated District, (vi) the adoption of a name for the Consolidated District, (vii) the administration of the Consolidated District, and (viii) the calling of elections in each Original District to confirm the consolidation (the collectively, the "Consolidation Elections") described herein, all on the terms and subject to the conditions set forth in this Agreement.

5. The Boards of Directors of the Original Districts have determined to contract in the manner hereinafter set forth for the consolidation of the Original Districts, and have further determined that the terms and conditions of this Agreement are desirable, fair and advantageous and that the Original Districts are authorized to enter into this Agreement pursuant to the terms of the Act.

## DEFINITIONS

Section 1.1: Definitions. Capitalized terms used in this Agreement shall have the meanings provided below unless otherwise defined or the context clearly requires otherwise.

(a) “Consolidated District” means the successor to the Original Districts, such that all powers, duties, liabilities, obligations, property, and assets transfer pursuant to the terms of this Agreement from the Original Districts to the Consolidated District on the Consolidation Date.

(b) “Consolidation Date” means the 91st day after the Consolidation Election.

(c) “Consolidation Elections” means the consolidation elections held in each Original District called by the Boards of Directors of each Original District, which will take place on November 1, 2022.

(d) “Original Districts” means Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4.

(e) “Original Districts’ Debt” means all bonds, notes, or other obligations of such Original District created before the 91<sup>st</sup> day after the Consolidation Election.

(f) “MCUD3” means Montgomery County Utility District No. 3 of Montgomery County, Texas whose boundaries are described in Exhibit “A”.

(g) “MCUD4” means Montgomery County Utility District No. 4 of Montgomery County, Texas whose boundaries are described in Exhibit “B”.

## AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the Original Districts contract and agree as follows:

### SECTION 1. Consolidation Elections.

(a) Pursuant to the Act, the Original Districts hereby agree to proceed with all due diligence to consolidate the Original Districts into the Consolidated District, subject to the successful passage of the Consolidation Elections hereinafter described and the remaining terms and provisions of this Agreement

(b) The Boards of Directors of the Original Districts shall proceed with all due diligence to call, hold, conduct, canvass and declare results of a Consolidation Election in each Original District at each Original Districts' expense to do the following, upon the terms and conditions stated in this Agreement: (i) confirm the consolidation of the Original Districts into the Consolidated District, (ii) confirm that the Consolidated District shall levy a separate debt service tax on the land in each of the respective Original Districts as if they had not been consolidated sufficient to pay the Original Districts' Debt as such indebtedness becomes due and payable, and (iii) confirm that the Consolidated District will be authorized to issue the aggregated voted but unissued bonds of the Original Districts in the name of the Consolidated District, and (iv) confirm that the Consolidated District will levy a uniform maintenance and operations tax on all taxable property in the Consolidated District, and (v) confirm that the Consolidated District will levy an additional uniform tax on all taxable property in the Consolidated District to pay for all future bonds, notes, and other obligations of the Consolidated District.

(c) As of the Consolidation Date, (i) the amounts of the Original Districts' Debt, which shall be payable from time to time by taxes levied by the Consolidated District on the land in each of the respective Original Districts as if they had not been consolidated, and (ii) the authorized but unissued debt of the Consolidated District upon the consolidation of the Original Districts, are as shown in Exhibit "C".

(d) The Consolidation Elections described in Subsection 1(b) above shall be held, pursuant to the Texas Election Code, on the uniform election date of November 1, 2022, and the Board of Directors of each Original District shall give notice of such Election in the manner provided by law for bond elections. The ballot proposition is attached as Exhibit "D".

(e) Upon Consolidation, the name of the Consolidated District shall be "Montgomery County Utility District No. 7", or such other name as may be decreed by appropriate state or county agencies, and as agreed by the Board of Directors of the Consolidated District (the "Consolidated Board"). However under no circumstance shall the Consolidated District share the name of either the Original Districts.

## SECTION 2. Failure of Elections.

If the proposition(s) submitted at the Consolidation Elections fails to receive a majority of votes cast at such Election in each of the Original Districts, then this Agreement is automatically terminated and of no further force and effect. The Original Districts agree, in such event, to take such actions and proceedings and to pass, adopt, enter, approve, and record such orders, resolutions, and documents as may be necessary and appropriate to evidence the failure to consolidate the Original Districts.

## SECTION 3. Passage of Elections.

Should the propositions submitted at the Consolidation Election pass, then the Boards of Directors of the Original Districts agree that they and subsequently the

Consolidated Board (as hereinafter defined) shall promptly pass, adopt, enter into, approve, and record in the manner required by law such orders, resolutions, conveyance instruments and other documents as necessary or appropriate to evidence the consolidation of the Original Districts into the Consolidated District as provided herein.

#### SECTION 4. Governing Consolidated District.

(a) The members of the Boards of Directors of the Original Districts agree to operate separately for 90 days following the date of the passage of the Consolidation Election as defined in Section 3 to settle the affairs of the respective Original Districts, and call combined meetings of both Boards to discuss matters of mutual concern prior to the Consolidation Date.

(b) The members of the Boards of Directors of the Original Districts shall continue to act jointly as the directors of the Consolidated District from the Consolidation Date as defined in Section 3 until the next general election in May 2023, with officers of the Consolidated Board appointed by the vote of such board on the first meeting thereof. The Directors of the Consolidated Board must meet qualifications to assume their offices at the Consolidation Date.

(c) At such next general election, all director positions shall be subject to election, and the terms of such positions shall be staggered, as provided by law for a director election. The top three candidates in the next general election shall serve a four-year term and the next highest two candidates shall serve a two-year term.

#### SECTION 5. Other Rights and Obligations.

The Original Districts agree that, upon the Consolidation Date, all of the powers, duties, liabilities, obligations, property, and assets, including contractual rights and obligations of the Original Districts, shall transfer to the Consolidated District, as the successor to the Original Districts, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement. The Original Districts, in such event, agree that the Consolidated Board shall take such actions and to pass, adopt, enter into, approve, and record such orders, resolutions and other documents as may be necessary and appropriate to evidence the assumption by the Consolidated District of such rights and obligations of the Original Districts.

#### SECTION 6. Transfer of Funds, Accounts and Other Property.

(a) The Original Districts agree that upon the Consolidation Date, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement, all powers, duties, liabilities, obligations, property and assets of the Original Districts in and to the real and personal property, including any and all existing funds and accounts, of each Original District (collectively, the "Consolidated Property") will become the property of the Consolidated District, including, without limitation, the property described on Exhibit "E" attached hereto.

(b) Until the Consolidation Date, the Original Districts agree to: (i) maintain and operate their systems and facilities in the normal and customary manner; (ii) manage their respective Districts to minimize changes before the Consolidation Date; and (iii) work together to plan and prepare projects, contracts, etc. for consideration by the Consolidated Board. For these purposes:

(1) The Original Districts agree that their consultants are authorized and encouraged to exchange plans and information and to meet and confer as directed by the Original Boards;

(2) The parties agree to defer approvals of any additional indebtedness and major projects and contracts so that they can be considered by the Consolidated Board. *Exceptions:*

--Deferral is not required in case of emergency, when it is necessary to act in a timely manner to avoid loss of life, damage to property or significant economic loss;

--Deferral is not required where both Boards concur that a major project or contract may proceed prior to the Consolidation Date.

--Deferral does not apply to the following projects or contracts:

(i) Waste Water Treatment Plant Expansion and Dewatering Project (the "WWTP Project"), as defined in Exhibit "F". In addition to the Original Districts' Debt as defined in Section 1.1(e), the Original Districts agree that each Original District's Debt will include each Original District's share of the financing of the Wastewater Treatment Plant Expansion and Dewatering Project (the "WWTP Project") as outlined in Exhibit "F" attached hereto. The Original Districts are individually responsible for obtaining the required financing for the WWTP Project. If either Original District sells bonds, or issues any financial debt, to finance its portion of the WWTP Project, such debt will be the responsibility of only the Original District which incurred the debt and the Original Districts agree that any debt issued for the WWTP Project will not become a Consolidated District Debt.

(ii) MCUD4 Jasper Replacement Well.

(iii) MCUD4 Transfer Line (for eastern District pressure maintenance).

(3) The parties agree not to change the boundaries shown in Exhibit "A" or Exhibit "B" or any of the amounts shown in Exhibit "C" for Original Districts' Debt or voted but unissued bonds, unless the Boards of both Original Districts approve an exception.

In this section, a project or contract is “major” if it involves an expected aggregate expenditure of \$100,000 or more.

#### SECTION 7. Adoption of MCUD 4 Rate Orders.

The Original Districts agree that upon passage of the Consolidation Election and before the Consolidation Date, the Board of Directors of the Original Districts agree to jointly work together to make any revisions and/or amendments to MCUD 4’s Consolidated Rate Order dated September 23, 2021 to address all present rate categories and/or conditions existing in the Original Districts, for the purpose of preparing a uniform rate order for recommendation to and approval by the Consolidated Board at the Consolidation Date or as soon thereafter as is practicable.

#### SECTION 8. General Provisions.

(a) This Agreement is not assignable by either party and may not be amended, altered or revised except by mutual written agreement of the parties hereto.

(b) This Agreement shall be for the sole and exclusive benefit of the parties to this Agreement and their respective successors and assigns. This Agreement shall not be construed to confer any benefit or right upon any other person or entity.

(c) The covenants, agreements and obligations made and undertaken by each party hereto are material inducements to the other party to make and enter this Agreement. If any material part or provision of this Agreement is determined by a court of competent jurisdiction to be void or unenforceable for any reason, the remaining provisions shall remain in effect and enforceable, but subject to reformation as provided in this section. In case of such a determination, (i) either Original District, if materially and adversely affected by a finding of unenforceability, may seek equitable reformation of this Agreement to restore a balance of rights and duties equivalent to the balance they anticipated when they entered into this Agreement (and as confirmed by the voters, if the Consolidation Elections have been held at that time), or (ii) the Original Districts may amend or supplement this Agreement, in writing, to accomplish such purposes. Because both Parties mutually agree that all parts of this Agreement are enforceable, a finding that a part is unenforceable would indicate that their belief is in error and that the Parties are mutually mistaken.

(d) This Agreement is and will remain in full force and effect for a term commencing with the date hereof and extending until the earlier of: (i) the failure of either of the Consolidation Elections, or (ii) 90 days after the successful passage of the Consolidation Elections.

(e) This Agreement is subject to the laws, rules and regulations of the United States and the State of Texas, and all rights and duties shall be interpreted and applied in accordance therewith. The parties agree to cooperate to achieve and maintain compliance with such laws, rules and regulations. Notwithstanding any other provision of this Agreement, the

parties (and the Consolidation Elections called for by this Agreement) shall comply with such laws, rules and regulations. The exclusive venue for any action under or related to the Agreement is in a court of competent jurisdiction in Montgomery County, Texas.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple original counterparts as of the date hereinabove first written.

MONTGOMERY COUNTY UTILITY  
DISTRICT NO. 3

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MONTGOMERY COUNTY UTILITY  
DISTRICT NO. 4

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LIST OF EXHIBITS

EXHIBIT A – BOUNDARIES OF MONTGOMERY COUNTY UD 3

EXHIBIT B – BOUNDARIES OF MONTGOMERY COUNTY UD 4

EXHIBIT C – ORIGINAL DISTRICTS’ DEBT AND ASSUMED BUT UNISSUED BOND

AUTHORITY OF THE CONSOLIDATED DISTRICT AS OF THE CONSOLIDATION

DATE

EXHIBIT D – CONSOLIDATION BALLOT PROPOSITIONS

EXHIBIT E – LIST OF CURRENT CONTRACTS AND AGREEMENTS

EXHIBIT F – ORIGINAL JONES & CARTER WWTP PROJECT COST ESTIMATE

EXHIBIT A – BOUNDARIES OF MONTGOMERY COUNTY UD 3

EXHIBIT B – BOUNDARIES OF MONTGOMERY COUNTY UD4

EXHIBIT C – ORIGINAL DISTRICTS’ DEBT AND ASSUMED BUT UNISSUED BOND  
AUTHORITY OF THE CONSOLIDATED DISTRICT AS OF THE CONSOLIDATION

DATE

EXHIBIT D – CONSOLIDATION BALLOT PROPOSITIONS

EXHIBIT E – LIST OF CURRENT CONTRACTS AND AGREEMENTS

EXHIBIT F – ORIGINAL JONES & CARTER WWTP PROJECT COST ESTIMATE



## Notes:

- (1) This estimate represents my best judgment as a design professional familiar with the construction industry. Jones & Carter, Inc. has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that bids will not vary from this cost estimate.
- (2) This cost estimate assumes only the portion of the wastewater treatment plant site indicated on the FEMA FIRM Panel is located within the 1% annual chance floodplain and none of the site is within existing wetlands. This estimate does not include any costs for wetland mitigation, detention basins, mitigation basins, or any other work related to compensating for wetlands or floodplain impact.
- (3) This estimate includes but is not limited to the construction of a new submersible lift station which includes, but is not limited to a 16.5-foot diameter concrete wet well with 100% solids epoxy coating, four 15-HP pumps with peak flow capacity of 4.8 MGD, riser and force main piping and fittings, valves, local control panel, terminal boxes, electrical instrumentation, lighting, conduit, and wire, and protective coatings. This estimate also includes the installation, maintenance, and takedown of bypass pumping systems in order to construction the lift station and influent sewer improvements.
- (4) This estimate includes the demolition and replacement of the mechanical screen control panel, the installation of a local control station at the mechanical screen, and associated conduit, wire, and devices. This estimate also includes the installation of two electrically actuated davit cranes.
- (5) This estimate includes the replacement of the ORP and DO probes and controllers, replacement of the sample pumps with three phase pump and controllers, enclosures for the probe and pump controllers, and any associated MCC modifications required. This estimate also includes blasting and recoating the motors and gear reducers for the mixers, aerators, and gas pedestals.
- (6) This estimate includes the installation of grating at the launder trough drop boxes and ladders on the clarifier bridges to access the launder troughs.
- (7) This estimate includes the replacement of the final effluent flow transmitter enclosure.
- (8) This estimate includes the installation of a turbidimeter and all associated conduit and wiring, the replacement of the sample pump with a three phase pump and controller, and blasting and recoating the traveling bridge crane.
- (9) This estimate includes but is not limited to the installation of a sodium bisulfite dosing system with vacuum liquid feeders, switchover, submersible induction mixers, two 250-gallon HDPE tanks, heat trace, and all associated, piping, conduit, wire, and instrumentation. This estimate also includes the replacement of the internal components of the sodium hypochlorite vacuum liquid feeders for the expansion flow and two emergency shower and eyewash stations at the existing Disinfection Building and Chemical Storage areas.
- (10) This estimate includes the installation of new alum feed lines, drain modifications at the Alum Building, retrofitting system failure alarms to the alum tanks' heat trace panels, and the replacement of the Orthophosphate Analyzer and all associated, conduit, wire, and instrumentation.
- (11) This estimate includes but is not limited to the installation of a mechanical thickening system including two rotary drum thickeners, concrete platforms, two double-disc sludge feed pumps and pump station slab, handrail, piping, valves, local control panel, and flow meters. This estimate also includes two double-disc sludge feed pumps for the belt press, pump station slab, relocation of the sludge draw-off station, demolition of the weirs, baffles, and decant pumps in Digester No. 1, and all associated piping, valves, supports, terminal boxes, disconnects, conduit, wire, instrumentation, and lighting.
- (12) This estimate includes but is not limited to the installation of a CMU Dewatering Building with a standing seam metal roof and dumpster loading bay area with a pre-engineered metal canopy. The Dewatering Building includes a 1.5-meter belt filter press, three polymer blending units, four vertical multi-stage NPW booster pumps, screw conveyors, floor winch, fans, louvers, heaters, access doors, roll-up door, elevated access walkway around belt press, eyewash and shower, and all associated piping, valves, terminal boxes, disconnects, conduit, wire, and lighting. This estimate also includes the construction of an electrical room located in the Dewatering Building which includes a motor control center for the thickener and dewatering facilities, local control panels, and a Plant PLC panel and server rack.
- (13) This estimate includes blasting and recoating the RAS pumps, piping, and valves.
- (14) This estimate includes blasting and recoating the WAS pumps, piping, and valves and installing aboveground piping between the self-priming WAS pump and Clarifier No. 1 suction line.
- (15) This estimate includes the replacement and relocation of the scum pump control panel, installation of terminal boxes, and associated conduit and wire.
- (16) This estimate includes but is not limited to the construction of a new NPW pump station with three self priming centrifugal pumps, VFDs, concrete foundation, bladder tank, duplex basket strainer, control panel, magnetic flow meter, and all associated piping, valves, supports, electrical instrumentation, lighting, conduit, and wiring.
- (17) This estimate includes blasting and recoating the existing blowers and discharge piping.
- (18) This estimate includes but is not limited to all electrical duct bank, pull boxes, grounding, site lighting, pole-mounted transformer and Utility Co. easement requirements.
- (19) This estimate includes the replacement of the manual bar screen at the existing headworks in the event the TCEQ does not grant the variance for the velocity through the coarse screen.
- (20) This estimate includes the installation of larger motors for the mechanical aerators at the existing carousel basins, replacement of VFDs in the existing MCC Building, and temporary MCC facilities in the event the TCEQ does not grant a variance for the oxygen transfer efficiency of the existing aerators.

- (21) This estimate includes the construction of smooth corners in the existing chlorine contact basins in the event the TCEQ does not grant a variance for the existing basins.
- (22) Basic Engineering Services include Preliminary, Design, and Construction Phase Services per the Professional Services Agreement between Montgomery County Utility District No. 3 and Jones|Carter executed May 5, 2016.
- (23) Additional Engineering Services include but are not limited to Construction Management Services, Full-Time Field Project Representation, Additional Engineering Services, and Reimbursables.



# COATS | ROSE

A PROFESSIONAL CORPORATION

W. DICKINSON YALE, JR.  
DIRECTOR

DYALE@COATSROSE.COM  
DIRECT: (713) 653-7314  
FAX: (713) 890-3956

3 December 2021

Via Email and Courier

Doris Hickman  
President, Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

Re: Notice to Re-negotiate Terms and Conditions of the Joint Wastewater Treatment Facilities between Montgomery County Utility District No. 3 and Montgomery County Utility District No 4

Dear Ms. Hickman:

Our client, **Montgomery County Utility District No. 4**, wishes to re-negotiate the terms and conditions of Joint Wastewater Treatment Facilities Agreement by and between Montgomery County Utility District No. 3 and Montgomery County Utility District No 4 ("Agreement").

On 18 April 2011, Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4 entered into this Agreement. Section V of the Agreement states that the "parties agreed in good faith to review or negotiate the Agreement every ten (10) years". The Board of Directors of Montgomery County Utility District No. 4 hereby requests a meeting with representatives of Montgomery County Utility District No. 3 to review and re-negotiate the terms of the Agreement especially in light of the proposed expansion of the Joint Facilities.

Please respond to this letter with a list of proposed dates and times when representatives from Montgomery County Utility District No. 3 will be available to meet with representatives of Montgomery County Utility District No. 4 to discuss this matter.

3 December 2021

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We appreciate your attention to this matter. Please do not hesitate to call me at the number above if you have any questions.

Very truly yours,



W. Dickinson Yale, Jr.

cc: Board of Directors  
Montgomery County Utility District No. 4

Board of Directors  
Montgomery County Utility District No. 3

Norton Rose Fulbright  
Attn: Neil Thomas  
1301 McKinney, Suite 5100  
Houston, Texas 77010-3095

Mr. James L. Dougherty, Jr.

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

May 5, 2022

Via Email

Ms. Doris Hickman  
President, Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, TX 77046

Re: **Modifications to the Joint Wastewater Treatment Facilities Agreement and Discussion Regarding the Draft Consolidation Agreement between Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4**

Director Hickman:

Historically, Montgomery County Utility District No. 3 ("MCUD 3") and Montgomery County Utility District No. 4 ("MCUD 4") (collectively, "the Districts") have maintained a mutually beneficial relationship. The MCUD 4 Board of Directors would like to work with the MCUD 3 Board of Directors to arrive upon a mutually agreeable arrangement to modify the terms of the April 18, 2011 Joint Wastewater Treatment Facilities Agreement (the "2011 Agreement") to provide a framework for the expansion of the Joint Wastewater Treatment Facilities ("Joint WWTF or WWTP") and to finalize efforts to submit a consolidation proposition to the voters of the Districts.

Below is a chronology of certain events between MCUD 3 and MCUD 4 pertaining to the 2011 Agreement to date:

**April 18, 2011** The 2011 Agreement was executed between MCUD 3 and MCUD 4. Article V of the 2011 Agreement stipulates that the Districts "agree in good faith to review or negotiate the Agreement every ten (10) years" (see Article V of the April 18, 2011 Joint Wastewater Treatment Facilities Agreement);

**December 3, 2021** MCUD 4 communicated with MCUD 3 regarding its request to re-negotiate the terms and conditions of the 2011 Agreement (see letter dated December 3, 2021 from Coats Rose, P.C. on behalf of MCUD 4 to Director Hickman in re: Notice to Re-negotiate Terms and Conditions of the Joint Wastewater Treatment Facilities between Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4);

- December 10, 2021** In anticipation of the pending Joint Wastewater Treatment Plant expansion, and to have the Texas Commission on Environmental Quality ("TCEQ") Permit pertaining to the Joint WWTP reflect joint ownership between the Districts, the MCUD 4 Board of Directors reiterated its request to re-negotiate the 2011 Agreement. Subsequently, a "Joint WWTP Terms and Conditions Committee" was formed (see letter dated December 10, 2021 from MCUD 4 to Director Hickman in re: Wastewater Treatment Plant Permit No. WQ0011203001 and Notice to Re-negotiate Terms and Conditions of the Joint Wastewater Treatment Facilities between Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4);
- December 31, 2021** MCUD 3 provided a one-page First Amendment to Joint Wastewater Treatment Facilities Agreement (the "MCUD 3 WWTP Agreement") dated December 30, 2021 (see letter dated December 31, 2021 from MCUD 3 to Director North in re: Wastewater Treatment Plant and the Joint Wastewater Treatment Facilities Agreement (2011 Agreement));
- January 6, 2022** MCUD 4 provided MCUD 3 with a draft "Modifications to Existing Joint Wastewater Treatment Facilities Agreement" by and between MCUD 4 and MCUD 3 (the "MCUD 4 Modifications") (see letter dated January 7, 2022 from MCUD 4 to Director Hickman in re: Wastewater Treatment Plant, the Joint Wastewater Treatment Facilities Agreement dated April 18, 2011 and Associated Permit Renewal Application and Modification to Agreement Consistent with Strategic Partnership Agreements);
- January 27, 2022** The MCUD 4 Board of Directors reiterated its position that it will not authorize any activities pertaining to the current proposed expansion of the Joint Wastewater Treatment Plant until modification to the 2011 Agreement was finalized (see letter dated January 27, 2022 from Coats Rose, P.C. on behalf of MCUD 4 to Director Hickman in re: Amendment to Joint Wastewater Treatment Plant Permit before the TCEQ);
- February 18, 2022** MCUD 4 reiterated its position to MCUD 3 that its Board of Directors was not willing to authorize any activities pertaining to the current proposed expansion of the Joint Wastewater Treatment Plant until a finalized modification to the 2011 Agreement was agreed upon (see letter dated February 18, 2022 from Coats Rose, P.C. on behalf of MCUD 4 to Director Hickman in re: Amendment to Joint Wastewater Treatment Plant Permit before the TCEQ);

- March 14, 2022** Director Hickman emailed an attachment entitled "Proposed Insert for the Modified Agreement Based on Appendix B of the Strategic Partnership Agreements (the "MCUD 3 Proposed Revised SPA Agreement") (see email dated March 14, 2022 from Director Hickman to Director Williams of MCUD 4 in re: WWTP Agreement Modifications);
- March 24, 2022** MCUD 4 rejected the MCUD 3 Proposed Revised SPA Agreement on grounds that the proposed revisions were not consistent with MCUD 4's Strategic Partnership Agreement with the City of Conroe (see page 2 of the MCUD 4 Board of Directors meeting minutes).

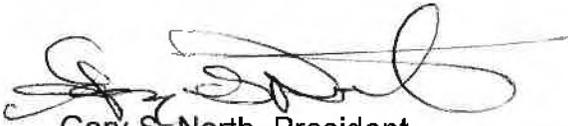
An agreed upon modification to the 2011 Agreement is long overdue. For this reason, the MCUD 4 Board of Directors unanimously authorized this correspondence at its April 7, 2022 Board meeting. Once again, the MCUD 4 Board of Directors reiterates its position that it will not authorize any proposed expansions to the Joint Wastewater Treatment Plant until both MCUD 3 and MCUD 4 has agreed to modify the 2011 Agreement. Moreover, the MCUD 4 Modifications proposed by MCUD 4 on January 6, 2022 is more than adequate and in accordance with the Strategic Partnership Agreement with the City of Conroe.

In late December 2019 and early January 2020, discussions regarding consolidation efforts between the Districts were renewed. To date, MCUD 4 has provided all the necessary exhibits that would facilitate the consolidation to MCUD 3; however, MCUD 3 has yet to provide the following exhibits to MCUD 4:

1. Exhibit C – Original Districts' Debt and Assumed but Unissued Bond Authority of the Consolidated District as of the Consolidation Date; and
2. Exhibit F – Original Jones & Carter WWTP Project Cost Estimate.

The MCUD 4 Board of Directors wishes to negotiate the terms of the 2011 Agreement with MCUD 3 which would allow the expansion of the WWTP. Please respond to this letter with a list of proposed dates and times when representatives from MCUD 3 are available to meet with representatives of MCUD 4. Please also provide the aforementioned exhibits to MCUD 4 as soon as possible.

Very truly yours,



Gary S. North, President  
Board of Directors

May 5, 2022

Page 4

cc: The Board of Directors  
Montgomery County Utility District No. 4

W. Dickinson Yale, Jr.  
Coats Rose, P.C.

James L. Dougherty, Jr.  
Attorney at Law

Chris Roznovsky, PE  
Ward, Getz & Associates, PLLC

John D. Bleyl  
Bleyl Engineering

## Montgomery County Utility District No. 3

c/o Hays Utility North Corporation

375 Lake Meadows Drive

Montgomery, TX 77356-1268

May 11, 2022

VIA EMAIL TO dyale@coatsrose.com

Mr. Gary S. North, President  
Montgomery County Utility District No. 4  
c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

**Subject: Amendment of WWTP Agreement and consolidation agreement**

Dear Mr. North & Montgomery County Utility District No. 4,

We received your letter dated May 5. We found it both puzzling and troubling. It is puzzling because it omits so many events, like:

- (1) The UD3 Board appointed Mr. Tibbetts and Ms. Hickman as the UD3 negotiators in December, at the first regular meeting following UD4's request.
- (2) Someone at UD4 decided, unilaterally, to prepare the January "modification" of the 2011 agreement before the negotiators even met. This is especially puzzling because: (1) it was done before the scope of the proposed plant expansion plan was known, and before the new plan was presented by the engineers or discussed with the Districts; and (2) it contains no provision for future expansions or major changes to the plant. *Examples:* The 1.5 MGD expansion that has been discussed by the two Districts and expansions initiated by City of Conroe or compelled by TCEQ. Note: The 2011 Agreement is "perpetual," so it should be amended to cover future expansions and major changes to the plant.
- (3) The designated negotiators did meet, starting in January, and they established a regular meeting date on the third Thursday of each month--including a meeting set for tomorrow (May 12). Your letter of May 5 implies that you were unaware of the regular meeting dates because it requests UD3 to propose dates to meet. (To respond to that request, UD3 proposes the regular May 12 date, tomorrow, also May 18 at 10 AM or 2 PM, May 19 at 10 AM or 2 PM and May 20 at 2 PM). Note: UD4 representatives have asked to cancel or reschedule prior meetings, which your May 5 letter does not mention.
- (4) The negotiators for both Districts discussed the need to make the proposed amendments consistent with the SPA's, and they unanimously requested that principal author of the SPA's prepare the "Proposed Insert for the Modified Agreement Based on Appendix B of the Strategic Partnership Agreements." A quick glance at that document shows that it is consistent with the SPA's. It tracks the SPA's section-by-section, using a common core of key terms, preserving important roles (Operator, Operating District, Operating Committee), covering duties owed to the City of Conroe, apportioning monthly costs, etc. So we were surprised when the proposed insert was rejected out of hand by the UD4 Board without any discussion with us (and before the negotiators discussed it). The stated reason for rejecting it (inconsistency with the SPA's) is clearly inapposite, so we are also puzzled.
- (5) As best we can tell, UD4 has not approved the scope of the current expansion, which is a nearly-absolute pre-condition for negotiating an amendment to the WWTP agreement to authorize it and pay for it. We heard that the UD4 Board brought in a consultant from out of town to advise it on the scope but excluded UD3 from that discussion. That discussion (like the similar discussion with Jones & Carter) should have been conducted with the Operations Committee or at a joint meeting of both Boards. Instead, it appears that the discussion was held at a UD4 Board meeting in executive session.

The May 5 letter is troubling because of its unilateral proclamations about the amendment process, especially its proclamations that UD4 will not authorize "any activities pertaining to the current proposed expansion of the Joint Wastewater Treatment Plant until a finalized modification to the 2011 Agreement was agreed upon." Apparently, this precludes even a discussion of the Jones & Carter proposal (with Jones & Carter). That discussion could easily be started, now, and conducted in parallel with the discussion about the amendments to the agreement. (We tried to start it, but UD4 reps declined to participate.) Because that discussion is a

pre-condition to getting the engineering agreement ready to sign, and that agreement, in turn, is a pre-condition to preparing the plans and specifications, blocking discussion with Jones & Carter is, in effect, postponing the earliest date when the expansion could be started. Is that really UD4's intent? We ask because all the engineers, for both Districts, have advised that the expansion should be started as soon as possible. Possibly we have misunderstood. Possibly UD4's intent is only to block the engineering agreement itself (which we understand), not to block discussion of the proposal with Jones & Carter. If that's the case, please advise as soon as possible so that we can conduct the discussions with Jones & Carter, and please indicate who could represent UD4 in those discussions (we want to include them).

On the main effort, please advise: (1) which date(s) the UD4 representatives can meet, and (2) UD4's preferred scope for the current expansion. Please also make the out-of-town consultant available (either in person by teleconference) to brief the negotiators about the preferred scope and discuss it with them.

We look forward to working with you on this matter.

Sincerely, MONTGOMERY COUNTY UTILITY DISTRICT NO. 3

By: Doris Hickman  
Doris Hickman, President

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

May 20, 2022

Via Email

Ms. Doris Hickman  
President, Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

Re: Response to Montgomery County Utility District No. 3 letter Dated May 11, 2022

Director Hickman

Montgomery County Utility District No. 4 (the "District") received and reviewed the letter dated May 11, 2022 (the "Letter") from Montgomery County Utility District No. 3 ("MCUD 3") to the District regarding amending the Joint Wastewater Treatment Facilities Agreement dated April 18, 2011 (the "2011 Agreement") and the Consolidation Agreement. While the Letter raised some interesting points, **the District believes that it is in the best interest of its customers to withdraw from negotiations involving the 2011 Agreement.**

The 2011 Agreement and the First Amendment to the 2011 Agreement dated December 30, 2021 are consistent with the Strategic Partnership Agreement ("SPA" or "SPAs") that both MCUD 3 and the District have with the City of Conroe. The 2011 Agreement and the SPAs are consistent in discussing a 1.2 million gallons per day ("mgd") wastewater treatment plant. The District does not see any need to re-write or amend the 2011 Agreement.

The Board of Directors of the District has received and reviewed the "Wastewater Treatment Plant Expansion To 1.2MGD" proposal submitted by Quaddity Engineering, LLC to MCUD 3. The District does not intend to delay the preliminary engineering phase or design phase of the expansion of the Wastewater Treatment Plant to 1.2mgd, however, the District would like to discuss the cost estimates provided at the next Joint Wastewater Treatment Plant Committee meeting. We believe this discussion will lead to both MCUD 3 and the District saving money.

Very truly yours,

  
Gary S. North, President  
Board of Directors

May 20, 2022

Page 2

cc The Board of Directors  
Montgomery County Utility District No. 4

W. Dickinson Yale, Jr.  
Coats Rose, P.C.

Cole Konopka  
Coats Rose, P.C.

James L. Dougherty, Jr.  
Attorney at Law

Chris Koznovsky, PE  
Ward, Gelz & Associates, PLLC

John D. Bleyl  
Bleyl Engineering

NOTES FOR FINAL DRAFT: (1) See marked changes in this draft for Reserves & Contributions. (2) Consider changing "through the 91<sup>st</sup> day after the November 2022 election," in Recital 4 to say "created before the Consolidation Date." (3) Check stated date of Consolidation Election; the Secretary of State website indicates the next uniform date is November 8, 2022. (4) Conform amounts of Original Districts' Debt and the debt amounts to be assumed--including the proposition wording--to reflect bond issue amount needed to fund MCUD3's Reserve for WWTP Project under Exhibit "G" and MCUD4's 2022 bond issue amount. (5) Consider amending Section 8(b) to say that Exhibit "G" is intended to benefit taxpayers on the land in each of the respective Original Districts as if they had not been consolidated.

CONSOLIDATION AGREEMENT  
BY AND BETWEEN  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 3  
AND  
MONTGOMERY COUNTY UTILITY DISTRICT NO. 4

THE STATE OF TEXAS  
COUNTY OF  
MONTGOMERY

THIS CONSOLIDATION AGREEMENT (this "Agreement") is made and entered into as of April 1, 2022, by and between MONTGOMERY COUNTY UTILITY DISTRICT NO. 3 of Montgomery County, Texas ("MCUD 3"), a political subdivision of the State of Texas operating pursuant to Chapters 49 and 54 of the Texas Water Code, as amended (the "Water Code"), and MONTGOMERY COUNTY UTILITY DISTRICT NO. 4 of Montgomery County, Texas ("MCUD 4", and collectively with MCUD 3, the "Original Districts"), a political subdivision of the State of Texas operating pursuant to chapters 49 and 54 of the Texas Water Code, as amended.

WITNESSETH:

1. MCUD 3 has been heretofore created and organized in Montgomery County, Texas.
2. MCUD 4 has been heretofore created and organized in Montgomery County, Texas.
3. The Boards of Directors of the Original Districts have determined that it is in the best interest of each Original District and the taxpayers and landowners therein to consolidate the Original Districts into one district (the "Consolidated District"), as provided by chapter 54 of the Texas Water Code, as amended particularly by sections 54.728-54.733 thereof (the "Act").
4. The Original Districts desire to enter into this Agreement for the purposes of providing for (i) the terms and conditions under which the Original Districts will be consolidated into the Consolidated District, (ii) the assumption of each Original District's authorized but unissued bonding authority; (iii) the levy of a separate debt service tax rate by each Original District to pay for each Original District's outstanding bonds, notes, or other obligations through the 91<sup>st</sup> day after the November 2022 election, (v) the levy of a uniform maintenance and operations tax rate by the Consolidated District, (vi) the adoption of a name for the Consolidated District, (vii) the administration of the Consolidated District, and (viii) the calling of elections in

each Original District to confirm the consolidation (the collectively, the “Consolidation Elections”) described herein, all on the terms and subject to the conditions set forth in this Agreement.

5. The Boards of Directors of the Original Districts have determined to contract in the manner hereinafter set forth for the consolidation of the Original Districts, and have further determined that the terms and conditions of this Agreement are desirable, fair and advantageous and that the Original Districts are authorized to enter into this Agreement pursuant to the terms of the Act.

## DEFINITIONS

Section 1.1: Definitions. Capitalized terms used in this Agreement shall have the meanings provided below unless otherwise defined or the context clearly requires otherwise.

(a) “Consolidated District” means the successor to the Original Districts, such that all powers, duties, liabilities, obligations, property, and assets transfer pursuant to the terms of this Agreement from the Original Districts to the Consolidated District on the Consolidation Date.

(b) “Consolidation Date” means the 91st day after the Consolidation Election.

(c) “Consolidation Elections” means the consolidation elections held in each Original District called by the Boards of Directors of each Original District, which will take place on November 1, 2022.

(d) “Original Districts” means Montgomery County Utility District No. 3 and Montgomery County Utility District No. 4.

(e) “Original Districts’ Debt” means all bonds, notes, or other obligations of such Original District created before the 91<sup>st</sup> day after the Consolidation Election.

(f) “MCUD3” means Montgomery County Utility District No. 3 of Montgomery County, Texas whose boundaries are described in Exhibit “A”.

(g) “MCUD4” means Montgomery County Utility District No. 4 of Montgomery County, Texas whose boundaries are described in Exhibit “B”.

## AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, the Original Districts contract and agree as follows:

### SECTION 1. Consolidation Elections.

(a) Pursuant to the Act, the Original Districts hereby agree to proceed with all due diligence to consolidate the Original Districts into the Consolidated District, subject to

the successful passage of the Consolidation Elections hereinafter described and the remaining terms and provisions of this Agreement

(b) The Boards of Directors of the Original Districts shall proceed with all due diligence to call, hold, conduct, canvass and declare results of a Consolidation Election in each Original District at each Original Districts' expense to do the following, upon the terms and conditions stated in this Agreement: (i) confirm the consolidation of the Original Districts into the Consolidated District, (ii) confirm that the Consolidated District shall levy a separate debt service tax on the land in each of the respective Original Districts as if they had not been consolidated sufficient to pay (with contributions from the Consolidated District on terms stated in this Agreement) the Original Districts' Debt as such indebtedness becomes due and payable, and (iii) confirm that the Consolidated District will be authorized to issue the aggregated voted but unissued bonds of the Original Districts in the name of the Consolidated District, and (iv) confirm that the Consolidated District will levy a uniform maintenance and operations tax on all taxable property in the Consolidated District, and (vi) confirm that the Consolidated District will levy an additional uniform tax on all taxable property in the Consolidated District to pay for all future bonds, notes, and other obligations of the Consolidated District.

(c) As of the Consolidation Date, (i) the amounts of the Original Districts' Debt, which shall be payable from time to time by taxes levied by the Consolidated District on the land in each of the respective Original Districts as if they had not been consolidated (or from contributions from the Consolidated District on terms stated in this Agreement), and (ii) the authorized but unissued debt of the Consolidated District upon the consolidation of the Original Districts, are as shown in Exhibit "C".

(d) The Consolidation Elections described in Subsection 1(b) above shall be held, pursuant to the Texas Election Code, on the uniform election date of November 1, 2022, and the Board of Directors of each Original District shall give notice of such Election in the manner provided by law for bond elections. The ballot proposition is attached as Exhibit "D".

(e) Upon Consolidation, the name of the Consolidated District shall be "Montgomery County Utility District No. 7", or such other name as may be decreed by appropriate state or county agencies, and as agreed by the Board of Directors of the Consolidated District (the "Consolidated Board"). However under no circumstance shall the Consolidated District share the name of either the Original Districts.

## SECTION 2. Failure of Elections.

If the proposition(s) submitted at the Consolidation Elections fails to receive a majority of votes cast at such Election in each of the Original Districts, then this Agreement is automatically terminated and of no further force and effect. The Original Districts agree, in such event, to take such actions and proceedings and to pass, adopt, enter, approve, and record such orders, resolutions, and documents as may be necessary and appropriate to evidence the failure to consolidate the Original Districts.

## SECTION 3. Passage of Elections.

Should the propositions submitted at the Consolidation Election pass, then the Boards of Directors of the Original Districts agree that they and subsequently the Consolidated Board (as hereinafter defined) shall promptly pass, adopt, enter into, approve, and record in the manner required by law such orders, resolutions, conveyance instruments and other documents as necessary or appropriate to evidence the consolidation of the Original Districts into the Consolidated District as provided herein.

#### SECTION 4. Governing Consolidated District.

(a) The members of the Boards of Directors of the Original Districts agree to operate separately for 90 days following the date of the passage of the Consolidation Election as defined in Section 3 to settle the affairs of the respective Original Districts, and call combined meetings of both Boards to discuss matters of mutual concern prior to the Consolidation Date.

(b) The members of the Boards of Directors of the Original Districts shall continue to act jointly as the directors of the Consolidated District from the Consolidation Date as defined in Section 3 until the next general election in May 2023, with officers of the Consolidated Board appointed by the vote of such board on the first meeting thereof. The Directors of the Consolidated Board must meet qualifications to assume their offices at the Consolidation Date.

(c) At such next general election, all director positions shall be subject to election, and the terms of such positions shall be staggered, as provided by law for a director election. The top three candidates in the next general election shall serve a four-year term and the next highest two candidates shall serve a two-year term.

#### SECTION 5. Other Rights and Obligations.

The Original Districts agree that, upon the Consolidation Date, all of the powers, duties, liabilities, obligations, property, and assets, including contractual rights and obligations of the Original Districts, shall transfer to the Consolidated District, as the successor to the Original Districts, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement. The Original Districts, in such event, agree that the Consolidated Board shall take such actions and to pass, adopt, enter into, approve, and record such orders, resolutions and other documents as may be necessary and appropriate to evidence the assumption by the Consolidated District of such rights and obligations of the Original Districts.

#### SECTION 6. Transfer of Funds, Accounts and Other Property.

(a) The Original Districts agree that upon the Consolidation Date, pursuant to the voted propositions of the Consolidation Election and the terms of this Agreement, all powers, duties, liabilities, obligations, property and assets of the Original Districts in and to the real and personal property, including any and all existing funds and accounts, of each Original District (collectively, the "Consolidated Property") will become the property of the Consolidated District, including, without limitation, the property described on Exhibit "E" attached hereto.

(b) Until the Consolidation Date, the Original Districts agree to: (i) maintain and operate their systems and facilities in the normal and customary manner; (ii) manage their

respective Districts to fund the reserves specified in Exhibit “G” but otherwise minimize changes before the Consolidation Date; and (iii) work together to plan and prepare projects, contracts, etc. for consideration by the Consolidated Board. For these purposes:

- (1) The Original Districts agree that their consultants are authorized and encouraged to exchange plans and information and to meet and confer as directed by the Original Boards;
- (2) The parties agree to defer approvals of any additional indebtedness and major projects and contracts so that they can be considered by the Consolidated Board. *Exceptions:*

--Deferral is not required in case of emergency, when it is necessary to act in a timely manner to avoid loss of life, damage to property or significant economic loss;

--Deferral is not required where both Boards concur that a major project or contract may proceed prior to the Consolidation Date.

--Deferral does not apply to the following projects or contracts:

- (i) Waste Water Treatment Plant Expansion and Dewatering Project (the “WWTP Project”), as defined in Exhibit “F”. ~~In addition to the Original Districts’ Debt as defined in Section 1.1(e), the~~ The Original Districts agree that each Original District must provide its ’s Debt will include each Original District’s share of the financing of the Wastewater Treatment Plant Expansion and Dewatering Project (the “WWTP Project”) from bond proceeds or cash (or both), as outlined in Exhibits “F” and “G” attached hereto. ~~The Original Districts are individually responsible for obtaining the required financing for the WWTP Project.~~ If either Original District sells bonds, or issues any financial debt, to finance all or part of its portion of the WWTP Project, such debt will be the responsibility of only the Original District which incurred the debt and the Original Districts agree that any debt issued for the WWTP Project will not become a Consolidated District Debt.

- (ii) MCUD4 Jasper Replacement Well.

- (iii) MCUD4 Transfer Line (for eastern District pressure maintenance).

- (3) The parties agree not to change the boundaries shown in Exhibit “A” or Exhibit “B” or any of the amounts shown in Exhibit “C” for Original Districts’ Debt or voted but unissued bonds, unless the Boards of both Original Districts approve an exception.

In this section, a project or contract is “major” if it involves an expected aggregate expenditure of \$100,000 or more.

## SECTION 7. Adoption of MCUD 4 Rate Orders.

The Original Districts agree that upon passage of the Consolidation Election and before the Consolidation Date, the Board of Directors of the Original Districts agree to jointly work together to make any revisions and/or amendments to MCUD 4's Consolidated Rate Order dated September 23, 2021 to address all present rate categories and/or conditions existing in the Original Districts, for the purpose of preparing a uniform rate order for recommendation to and approval by the Consolidated Board at the Consolidation Date or as soon thereafter as is practicable.

## SECTION 8. General Provisions.

(a) This Agreement is not assignable by either party and may not be amended, altered or revised except by mutual written agreement of the parties hereto.

(b) This Agreement shall be for the sole and exclusive benefit of the parties to this Agreement and their respective successors and assigns. This Agreement shall not be construed to confer any benefit or right upon any other person or entity.

(c) The covenants, agreements and obligations made and undertaken by each party hereto are material inducements to the other party to make and enter this Agreement. If any material part or provision of this Agreement is determined by a court of competent jurisdiction to be void or unenforceable for any reason, the remaining provisions shall remain in effect and enforceable, but subject to reformation as provided in this section. In case of such a determination, (i) either Original District, if materially and adversely affected by a finding of unenforceability, may seek equitable reformation of this Agreement to restore a balance of rights and duties equivalent to the balance they anticipated when they entered into this Agreement (and as confirmed by the voters, if the Consolidation Elections have been held at that time), or (ii) the Original Districts may amend or supplement this Agreement, in writing, to accomplish such purposes. Because both Parties mutually agree that all parts of this Agreement are enforceable, a finding that a part is unenforceable would indicate that their belief is in error and that the Parties are mutually mistaken.

(d) This Agreement is and will remain in full force and effect for a term commencing with the date hereof and extending until the earlier of: (i) the failure of either of the Consolidation Elections, or (ii) 90 days after ~~the successful passage of the Consolidation Elections-retirement of all the Original Districts' Debt (and any debt issued to redeem, refund or refinance any Original Districts' Debt)~~

(e) This Agreement is subject to the laws, rules and regulations of the United States and the State of Texas, and all rights and duties shall be interpreted and applied in accordance therewith. The parties agree to cooperate to achieve and maintain compliance with such laws, rules and regulations. Notwithstanding any other provision of this Agreement, the parties (and the Consolidation Elections called for by this Agreement) shall comply with such laws, rules and regulations. The exclusive venue for any action under or related to the Agreement is in a court of competent jurisdiction in Montgomery County, Texas.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in multiple original counterparts as of the date hereinabove first written.

MONTGOMERY COUNTY UTILITY DISTRICT  
NO. 3

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

MONTGOMERY COUNTY UTILITY DISTRICT  
NO. 4

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LIST OF EXHIBITS

EXHIBIT A – BOUNDARIES OF MONTGOMERY COUNTY UD 3

EXHIBIT B – BOUNDARIES OF MONTGOMERY COUNTY UD 4

EXHIBIT C – ORIGINAL DISTRICTS’ DEBT AND ASSUMED BUT UNISSUED BOND

AUTHORITY OF THE CONSOLIDATED DISTRICT AS OF THE CONSOLIDATION DATE

EXHIBIT D – CONSOLIDATION BALLOT PROPOSITIONS

EXHIBIT E – LIST OF CURRENT CONTRACTS AND AGREEMENTS

EXHIBIT F – ORIGINAL JONES & CARTER WWTP PROJECT COST ESTIMATE

EXHIBIT G -- RESERVES & CONTRIBUTIONS

EXHIBIT A – BOUNDARIES OF MONTGOMERY COUNTY UD 3

EXHIBIT B – BOUNDARIES OF MONTGOMERY COUNTY UD4

EXHIBIT C – ORIGINAL DISTRICTS’ DEBT AND ASSUMED BUT UNISSUED BOND  
AUTHORITY OF THE CONSOLIDATED DISTRICT AS OF THE CONSOLIDATION DATE

EXHIBIT D – CONSOLIDATION BALLOT PROPOSITIONS

EXHIBIT E – LIST OF CURRENT CONTRACTS AND AGREEMENTS

EXHIBIT F – ORIGINAL JONES & CARTER WWTP PROJECT COST ESTIMATE

## EXHIBIT G -- RESERVES & CONTRIBUTIONS

- (1) Reserves for the WWTP Project.** Each Original District must finance its agreed-upon share of the estimated costs of the WWTP Project outlined in Exhibit "F" (after deducting 25% of such costs to be paid by the City of Conroe as "Non-Flow Related WWTP Expenses" under Strategic Partnership Agreements with the Original Districts).
- (a) **Agreed-Upon Shares.** Each Original District's agreed-upon share is \$5,947,500.
- (b) **Special Sub-Accounts.** To finance its share, each Original District must: (i) create a special sub-account within the Capital Projects Fund for its Original District Debt and (ii) deposit at least \$5,947,500 into that sub-account, from the proceeds of Original District Debt issued for that purpose, or from available cash, or from some combination of those two sources, as the Original District's Board may determine.
- (c) **When Deposits Must Be Made.** Each Original District must deposit the full amount of its agreed-upon share into its sub-account on or before November 30, 2022 and must notify the other Original District on or before December 9, 2022 that it has done so. **Exception:** If an Original District's Board has decided to pay a substantial part of its agreed-upon share from an issue of Original Districts' Debt in the process of being sold on November 30, 2022, that part must be deposited into the sub-account within 10 days following the date when such issue is closed and funded.
- (d) **Accounting-For and Using Sub-Accounts.** Each Original District (and the Consolidated District, as its successor) must cause its bookkeeper to report the balance in its sub-account and all deposits and withdrawals each month. Each Original District (and the Consolidated District, as its successor) may use funds in its sub-account only to pay its agreed-upon share of the costs of the WWTP Project (or to reimburse amounts paid from other funds for costs of the WWTP Project). After all costs of the WWTP Project have been paid, any remaining balance in a sub-account must be used to retire Original Districts' Debt issued by the Original District that created the sub-account or to pay debt service on such debt, to the extent allowed by law and TCEQ rules.
- (2) Reserves For Consolidated District (Start-Up).** Each Original District must provide its pro-rata share of \$2,400,000, which is the amount the Original Districts have decided to make available to the Consolidated District on the Consolidation Date.
- (a) **Pro-Rata Shares:** Each Original District's pro-rata share is determined by its "Net Taxable (Before Freeze)" ad-valorem tax valuations compared to the total "Net Taxable (Before Freeze)" ad-valorem tax valuations in both Original Districts, as shown on each Original District's "Assessment Roll Grand Totals Report" issued by MCAD (Tax Year 2021, as of Supplement 8, printed on 04/27/2022 at 12 :45 PM). Such valuations were \$304,147,949 for MCUD3 and \$555,624,880 for MCUD4.
- (b) **Providing Pro-Rata Shares.** Each Original District must: (i) maintain at least its pro-rata share of \$2,400,000 within its General Fund in cash or cash equivalents (including short-term investments) and available to pay general maintenance and operation expenses, beginning no later than November 30, 2022 and continuing until the Consolidation Date (when the funds will become the property of the Consolidated District as provided in Section 6 of this Agreement), and (ii) cause its bookkeeper to report the balance in its General Fund and all deposits and withdrawals each month, specifically identifying the portion of the ending balance that is available to pay general maintenance and operation expenses. In this section, "available to pay general maintenance and operation expenses" means: (A) available to pay: (i) contractual obligations to utility operating companies for regular operation, maintenance, repairs, supplies, testing, etc., (ii) recurring obligations for electricity, chemicals, professional services, insurance, solid waste collection, other goods, other services, taxes, fees, assessments, etc., and (iii) other similar recurring obligations; and (B) neither needed nor encumbered to pay any other contractual or special obligation.
- (3) Reserves & Contributions For "Legacy" Debt Service.** Each Original District may deposit into the Debt Service Fund for its Original District Debt: (i) capitalized interest and other bond proceeds allowed to be deposited into the Debt Service Fund; and (ii) other available funds not needed for the two reserve funds required by this Exhibit, above. The Consolidated District must pay, as contributions into such Original District's Debt Service Fund, the following:
- all amounts received pursuant to a service contract originally made by that Original District with its largest wholesale customer (i.e., the contract with Aqua Texas, Inc., for MCUD3's Debt Service Fund, or the contract with Diamond Head Property Owners Association, for MCUD4's Debt Service Fund); and
  - amounts received from the City of Conroe under Section 5.02 or Appendix C of that Original District's Strategic Partnership Agreement, except, in the case of MCUD3, the amount scheduled to be paid to cover principal and interest on its revenue bonds (for example, \$438,105 is scheduled to be paid for such principal and interest in 2023).
- The Consolidated District must pay each such amount into the indicated Debt Service Fund within 30 days following receipt. In addition, the Consolidated District may make optional contributions to the Debt Service Funds of each Original District, from any lawful sources. Amounts paid into the Debt Service Fund of an Original District must be used to reduce taxes that would otherwise have to be levied, after consolidation, on the land formerly in that Original District to pay its "legacy" debt service. Obligations under this section are subordinate to any applicable bond covenants.

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

July 26, 2022

Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

**Re: Consolidation of Montgomery County Utility District No. 4 ("UD4") with  
Montgomery County Utility District No. 3 ("UD3")**

Dear UD3 Board of Directors,

In our letter dated July 8, 2022, we notified UD3 that UD4 had completed all prerequisites for and were prepared at that time to execute the pending Consolidation Agreement (the "Agreement"), provided UD3 meet its specific obligations regarding completion of Exhibit C (\$6.5MM bond sale by July 2022 and Financial Disclosure for November 2022) and Exhibit F (Waste Water Treatment Plant [WWTP] Expansion scope, schedule, and execution plan).

Since that time, the UD4 Consolidation Committee members have received email correspondence indicating UD3 does not intend to honor the framework or the precursors for the Agreement that was initialed affirmatively by all four UD3 and UD4 Consolidation Committee members in October 2021. Specifically, UD3 indicated it will not sell its bonds for the WWTP Expansion per Section 6(b)2(i) of the Agreement until late 2022 AFTER (versus before) the Consolidation Ballot and will also use a significant portion of its cash on hand to reduce the WWTP Expansion bond sale amount. Additionally, UD3 intends to dedicate all future income from its Lake Conroe Village sewage treatment contract to reduce UD3's legacy debt instead of treating it as Consolidated District income.

The impact of this significant financial departure from intentions agreed and noted in correspondence earlier this year results is a significant tax advantage to UD3 residents at the expense of UD4 residents, beyond what UD3 residents would already gain in a Consolidation. It was never the intent of Consolidation to overly burden UD4 residents, which UD3's most recent proposal does. UD4 has estimated impacts of UD3's latest proposal and found it to be unacceptable because it would increase taxes to UD4 by \$0.03 - 0.06+/\$100 valuation.

If and only if UD3 is willing to honor the originally anticipated financial arrangement and sell \$6.5MM bonds for the WWTP Expansion by July 27 plus commit in writing to bringing \$4.5MM general funds to Consolidation, UD4's Consolidation Committee will resume discussions to complete the Consolidation Agreement as originally intended. We would also request that revenues from all sewer service agreements, excluding City of Conroe SPA's, be used in the future as general fund revenue to the Consolidated District, also as originally anticipated and forecast.

The entirety of this financial understanding was presented by UD4's Financial Advisor in March 2022 to UD3, and UD4 communicated at the time it was a financial arrangement that although not ideal to UD4 residents, could nonetheless be considered minimally acceptable for a Consolidation election. Under the March understanding and calculations, UD3 residents would benefit from an estimated \$0.10 - 0.16/\$100 valuation tax benefit in the long term, while UD4 residents would incur a modest increase to their taxes of only \$0.01+/\$100.

Please reply as soon as possible if UD3 intends to honor the originally understood financial arrangement as stated succinctly in the prior paragraph and communicated to UD3 in March 2022. If UD3 cannot commit to the financial arrangement by indicating that UD3 will deposit \$4.5MM into a Consolidation District escrow account and show intent to issue \$6.5MM in bonds to fund the WWTP Expansion by July 27, UD4 will no longer support or participate in Consolidation efforts or discussions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary North", with a long horizontal flourish extending to the right.

Gary North  
President

cc: UD4 Board of Directors

John Bleyl  
Bleyl Engineering

From: Doris Hickman <[doris.j.hickman@gmail.com](mailto:doris.j.hickman@gmail.com)>

Date: 7/26/22 6:10 PM (GMT-06:00)

To: Matt Lamey <[m.lamey2020march03@yahoo.com](mailto:m.lamey2020march03@yahoo.com)>, Maurice Williams <[maurice1w@outlook.com](mailto:maurice1w@outlook.com)>, Gary North <[G.S.North@outlook.com](mailto:G.S.North@outlook.com)>, Ron Cunningham <[ronrcunningham@gmail.com](mailto:ronrcunningham@gmail.com)>, Mike Ganson <[ganthree@aol.com](mailto:ganthree@aol.com)>

Subject: MCUD4 letter reply

Matt and Maurice,

We received UD4's letter dated July 26 that requests UD3 to make huge financial commitments by tomorrow, July 27. The requested commitments are to sell \$6.5 million in bonds and transfer \$4.5 million in cash to the consolidated district.

Of course, it would take a board meeting to make such commitments, and it is not legally possible to hold a Board meeting by tomorrow—even if it were financially possible to make such huge commitments, given the financial capability of UD3 (for example, the entire General Fund balance, with investments, was only \$3.3 million as of the July report). So I am calling a special Board meeting for the first feasible date, which may be Monday, assuming a quorum of the board and the financial advisor can attend.

The Consolidation Committee has a meeting scheduled for tomorrow, July 27, at 10:00 AM, and I am planning to attend. Richard is traveling, but he has committed to participate by conference call. I would like to get the UD3 financial advisor to participate by conference call and I urge you to get the UD4 financial advisor to participate too. But we should go ahead with the meeting with or without the financial advisors.

Please note that the July 26 letter asserts many things that we don't agree with, or that didn't happen. Those can be discussed by the committee tomorrow or later, if desired. A reply would have to come from the UD3 Board. I'll submit the letter to the UD3 Board at the special meeting mentioned above.

Sincerely,

Doris

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

July 29, 2022

Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

**Re: Consolidation of Montgomery County Utility District No. 4 (“UD4”) with  
Montgomery County Utility District No. 3 (“UD3”)**

Dear UD3 Directors:

UD4’s Director Matt Lamey wishes to thank you and your Financial Analyst, John Howell (The GMS Group, LLC), for meeting on Wednesday, with him, UD4 Director Maurice Williams, and UD4’s Financial Analyst, David Wood (Robert W. Baird & Company, Inc.), regarding the Consolidation Agreement and Financial Disclosure. He wanted to document the discussion with the UD3 Board and the UD3 Financial Analyst, which is the purpose of this letter.

Director Lamey told me he was concerned that Director Hickman stated that she “didn’t know” each District selling \$6MM bonds (net) for the WWTP expansion project was a precursor to signing the Consolidation Agreement. UD4 had communicated this understanding when all members of the Consolidation Committee initialed the text of the Consolidation Agreement in October 2021 [please refer to Section 6 (b) (2) i of the Agreement]. UD4 further advised UD3 of our bond sale status at every monthly UD4 Board meeting since January 2022, again at our monthly Consolidation meetings, and through meeting minutes and/or emails issued for these same regular meetings. UD3 received regulatory approval to sell \$6.835MM (\$6MM net) bonds on June 21, 2022. On this same day, Director Lamey disclosed via email to UD3 Directors Hickman and Tibbets that UD4 would close on its \$6MM (net) bond sale on June 24, 2022. The email presumed UD3 would sell its bonds imminently and requested that UD3 disclose its specific bond sale timing, noting the deadline of July 27 for signing the Consolidation Agreement, and most importantly stating the bond sale was a precursor to the Agreement being signed since the actual bond interest rate was needed to finish the financial disclosures.

After no reply or action by UD3 for several weeks, a letter with similar information was sent on July 7, 2022 reiterating that UD4 had completed all prerequisites for signing the Consolidation Agreement. The letter also specified the three outstanding items due from UD3 - its \$6MM (net) bond sale, a full financial disclosure, and the WWTP expansion

project execution plan and cost estimate. UD3 disclosed its financial intentions July 8, 2022, and therein indicated it would not sell bonds for the WWTP Expansion until AFTER a Consolidation Election in November 2022, effectively changing a key understanding of the Consolidation Agreement just weeks before the previously communicated signing deadline of July 27, 2022.

In this same set of emails sent by UD3 on July 8, 2022 UD3 further disclosed it would only contribute \$0.85MM of cash for the General Fund at Consolidation in February 2023, significantly below its current General Fund balance of approximately \$4MM. UD4 has disclosed the amount of cash UD4 would provide at Consolidation in February 2023 as \$1.7MM, with \$0.35MM dedicated to a reserve fund for legacy debt, since at least April 2022. Director Lamey told me he was also concerned by the statement UD3's Financial Analyst made in the meeting that appeared contradictory to prior discussions, specifically that he did not see a tax benefit for a smaller utility district consolidating with a district with twice the smaller district's valuation. Both UD4's and UD3's Financial Analysts' calculations in recent months demonstrated a significant benefit to UD3 on consolidation with UD4, even using the UD4 stipulations for pre-Agreement bond sales and estimated cash from each district to the consolidated district's general fund.

Director Lamey also wishes to re-state the assumptions discussed in the meeting on July 27, 2022 just so UD3 has a summary of this information for its planned Board meeting on August 1, 2022. Director Lamey wants to acknowledge that after speaking to Director Hickman at the meeting that UD3's intention for Consolidation was to create an equal tax levy (legacy plus consolidated) for both UD3 and UD4 residents, which unfortunately places what the UD4 Board feels is an undue burden on UD4 residents as opposed to staying an independent district. UD4's intention was to negotiate an Agreement which allowed UD3 an opportunity to reduce its future tax burden appreciably, but not unduly burden UD4 residents, which unfortunately results in UD3's total levy being slightly higher than UD4's after Consolidation. UD4 recognizes that reaching a suitable financial agreement at this late date will likely not be possible.

For the record, however, UD3 has communicated they could accommodate the following financial arrangement for a ballot initiative in November 2022 and Consolidation in February 2023:

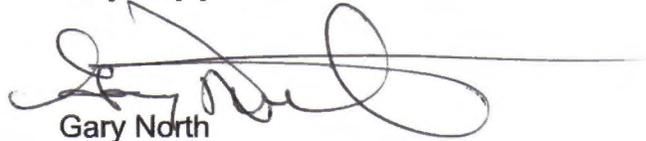
- \$5MM WWTP Expansion Bonds, sold AFTER Nov 2022
- \$0.85MM General Funds in Feb 2023
- \$0.40MM minimum for Legacy Debt Reserve
- Lake Conroe Village (LCV) revenues dedicated to reducing Legacy Debt (and UD4 can use Diamond Head revenues to reduce its Legacy Debt)

UD4 reiterated that the above is unacceptable given our present understanding of the Agreement, and the Consolidation timeline as above works financially for UD4 if and only if UD3 meets the following minimum requirements:

- \$6.835MM WWTP Expansion Bonds (\$6MM net), contracted by August 3, 1 week in advance of filing notice required by August 10 for a November 2022 election
- Promissory Note or Escrow Account of \$3MM minimum for the Consolidated District General Funds in Feb 2023 (UD4 apologizes for the error in the \$4.5MM communicated in our letter of July 26, 2022 which is the TOTAL minimum expected for the Consolidated District General Fund, with approximately \$1.5MM coming from UD4, the balance from UD3)
- \$.40MM minimum for Legacy Debt Reserve
- LCV and all other sewer and water contract revenue will go to the Consolidated District, excluding City of Conroe funds for Legacy Debt reduction on each legacy District's WWTP expansion bonds

We shall await the UD3 Board reply next week to our July 26 and July 29, 2022 letters.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gary North', with a long horizontal flourish extending to the right.

Gary North  
President, Board of Directors

cc: UD4 Board of Directors

John Bleyl, P.E.  
Bleyl Engineering

Dick Yale  
Cole Konopka  
Coats Rose, P.C.

## Montgomery County Utility District No. 3

c/o Hays Utility North Corporation  
375 Lake Meadows Drive  
Montgomery, TX 77356-1268

August 2, 2022

Mr. Gary S. North, President                    VIA EMAIL TO [ckonopka@coatsrose.com](mailto:ckonopka@coatsrose.com)  
Montgomery County Utility District No. 4  
c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

**Subject:        Consolidation of Montgomery County Utility District No. 4 ("UD4") with  
                  Montgomery County Utility District No. 3 ("UD3")**

Dear Mr. North,

We received your letter dated July 29, 2022. Unfortunately, it announces a lot of UD4's unilateral "understandings" as if they were agreements, and it demands that UD3 comply with UD4's conditions. It contains mistakes and omissions. For example, it does not mention our attempts to meet with the UD4 committee reps during June and July, nor does it mention the draft revisions to the consolidation agreement. A UD4 representative had asked that UD3 prepare those revisions to show the reserve funds that UD3 had been proposing (they were not shown in any prior draft). The draft revisions described the reserve funds in detail, in Exhibit "G." Since receiving the draft, UD4 reps have declined to discuss it in committee, and they have not proposed any changes or alternative wording. At last week's UD4 Board meeting, the UD4 Board declined another opportunity to discuss the draft with us, but instead the UD4 Board (apparently) discussed it in an executive session and then (apparently) authorized the July 29 letter, with the unilateral "understandings" and demands.

Most puzzling of all is the omission of a key fact: In June, at least two UD4 reps indicated that each District should have the right to decide how to finance its share of the big WWTP project (i.e., how much cash to use and how much debt to issue)-- which is the main premise of Exhibit "G." Now it appears that UD4 has reversed that position. The July 29 letter demands that UD3 finance its entire share with new debt, by issuing "\$6.835 MM WWTP Expansion Bonds," immediately.

In effect, UD4 is demanding that UD3 commit financial mismanagement. Issuing \$6.835 million in bonds would roughly triple UD3's outstanding tax-backed debt. About \$2,000,000 of the increase would be unnecessary, because UD3 has about \$360,000 in its Construction Fund and over \$1,600,000 in its General Fund that can be used for the WWTP project. For years, UD3 residents have paid taxes and user fees to raise those funds, and it would be unfair to make them to pay again---and for years into the future--by issuing new tax bonds for the same purpose. That is why we prepared Exhibit "G" with its central premise of allowing each District to decide how much cash to use and how much debt to issue to cover its share. That is a sound principle of financial management, also good conservative government. Perhaps that is why UD4 reps indicated, in June, that each District should have that right. But now the July 29 letter has reversed that position by demanding that UD3 incur the maximum possible debt (more, even, than UD4 incurred for the same purpose).

**Forcing UD3 to incur maximum debt would not directly benefit UD4, but it could force up taxes levied inside UD3's boundaries. Is that UD4's intent? As more fully described below, we think consolidation should not raise taxes in either District. That would be our intent.**

The July 29 letter criticized the reserve proposed to fund the consolidated district at "start up." Exhibit "G" proposed \$2,400,000, total, to be prorated between the two Districts based on ad valorem tax valuations. That made fiscal sense, because ad valorem tax valuations would determine how the funds might otherwise have to be raised, i.e., by levying maintenance and operation taxes.

However, increasing the total "start up" reserve to \$2,500,000 would provide an extra margin, and the proration could be changed to reflect cash needs for operations. Perhaps the best way to compare cash needs for operations is to compare billed water volumes in the two Districts. The Districts already use billed water volumes to prorate some joint costs (water production). If we use billed water volumes to prorate the "start up" reserve, and if we use the volumes reported by the operator over the past four months, UD3 would provide 41.36% and UD4 would provide 59.64%. The combined effect of: (i) increasing the total "start up" reserve to \$2,500,000 and (ii) changing the proration to use billed water volumes, would be to raise UD3's share of that reserve to \$1,034,000 (up from \$849,000). It would lower UD4's share to \$1,466,000 (down from \$1,551,000).

The July 29 letter also criticized the special dedication of revenues from the Lake Conroe Village contract (with Aqua Texas, Inc.) to pay debt service on "legacy" bonds of UD3. (Note: Exhibit "G" would actually dedicate revenues from the largest wholesale contract of each District to that District's "legacy" bonds.) The amounts are relatively small--especially if the LCV contract is terminated, as seems likely--so we do not oppose deleting that special dedication.

We incorporated the changes described above into the draft consolidation agreement, along with the notes shown on the first page of the draft (except note 5). We added wording to emphasize that all amounts received from the City of Conroe--under either of the two SPA's--would be dedicated to pay debt service for the indicated bonds, whether revenue-backed or tax-backed. See the attached "redline" version showing all changes in detail. We offer to enter into the agreement with those changes (and with the exhibits populated to conform to those changes).

Please let us know as soon as possible if UD4 would like to do so. The agreement would have to be approved and signed--and the joint elections would have to be called--no later than August 22. UD3 has a regular Board meeting on August 15. UD3 could call the election then if the agreement is signed in time, but it would be possible to call a special meeting after that.

As we see the situation, consolidation need not cause tax rates to increase significantly in either District's boundaries, compared to what those rates would be if there were no consolidation. Our financial advisor reviewed financial data provided earlier this year. After adjusting UD3 expenditures to reflect actual levels (instead of budgeted levels), and taking into account some recent good news about costs of major projects, he estimated that the consolidated district could levy a maintenance tax between \$0.07 and \$0.10 per \$100. That would be the same or lower than the Districts' levies in 2021 (which were \$0.09 and \$0.10). Of course, taxes to repay "legacy" debt would be the same with or without consolidation, because the debt service and the tax base would be the same either way. So, the only circumstance in which consolidation might cause an increase in taxes would be if: (i) the consolidated district issues new debt and (ii) levies taxes to support it. That would be a marked change from prior practice in both Districts. Both Districts have used non-tax revenues (water and sewer revenues) to pay debt service on their tax bonds, which has made it possible to avoid levying significant debt-service taxes. If the consolidated district does the same, there would be no need for it to raise taxes. We urge UD4 and the consolidated district to continue that practice. It would reduce or eliminate disparities in tax rates between the two classes of residents (as defined by the boundaries of the two Districts) and enable everyone to realize the benefits of consolidation, like operational savings and sharing excess capacity in the WWTP (much of which would be paid for by UD3).

Please feel free to call if you or the committee members would like to meet to discuss any of these matters, or if we can otherwise help in any way.

Sincerely, MONTGOMERY COUNTY UTILITY DISTRICT NO. 3

By: Doris Hickman  
Doris Hickman, President

**MONTGOMERY COUNTY UTILITY DISTRICT NO. 4  
OF  
MONTGOMERY COUNTY, TEXAS**

c/o Coats Rose, P.C.  
9 Greenway Plaza, Suite 1000  
Houston, Texas 77046

August 10, 2022

Board of Directors  
Montgomery County Utility District No. 3  
c/o James L. Dougherty, Jr.  
Attorney at Law  
12 Greenway Plaza, Suite 1100  
Houston, Texas 77046

Re: Consolidation

Dear Ms. Hickman and UD3 Board of Directors:

The UD4 Board discussed UD3's recent letter dated August 2, 2022 and UD3's revised Exhibit "G" to the Consolidation Agreement at its August 4, 2022 meeting. Unfortunately, UD4 is rescinding its efforts to consolidate with UD3 because it is clear that the financial arrangement that UD3 has proposed is significantly detrimental to the residents of UD4.

UD4 has been negotiating under a financial arrangement that both districts mutually accepted to use as a framework for consolidation in 2021 and not until recently did UD3 drastically alter that financial arrangement. UD4 cannot, and does not, control how UD3 operates, but the recent consolidation decisions made by UD3 put an undue burden on UD4 customers and therefore **UD4 withdraws from consolidation conversations for the foreseeable future.**

Sincerely,



Gary North  
President

cc: UD4 Board of Directors

John Bleyl  
Bleyl Engineering