

WATER SUPPLY, WASTEWATER  
TREATMENT AND RECLAIMED  
WATER SUPPLY SERVICES  
CONTRACT BETWEEN THE CITY OF  
SUGAR LAND, TEXAS, AND PULTE  
HOMES OF TEXAS, L.P.

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**WATER SUPPLY, WASTEWATER TREATMENT AND RECLAIMED WATER  
SUPPLY SERVICES CONTRACT  
BETWEEN THE  
CITY OF SUGAR LAND, TEXAS,  
AND PULTE HOMES OF TEXAS, L.P.**

This WATER SUPPLY, WASTEWATER TREATMENT SERVICES, AND RECLAIMED WATER SUPPLY SERVICES CONTRACT (the “Agreement” or “Contract”) is entered into between THE CITY OF SUGAR LAND, TEXAS, (the “City”), AND PULTE HOMES OF TEXAS, L.P. ( collectively the “Developer”) on behalf of proposed Fort Bend County Municipal Utility District No. 269, to be created as a body politic and corporate and a governmental agency of the State of Texas under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 49 and 54 of the Texas Water Code, as amended (the “District”). It is the intention of the parties to this Agreement that all rights, benefits, and obligations pursuant of this Agreement shall ultimately be assigned to the District upon its creation. Thus, the representations by the District at this time represent the Developer’s commitment to cause or direct the same to occur.

**RECITALS**

WHEREAS, the City is a municipal corporation that provides a full range of governmental services to its citizens. The City owns and operates water production and distribution facilities, wastewater collection and treatment facilities, and a fire and police department; and

WHEREAS, the Developer has contracted to purchase a tract of approximately 958.46 acres, which is or will be within the City’s extra-territorial jurisdiction (the “Tract”) which is more particularly described in **Exhibit A**, attached hereto, and incorporated herein; and

WHEREAS, the City has consented to the creation of the District over the Tract by Resolution No. \_\_\_\_\_; and

WHEREAS, the District will construct and finance a water distribution system, a wastewater collection system, and reclaimed water system to serve the Tract., which will then be conveyed to the City for ownership and operation; and

WHEREAS, the City desires to promote regionalization of water supply (including reclaimed water) and wastewater treatment facilities to avoid the proliferation of small sewage treatment plants within its extraterritorial jurisdiction. The District would like to contract with the City to obtain water, wastewater, and reclaimed services from the City for the Tract on a permanent retail basis. The City

has agreed to provide the services described herein under the conditions and terms set forth in this Agreement; and

WHEREAS, in the interest of meeting the Fort Bend Subsidence District groundwater regulations and promoting water conservation, the City is willing to agree to grant the District exclusive right to use up to 0.8 million gallons per day of the treated wastewater discharged from the City Wastewater system for Phase 1 and 2.1 million gallons per day of the treated wastewater discharged from the City Wastewater System at ultimate buildout for amenity lake filling and irrigation of boulevards to the extent the wastewater can be lawfully and practically disposed for such irrigation purposes; and

WHEREAS, the parties acknowledge that this Agreement is one of a series of agreements that the Developer and the City are entering into to provide for full development and regulation of the Tract; and

WHEREAS, this Agreement is entered into under the authority of Texas Local Government Code Section 552.014, as amended, and the applicable provisions of Chapters 49 and 54 of the Texas Water Code, as amended; and

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits contained herein, the City and the Developer agree as follows:

## **AGREEMENT**

### **ARTICLE 1 DEFINITIONS AND EXHIBITS**

#### **Section 1.01 Definitions.**

Unless the context indicates otherwise and in addition to the terms defined above the following words used in this Agreement shall have the following meanings:

*City* means the City of Sugar Land, Texas.

*City Water System* means all the water production pumps, lines, meters, components, facilities, and equipment owned and used by the City to pump, treat, monitor, convey, contain, and distribute water to the public.

*City Water System Improvements* means those improvements to the City Water System needed to serve the Tract.

*City Wastewater System* means all the wastewater treatment facilities, lines, components, and equipment owned and used by the City to collect, contain, convey, treat, monitor, regulate, and dispose of wastewater.

*Connection Fee* means that fee charged by the City for a connection to the City Water System and the City Wastewater System as such fee is set forth in this Agreement.

*Commission* means the Texas Commission on Environmental Quality and any successor or successors exercising any of its duties and functions related to municipal utility districts.

*Development Agreement* means that certain agreement entered into between the Developer and the City requiring that the Tract be developed in accordance with a General Plan.

*District* means Fort Bend County Municipal Utility District No. 269.

*District Drainage System* means the storm water collection, detention, and drainage system that will be constructed by the District to serve lands within its boundaries, and all improvements, appurtenances, additions, extensions, enlargements, or betterments thereto, together with all contract rights, permits, licenses, rights-of-way, easements, and other interests related thereto.

*District Obligations* means (i) all outstanding bonds of the District, (ii) all other debts, liabilities and obligations of the District to or for the benefit of any persons or entities relating to the financing, construction or operation of all or any portion of the Facilities or the operations of the District, and (iii) all functions performed and services rendered by the District, for and to the owners of property within the District.

*Equivalent Single-Family Service Connection or ESFC* means the standardized measure of water and wastewater consumption attributable to a particular land use, stated in Single-Family service units, as established by the City; which is 350 gallons per day for water and 250 gallons per day for wastewater.

*Engineering Reports* means and refer to that certain Preliminary Engineering Report prepared by the Engineers relating to the creation of the District and describing the initial scope and extent of the Facilities and any additional engineering reports prepared by the Engineers from time to time relating to the issuance of Bonds by the District, copies of which shall be on file in the offices of the District.

*Interim Facilities* means the temporary potable water system, to be designed by and built by the District and operated by the City, that will provide temporary services to the Tract until such time as the Plant Facilities begin full operation to the Tract. The interim wastewater facilities will be pump and haul from a manhole, to be designed by and built by the District and operated by the District.

*Facilities* means and include the water supply and distribution, sanitary sewer collection, transportation and treatment, and reclaimed water treatment and distribution, and storm water collection, detention and drainage systems, and roads constructed or acquired or to be constructed or acquired by the District to serve lands within and adjacent to its boundaries, and all improvements, appurtenances, additions, extensions, enlargements or betterments thereto, together with all contract rights, permits, licenses, properties, rights-of-way, easements, sites and other interests related thereto, all as more fully described in the Engineering Reports and Development Plan.

*Master District* means the municipal utility district serving as the master district.

*Nguyen Tract* means the approximately 45.11 acres of land on which the Plant Facilities will be located.

*Plant Facilities* means the City's water plant, wastewater treatment plant, reclaimed water facilities, and related appurtenances, to be constructed on the Nguyen Tract.

*Reclaimed Water* means the treated wastewater effluent discharged from the Wastewater Treatment Plant or other treated wastewater effluent substantially the same as that discharged from the Plant.

*Single-Family Residential Home* means a building designed to be used and occupied by one family, with a detached single-family residence being one residential home, a duplex being two, and each unit in an apartment complex being one residential home.

*Tract* means the approximately 958.46 acres of land as described in **Exhibit A** and to which the City has agreed to provide the services described in this Agreement.

*Wastewater* means the water-carried wastes, exclusive of ground, surface, and storm waters, normally discharged from the sanitary conveniences of dwellings, including apartment houses, hotels, office buildings and institutions.

*Wastewater Discharge Permit* means all permits, licenses, orders, other authorizations, and all regulations applicable to the discharge, disposal, or use of Recycled

Water, and the construction, maintenance or operation of the Wastewater Treatment Facilities heretofore or hereafter issued, adopted, or otherwise required by any governmental entity having jurisdiction thereof.

*Wastewater Services* means the services provided by the City in receiving, transporting, treating, and disposing of Wastewater from the Point of Delivery to the City Wastewater System in accordance with this Contract.

*Water* means potable water that meets federal and state standards for consumption by humans.

*Water Supply Services* means the services provided by the City in treating, pumping, transporting, and delivering of potable water from the City Water System to the District Water System for consumption by District customers in accordance with this Agreement.

### **Section 1.02 Exhibits.**

The following Exhibits attached or to be attached to this Agreement are a part of the Agreement as though fully incorporated herein.

**Exhibit A** - Metes and Bounds Description of the Tract

**Exhibit B** - Plant Facilities Description and Map

**Exhibit C** - Fire Protection Services Agreement

**Exhibit D** - Strategic Partnership Agreement

## **ARTICLE 2**

### **AGREEMENT CONCERNING WATER SUPPLY, WASTEWATER TREATMENT SERVICES AND RECLAIMED WATER SUPPLY TO THE DISTRICT**

#### **Section 2.01 City's Obligation to Provide Services.**

The City agrees to provide Water Supply Services, Wastewater Treatment Services, and Reclaimed Water Supply to the Tract in accordance with the terms and conditions of this Agreement.

#### **Section 2.02: Assignment to District.**

The parties hereto assume that this Agreement will be assigned by the Developer to the District after creation of the District. Any provision of this Agreement, whether referring to the Developer or the District, shall apply to the

Developer until assigned to the District as provided by this Agreement; thereafter all provisions, except those contained in Article 3, shall apply to the District.

**Section 2.03 Standard of Service.**

The Water Supply Services and Wastewater Services provided by the City to the District under this Agreement shall be substantially equivalent in quality to the Water Supply and Wastewater Services the City provides to other City customers. As related to Water Supply Services, the City will design all facilities to maintain a minimum of 35 P.S.I at all times under all design conditions, including fire flow in the Regional Improvements.

**Section 2.04 Maximum Number of Connections.**

The City agrees to provide up to 3100 Equivalent Single-Family Connections of Water Services and of Wastewater Services to serve the Tract.

**Section 2.05: Connection Charges, Generally.**

Notwithstanding any City ordinance to the contrary, and except as otherwise specifically set forth herein, the City may impose a Connection Fee for connection to the Facilities located within the Tract of \$11,500 per ESFC. Such Connection Fees shall belong exclusively to the City.

**Section 2.06: Letter of Assurance and Issuance of Assignments of Capacity by the District.**

(a) The City agrees that, at such time as the District has acquired Water Supply Service or Wastewater Service from the City, the City shall, upon reasonable request, issue a letter of assurance that the District is entitled to the use and benefit of such capacity. The letter of assurance shall provide for the use and benefit of quantities of services up to, but not in excess of, the capacities as provided for herein and may be provided in a phased approach.

(b) The District shall have the right to assign all or part of its capacity on assignment forms approved by the City for reservation of capacity to landowner(s) and developer(s) within its boundaries. At such time as a landowner or developer located within the boundaries of the District requests a building permit from the City or Fort Bend County (the "County"), as applicable, the City shall honor such assignments of capacity or agreements; provided, however, that (i) the City shall have no duty to honor any Commitment Letter that, in the City's sole opinion, was not validly issued or which will result in capacity which exceeds the uncommitted capacity reserved by the District, and (ii) the City shall not honor or otherwise allocate or commit capacity in excess of that specified in a Commitment Letter. Such

landowner or developer of property within the Tract must pay Connection Fees in accordance with Section 2.05 of this Agreement if they have not been paid by the District. The City reserves the right to require such a landowner or developer to purchase a water meter capable of measuring water supplied in excess of the number of ESFCs specified in such landowner's or developer's Commitment Letter, provided that any upsizing costs for such meter be paid for by the City or such costs credited towards Connection Fees for the Tract. In determining the appropriate meter size for such a landowner or developer, the City shall round up the ESFCs reflected in the Commitment Letter issued by the District to such landowner or developer to the next standard meter size required by City Ordinance or other City requirements, without deducting capacity from the District's then-current ESFC allocation from the City as a result of such rounding.

(c) The District and the City agree that in issuing any Commitment Letter to a landowner or developer of property within the Tract, the number of ESFCs required to provide Water and Wastewater service shall be calculated in accordance with Code of Ordinances Chapter 5.

**Section 2.07: Facilities. Design and Construction of the Water Plant, Wastewater Treatment Plant and Reclaimed Facilities; Regional Improvements; Right-of-Way**

(a) Cost of the Plant Facilities. The Plant Facilities are an integral part of the City's water, wastewater and reclaimed system that also serves the District. The District agrees to finance the design and specifications of the Plant Facilities described on **Exhibit B** attached hereto and incorporated herein as part of its development, subject to the City reimbursing the costs of the design of the Plant Facilities to Developer no later than June 30, 2024. The District will calculate and notify the City of the costs to design the Plant Facilities. The District and the City agree to work together to determine the costs of the design of the Plant Facilities. The District and/or its' engineer will design, bid, award, manage, and oversee the construction contracts for the Plant Facilities. Prior to publishing the invitation to bid, the Developer will provide the front-end documents to the City for review, input, and approval. Plans and specifications for the Plant Facilities as well as any extensions, additions, or modifications thereto, shall be submitted to the City for review and approval prior to award of contract(s) for construction, with such approval to not be unreasonably withheld. The contracts for the Plant Facilities shall be partially assigned to the City within thirty days of execution of said contracts. This partial assignment is limited to the District's obligations to pay under the contracts and the District shall remain responsible for managing the contracts. The District shall ensure that water, wastewater treatment, and reclaimed facilities are available to serve the Tract within eighteen (18) months after award of the contract for construction. The District shall include in its construction contracts provisions related to non-completion of the Plant Facilities within 18 months. The District may include in its construction contracts the requirement that its contractor be responsible for wastewater pump and haul charges

for failure to timely complete the Plant Facilities. The Plant Facilities and any extensions thereof shall be designed and constructed in accordance with City ordinances, the requirements of the Commission, and the requirements of any other governmental agency having or acquiring jurisdiction.

The Developer has assigned its contract to purchase the approximately 45.11-acre site, described in **Exhibit B** to the City with closing to occur on such property by December 21, 2023 with the intent being that the Plant Facilities shall be located on such site. The City and Developer have commenced testing of the site to determine whether the site is suitable for the City Facilities. In the event that the site for the Plant Facilities is not suitable for a water well based upon the testing of the site, Developer shall convey an alternate site for the water well on the Tract to the City and provide the appropriate easements for the City to construct a water well and raw water line to the Water Plant. Additionally, upon request by the City, the District shall provide, at no cost to the City, a site acceptable to the City in size, suitability, and location, for a second water plant located on the Tract as well as easements for water lines from the second water plant to the Water Plant. If a test well shows that either site is not suitable for ground water production, the City may reconvey the water well site if already conveyed to the City to the Developer. As noted herein, the District will then be responsible for providing alternative site(s) and the corresponding raw water line easements.

The Developer may construct an interim water plant on the Tract to provide potable water for the first 250 homes to be constructed (the “Interim Water Plant”). Upon completion and operation of the first phase water plant described in **Exhibit B**, the Developer shall cease operations of the interim water plant, however such water well and related appurtenances may be used for irrigation and amenity lake water, provided that any irrigation from such well is in accordance with the City’s groundwater reduction plan. The City shall not require such interim water plant to provide fire flow. Developer agrees to remove the Interim Water Plant, with the exception of the water well and related appurtenances within sixty (60) days from reimbursement by the District of such costs of the Interim Water Plant.

(b) The Facilities, as proposed and outlined in Engineering Reports, and shown on the Development Plan, will be designed, and constructed in compliance with all applicable requirements and criteria of the applicable governmental authority and will be subject to the Consent Resolution. The design and construction of the Facilities will be subject to the review and approval of the City. The District shall design, construct, or extend the Facilities in such phases or stages as the District, in its sole discretion, from time to time may determine to be economically feasible. All designs, design standards, construction plans, and drawings for any plants, facilities, connectors, or points of connection including all supporting facilities must be reviewed by and approved by the City Engineer before any implementation or construction shall occur as provided herein.

(c) The Facilities shall be constructed by or on behalf of the District at the District's

sole expense and shall be designed using the City's current standard criteria.

(d) It is understood and agreed that certain components of the Facilities (consisting of sanitary sewer facilities, water facilities, and reclaimed facilities) may be oversized to serve areas located within and/or outside the corporate limits of the City but not within the District (hereinafter referred to as "Regional Improvements"). If the City identifies certain Regional Improvements and declares same to the District prior to their construction pursuant to the terms and conditions herein, the District shall be responsible for the engineering and construction of Regional Improvements, and the City shall be responsible for any oversizing or extension of the Regional Improvements beyond what is proposed by the District. The District agrees that it will provide the necessary engineering and construction for the Regional Improvements, including all necessary appurtenances, subject to the City's obligation to pay its share as set forth herein. Before commencing construction of the Regional Improvements, the District must receive the written approval from the City of: (i) the plans and specifications for the Regional Improvements; and (ii) a detailed cost estimate for the construction of the Regional Improvements. The cost estimate shall detail which portions of the costs are to serve the property proposed to be developed within the District and which portion of the costs are to serve property beyond what is proposed by the District (the "Oversizing Costs"). Upon written approval of the plans and specifications and the cost estimate, the District may proceed to construct the Regional Improvements. The City shall have the right to inspect the construction of the Regional Improvements. Upon completion of the Regional Improvements, the City shall inspect the same and shall note any deficiencies in the construction of the Regional Improvements. Upon completion, the District shall convey the Regional Improvements and any right-of-way for the Regional Improvements to the City, subject to its acceptance, and the City shall be responsible for the operation and maintenance of the Regional Improvements. The District shall warrant the Regional Improvements or cause any construction contract warranty to run to the City for a period of one year after final completion of the Regional Improvements. Before beginning construction on the Regional Improvements, the District shall provide the City with executed copies of payment and performance bonds that comply with all applicable requirements of law, specifically including the bond requirements of Texas Government Code Chapter 2253 and that name the City as an additional obligee on such bonds. Evidence of proper authority of all signing officers or representatives must be submitted. Additionally, the City shall be provided with a copy of a Certificate of Insurance reflecting that the contractor has general liability and/or excess coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate coverage and that the City has been named as an additional insured under said policy. The Certificate of insurance shall provide that such insurance will not be canceled without at least thirty (30) days prior written notice to the City.

#### **Section 2.08: Ownership by City.**

As the Facilities are acquired and constructed, the District shall convey the same to

the City (except for stormwater detention systems) including all warranties, reserving, however, as a security interest therein for the purpose of securing the performance of the City under this Agreement. The conveyance to the City shall be in a form acceptable to the City. Such conveyance shall be accepted by the City after inspection and approval of the subject Facilities by the City; provided, however, that: (i) the City shall be responsible for the maintenance and operation of the Facilities, at the City's sole cost, as of and after the date of approval of the Facilities by the City, notwithstanding the date the conveyance of such facilities is accepted by the City, and (ii) the District shall be responsible for any warranty work related to the Facilities for a period of up to one (1) year following the approval of same by the City. At such time as the District's bonds issued to acquire and construct the Facilities have been discharged, the District shall execute a release of such security interest, and the City shall own the Facilities free and clear of such security interest.

### **Section 2.09: Operation by the City.**

(a) Water supply and distribution, Wastewater collection and treatment facilities, and reclaimed water treatment and distribution. As construction of each phase of the Facilities is completed, representatives of the City shall inspect the same and, if the City finds that the same has been completed in accordance with the final City approved plans and specifications, the City will accept the same, whereupon such Facilities shall be conveyed to the City as provided in Section 2.7 and operated and maintained by the City at its sole expense as provided herein. In the event that the Facilities have not been completed in accordance with the final City approved plans and specifications, the City will advise the District in what manner said Facilities do not comply, and the District shall immediately correct the same; whereupon the City shall again inspect the Facilities and accept the same if the defects have been corrected. During the term of this Agreement, the City will operate the Facilities and provide Water Supply Service and Wastewater Service to all users within the Tract without discrimination. The City shall at all times maintain the Facilities or cause the same to be maintained, in good condition and working order and will operate the same, or cause the same to be operated, in an efficient and economical manner at a reasonable cost and in accordance with sound business principles in operating and maintaining the Facilities, and the City will comply with all valid rules, regulations, directions or orders by any governmental, administrative or judicial body promulgating the same.

(b) Storm water collection, detention, and drainage system Facilities. Sites for stormwater collection, detention and drainage systems shall be operated and maintained by the District. Prior to completion of the stormwater detention systems, the District shall enter into a contract with the homeowners association(s) or commercial property owners association(s) within the Tract, or other entity acceptable to the City (hereinafter referred to as an "HOA"). Unless otherwise approved in writing by the City, said contract shall provide that (i) the District will operate and maintain the stormwater detention systems from inception at no cost to the City, (ii) the HOA, if it owns such sites, will grant an easement to the District

for said purpose, and (iii) if the District will be dissolved pursuant to any applicable law, the HOA, prior to the effective date of dissolution, will accept conveyance of the sites for stormwater detention systems in fee from the District and continue the operation and maintenance of same thereafter at no cost to the City, it being understood and agreed that, pursuant to the Consent Ordinance the City will not own, operate or maintain any stormwater detention or drainage outfall channels as part of the Facilities. The City and District agree that the construction of one or more water wells for amenity lakes shall be allowed provided that such wells shall comply with City Ordinance Chapter 3, Article X, Section 3-176 Drilling of Wells and the applicable MUD shall be part of the City's Ground Water Reduction Plan. Such well(s) may not be connected to public water systems, may not be used to supply potable water and must comply with the criteria in the ordinance.

The City further agrees that said contract may allow for financial contributions by the District to the HOA to offset costs of operation and maintenance of the stormwater detention systems and improvements contained therein, but any obligation to make such contributions shall cease and not survive as an obligation of the City if the District will be dissolved pursuant to any applicable law.

#### **Section 2.10: Rates and Meters.**

The City shall bill and collect from customers of the Facilities and shall from time to time fix such rates and charges for such customers of the Facilities as the City, in its sole discretion, determines are necessary. All revenues from the Facilities shall belong exclusively to the City. The City shall be responsible for providing and installing any necessary meters with the individual customers, in accordance with Chapter 5 of the Development Code. As provided in Section 5-248 of the City's Code of Ordinances, retail water and wastewater customers of the Facilities will be charged the same rate for water, wastewater, and surface water service that applies to retail customers located within the city.

#### **Section 2.11: Effluent Reclaimed Water.**

The District shall ensure that systems are designed and constructed so its property (boulevards, squares, parks, recreational areas, and similar common or public areas) can be served with effluent reclaimed water, prior to such time as the effluent reclaimed water is delivered to the point of connection described herein. The City must approve the plans for such systems. The District, the Developer, and the City will mutually agree upon multiple points of connection for City-supplied effluent reclaimed water. The parties shall agree to work together to design and operate the District's irrigation systems to maximize the use of the effluent reclaimed water as such use affords credits against the groundwater reduction requirements of the Fort Bend Subsidence District, which credits shall be the property of the City to use for the benefit of the participants in the City's Groundwater Reduction Plan. The District, or Developer, will purchase effluent reclaimed water from the City if the City

delivers effluent reclaimed water to a point of connection mutually agreed upon by the City, Developer and the District and in a sufficient amount to serve the District's irrigation needs for areas served by that point of connection. The effluent reclaimed water will be pressurized or the parties will agree on an alternate effluent delivery system that is not pressurized. The District is allowed to install and use potable water systems for irrigation in an area until such time as the City delivers effluent to the point of connection serving such area in a sufficient amount to serve the District's irrigation needs for such area.

### **Section 2.12: Connection Fee.**

Notwithstanding any City ordinance to the contrary and except as otherwise specifically set forth herein, the City may impose a Connection Fee at the rate established in Section 2.05 above and Section 3.07 of the Development Agreement, and as may be amended from time to time by the City, provided the charge is equal to the sums charged other City users for comparable connections, and the connection charges shall belong exclusively to the City.

### **Section 2.13: Default; Remedies.**

Any party to this Agreement who believes that the other party has defaulted in the performance of any condition, term, or obligation owed to that party under this Agreement shall within ten (10) business days after discovery of said default, give written notice of the default to the defaulting party, specifying in detail the provision or provisions of this Agreement that have allegedly been breached, what specific action must be taken to cure or correct the default, and requesting that the City Council of the City provide the parties an opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. The City Council, after review of such request, shall determine whether to provide the parties the opportunity to be heard in public session to discuss the default at the next scheduled city council meeting. Should the party receiving the notice fail to commence action to correct the default within the time determined by City Council and/or thereafter fail to diligently pursue the completion of the action to correct the default or should City Council determine not to hear the matter, the party giving the notice of default may exercise other available remedies at law and in equity. Notwithstanding the foregoing, the parties hereto shall with respect to the enforcement of this Agreement shall be limited to a cause of action for specific performance.

### **Section 2.14 Fire Protection Services.**

The City desires the District to contract with the City to provide fire protection services to the Tract, and the District is agreeable to doing so. The City acknowledges that before contracting, the District must develop a fire plan, obtain approval of the Commission for such plan and hold an election at which the voters approve implementation of the fire plan. The District agrees to take such steps as are reasonable,

necessary, or advisable to prepare a fire plan, obtain Commission approval and hold an election for approval of the fire plan. If the District obtains approval to implement the fire plan as required by law and Commission rules, the District agrees to enter into a contract in substantially the form attached hereto as **Exhibit C** (“Fire Protection Services Agreement”) for the City to provide fire services within the District.

**Section 2.15 Termination for Failure to Enter into Strategic Partnership Agreement.**

The City may terminate this Agreement should the District fail to enter into a Strategic Partnership Agreement, in substantially the form attached hereto as **Exhibit D** (“Strategic Partnership Agreement”), with the City within 180 days from the confirmation of the District.

**Section 2.16 Termination for Failure to Enter into Fire Protection Services Agreement.**

The City may terminate this Agreement should the District fail to enter into [the Fire Protection Services Agreement](#) within one year of confirmation of the District.

**Section 2.17 Termination upon Dissolution of the District.**

This Agreement shall automatically terminate on the date the District is dissolved by the City.

**Section 2.18 Termination for Default.**

Any party to this Agreement who believes that the other party to this Agreement has defaulted in the performance of any condition, term, or obligation owed to that party under the Agreement shall give written notice of the default to the defaulting party, specifying in detail the provision or provisions of the Agreement that have been breached and specifying what action must be taken to cure or correct the default. Should the party receiving the notice fail to correct the default within 60 days following effective notice hereunder, the party giving the notice of default may terminate this Agreement by giving effective notice hereunder to the defaulting party specifying the termination date.

**Section 2.19 Remedies Cumulative.**

The parties agree that the remedy of specific performance of this Agreement is an appropriate and necessary remedy that either party may demand specific performance in the event of a breach of this Agreement. The parties further agree that

the rights and remedies reserved herein are cumulative and in addition to any other rights and remedies provided by law.

### **Section 2.20 Interim Service to the Tract.**

(a) Interim Facilities, Generally. The City agrees that the District may serve the voter houses in the District temporarily from the Interim Facilities, provided, however, that when permanent water and sewer services are available to the voter houses, the Interim Facilities will be abandoned and removed. Such abandonment and removal will take place as set forth in Section 2.07 (a) herein.

(b) Design and Construction. The Interim Facilities will be designed and constructed by the District and located on the Tract at a site agreed upon by the District and City. The capacity of the Interim Facilities shall be no more than 250 ESFCs. The City shall review and approve the plans and specifications for the Interim Facilities. The District will finance and construct the Interim Facilities. The Interim Facilities shall be constructed in accordance with the City's Design Standards and other applicable regulations. The City shall review and approve the plans and specifications for the Interim Facilities.

(c) Capacity. The capacity of the Interim Facilities shall be no more than 250 ESFCs, subject to Section 2.23 (g) herein. Nothing herein shall obligate the City to provide extra capacity in the event more than 250 ESFCs are needed to serve the Tract prior to the Plant Facilities beginning service.

(d) No System Connection. The Interim Facilities are to be independent of all other City systems and will not be connected to same.

(e) TCEQ. The District is solely responsible for obtaining all necessary approvals from the TCEQ for the Interim Facilities. The City shall have no obligation to operate the Interim Facilities until such time as the TCEQ has approved the same.

(f) Operation. After design, construction, and TCEQ approval, the City will operate the Interim Water Plant until such time as the Plant Facilities are fully online and capable of providing service to the Tract. Design, TCEQ approval, and construction of the Interim wastewater service will be provided through pump and haul to be designed, constructed, and operated at the expense of the District.

(g) In the event that the Plant Facilities are not operational within the time frame(s) stated in Section 2.07 (a) above, the District may utilize the Interim Water Plant beyond the 250 ESFCs and shall be responsible for wastewater pump and haul until such time as the Plant Facilities are fully online and capable of providing service to the Tract. At such time, the City may abandon and remove the Interim Facilities. The Developer shall provide written notice

to the City outlining the reasons for non-completion of the Plant Facilities. In the event that non-completion does not include Force Majeure as set forth in Section 4.02, the City shall have the right, at its option to: (i) complete the construction of the Plant Facilities; or (ii) allow the Developer to continue to utilize the Interim Water Plant so long as it remains responsible for wastewater pump and haul.

**Section 2.21 District Obligation Under Contract.**

The District may perform any obligation under this Agreement either individually or jointly with another MUD created to serve the Tract.

**ARTICLE 3  
FINANCING OF FACILITIES**

**Section 3.01: Authority of District to Issue Bonds.**

The District shall have authority to issue, sell and deliver bonds from time to time, as deemed necessary and appropriate by the Board of Directors of the District, for the purposes in such forms and manner and as permitted or provided as federal law, the general laws of the State of Texas and the City resolution consenting to the creation of the District.

**Section 3.02: Bonds as Obligation of District.**

Unless and until the City shall dissolve the District and assume the District Assets and District Obligations, the bonds of the District, as to both principal and interest, shall be and remain obligations solely of the District and shall never be deemed or construed to be obligations or indebtedness of the City.

**ARTICLE 4  
MISCELLANEOUS**

**Section 4.01 Successors.**

This Agreement shall be binding upon the successors or assigns of the parties hereto.

**Section 4.02 Force Majeure.**

If any Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Agreement, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due

diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term force majeure, as used herein, shall include without limitation of the generality thereof, acts of terrorism, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any Civil or military authority other than a party to this Agreement, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply resulting in an inability to provide water necessary or operation of the water and sewer systems hereunder or inability of the City to provide Water or receive Wastewater, and any other incapacities of any party whether to those enumerated or otherwise, which are not within the control of the party claiming such inability, which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party when such settlement is unfavorable to it in the judgment of the party experiencing such difficulty.

#### **Section 4.03 Law Governing.**

This Agreement shall be governed by the law of the State of Texas and no lawsuit shall be prosecuted on this Agreement except in a court of competent jurisdiction located in Fort Bend County.

#### **Section 4.04 No Additional Waiver Implied.**

No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or the performance by any party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstances.

#### **Section 4.05 Addresses and Notice.**

Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called

"Notice") herein provided or permitted to be given, made, or accepted by any party to the other (except bills), must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to such party, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the expiration of three days after it is so deposited. Notice given in any such other manner shall be effective when received by the party to be notified. For the purpose of notice, addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

City of Sugar Land  
PO Box 110  
Sugar Land, TX 77487-0110  
Attn: City Manager

If to the District, to:

SKLaw  
1960 Post Oak Blvd., Suite 1380  
Houston, TX 77056  
Attn: Julianne B. Kugle

If to the Developer, to:

Pulte Homes of Texas, L.P.  
1311 Broadfield Blvd.,  
Suite 100  
Houston, TX 77084

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify any other address by at least fifteen (15) days written notice to the other.

#### **Section 4.06 Merger and Modification.**

This Agreement, including the Exhibits that are attached hereto and incorporated herein for all purposes, embodies the entire agreement between the parties relative to the subject matter hereof, except the Development Agreement. This Agreement shall be subject to change or modification only with the written mutual consent of the parties.

#### **Section 4.07 Severability.**

The provisions of this Agreement are severable, and if any part of this Agreement or the application thereof to any person or circumstances 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 part of this Agreement to other persons or circumstances shall not be affected thereby.

#### **Section 4.08 Benefits of Contract.**

This Agreement is for the benefit of the City, and the District, and shall not be construed to confer any benefit on any other person except as expressly provided for herein.

#### **Section 4.09 Developer Representations.**

(a) Developer agrees, represents, and warrants, for the purposes of Chapter 2271 of the Texas Government Code, except to the extent otherwise required by applicable federal law, that at the time of execution and delivery and through the term of this Agreement, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of Developer that exists to make a profit, boycotts or will boycott Israel. The terms “boycotts Israel” and “boycott Israel” as used in this section have the meaning assigned to the term “boycott Israel” in Section 808.001 of the Texas Government Code. For purposes of this section, “Developer” has the same meaning as the term “company” as set forth in Section 2271.001(2) of the Texas Government Code, as amended.

(b) Developer agrees, represents, and warrants, for the purposes of Subchapter F of Chapter 2252 of the Texas Government Code, that at the time of execution and delivery and through the term of this Agreement neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of Developer that exists to make a profit, (i) engages in business with Iran, Sudan or any foreign terrorist organization as described in Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller under Sections 2270.0201 or 2252.153 of the Texas Government Code. For purposes of this section, “Developer” has the same meaning as the term “company” as set forth in Section 2270.0001(2) of the Texas Government Code, as amended.

(c) Developer agrees, represents, and warrants, to the extent this Agreement represents a contract for goods or services, for the purposes of Chapter 552.371, Texas Government Code, and except to the extent otherwise required by applicable federal law, that Developer will (i) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to the City through the term of this Agreement, (ii) promptly provide to the City any contracting information related to this Agreement that is in the custody or possession of the Developer on request of the City, and

(iii) upon completion of this Agreement, either (a) provide at no cost to the City all contracting information related to the Agreement that is in the custody or possession of the Developer or (b) preserve the contracting information related to this Agreement as provided by the records retention requirements applicable to the City. The term “contracting information” as used in this paragraph has the meaning assigned to such term in Section 552.003 of the Texas Government Code, as amended.

(d) Developer agrees, represents, and warrants, to the extent this Agreement represents a contract for goods or services within the meaning of Section 2274.002 of the Texas Government Code, as amended, solely for purposes of Chapter 2274 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, at the time of execution of this proposal, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Developer, boycotts or will boycott energy companies. The term “boycott energy company” has the meaning assigned thereto in Section 809.001 of the Texas Government Code, as amended.

(e) Developer agrees, represents, and warrants, to the extent this Agreement represents a contract for goods or services within the meaning of Section 2274.002 of the Texas Government Code, as amended, solely for purposes of Chapter 2274 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, at the time of execution of this proposal, neither Developer, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Developer, discriminates or will discriminate against a firearm entity or firearm trade association. The term “discriminate against a firearm entity or firearm trade association” as used in this paragraph has the meaning assigned to such term in Section 2274.001 of the Texas Government Code, as amended. “Firearm entity” means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms, firearm accessories (i.e., devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (i.e., a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (as defined by Section 250.001, Texas Local Government Code). “Firearm trade association” means a person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

**CITY OF SUGAR LAND, TEXAS**

By: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Robin Lenio, City Secretary

\_\_\_\_\_  
Meredith Riede, City Attorney

**DEVELOPER**

PULTE HOMES OF TEXAS, L.P.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **Exhibit A**





## EXHIBIT B - Plant Facilities Description and Map

(a) Definitions. In this Exhibit:

*Regional Improvement* means any of the improvements specified in Section 252.043 (d) of the Local Government Code, as amended, for which the City is to provide funding for construction under this Agreement.

(b) Design of Regional Improvement. Developer will direct the District and/or its' engineer to design the Regional Facilities, including:

### 1. Wastewater Treatment Plant

a. Provide a basic site layout for a 6-.0 Million Gallon Per Day ("MGD") Wastewater Treatment Facility to confirm that the Nguyen Tract can accommodate the ultimate needs of the City.

b. With direction from the City, design a 2.0 MGD wastewater treatment plant first phase. Facilities will include an on-site lift station, motor control center and operations center, headworks, treatment basins, clarifiers, disinfection units, belt press units and appurtenances necessary for a fully operational wastewater treatment plant ("WWTP").

c. Prepare and submit a Wastewater Discharge Permit to the TCEQ on behalf of the City for the new WWTP location. The City shall execute the appropriate application and shall be the responsible party addressing any protests filed to such application. The parties will work together to timely file such application no later than February 28, 2024. City agrees that construction of the WWTP may commence prior to issuance of the Wastewater Discharge Permit.

### 2. Water Plant

a. Provide a basic site layout for the site components to service up to 5,000 Equivalent Single-Family Connections on the Nguyen Tract.

b. With direction from the City, design a first phase water plant that will include a water well, elevated storage tank (1-million-gallon capacity), booster pumps, motor control building (unless combined with the WWTP), disinfection facilities, and necessary appurtenances. The first phase of the water plant is expected to serve up to 2,000 ESFC.

c. Prepare an application to the Fort Bend Subsidence District on behalf of the City for the new water well. The City shall execute the appropriate application and shall be the responsible party addressing any protests filed to such application. The parties will work together to timely file such application no later than February 24, 2024.

d. Prepare and submit an application to the applicable governmental entities for the Water Plant and elevated storage on behalf of the City. The City shall execute the appropriate application and shall be the responsible party addressing any protests filed to such application. The parties will work together to timely file such applications.

e. Developer may build an interim water plant on the Property to provide potable water for the first 250 homes to be constructed (the "Interim Water Plant").

### 3. Reclaimed Water Treatment System

a. Provide a basic site layout for the site components to provide tertiary treatment for up to 6.0 MGD of wastewater effluent to produce Type I effluent. The Type I effluent will be utilized for irrigation and lake makeup within the Tract. Approximately 0.8 million gallons per day will be reserved for the benefit of the property with the initial phase of the facility and 2.1 million gallons per day will be reserved for the benefit of the Property at ultimate demand. These amounts may be adjusted as mutually agreed to by the parties, throughout the course of this Agreement.

b. Prepare and submit a 210 permit to the TCEQ to enable the City to utilize effluent from the proposed plant.

c. With direction from the City, design a first phase tertiary treatment plant with an initial capacity of 2.0 MGD. The facilities will include filter units, ground storage, booster pumps, hydropneumatic tanks, motor control building (unless combined with the water plant and/or WWTP) and necessary appurtenances.

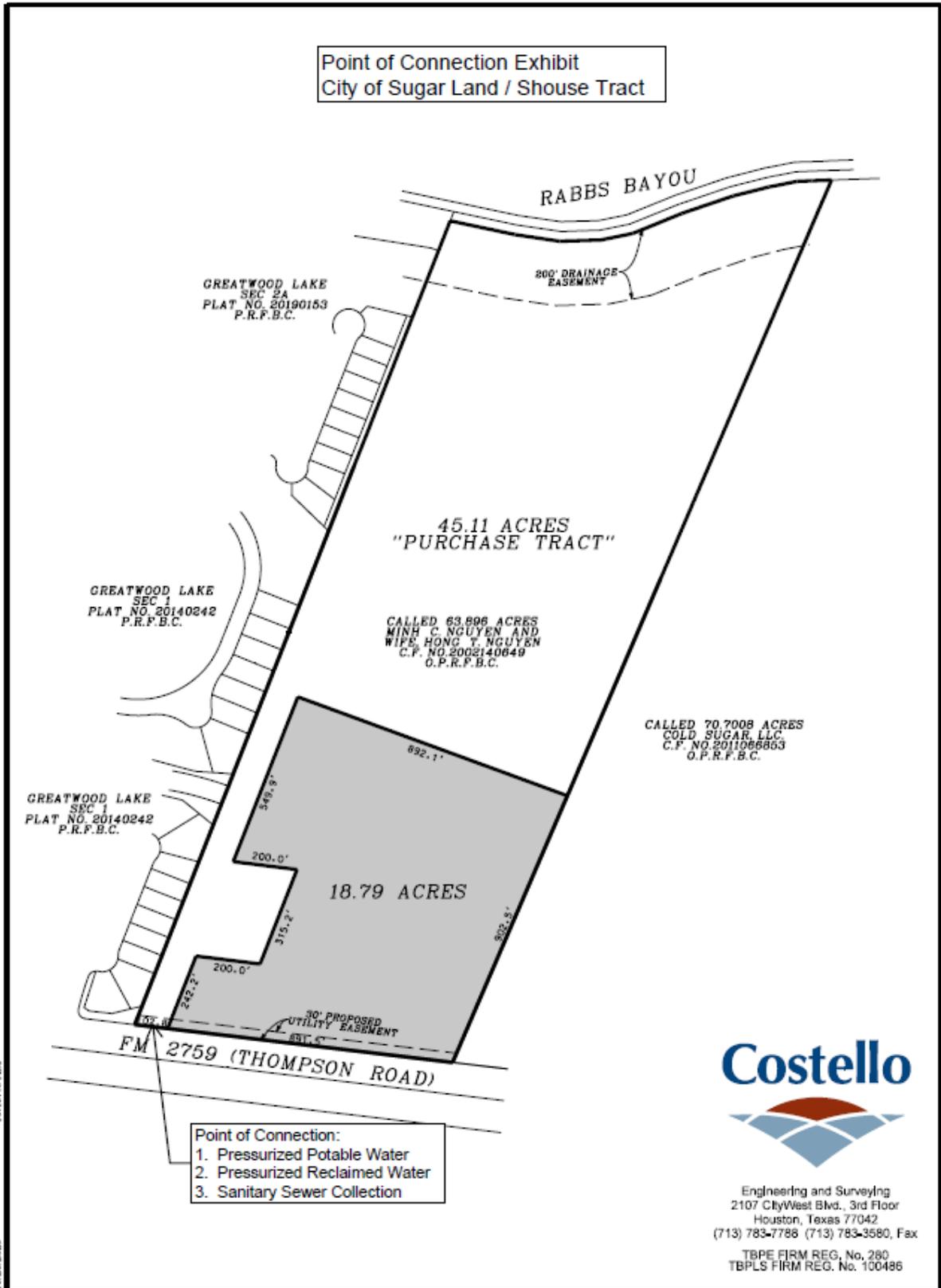
### 4. Offsite Facilities (outside the plant fence)

a. Offsite force mains, water lines, reclaimed water lines, and lift stations are not included as regional improvements. The City will direct contract for design of these facilities on the Nguyen Tract. Similarly, the Developer will direct contract for the offsite facilities necessary to service the Tract and shall be responsible for design and construction of the offsite force mains, water lines, and reclaimed water lines to the fence of the Regional Facilities.

b. The City understands and acknowledges that the seller of the Nguyen Tract is retaining approximately 15 acres of land. The City agrees to provide water supply and wastewater services for the development of the Nguyen Tract, subject to payment to the City of applicable connection fees and any other fees related to the development of such tract.

The Developer shall dedicate to the City from within the Tract, an approximately 2 acre site suitable for a future water plant ("Secondary Water Plant"). The Secondary Water Plant shall be located in the general location shown on the General Plan, however, the parties may mutually agree to an alternate location. The City shall construct the Secondary Water Plant sized to provide 2,000 ESFCs.

Point of Connection Exhibit  
City of Sugar Land / Shouse Tract



- Point of Connection:
1. Pressurized Potable Water
  2. Pressurized Reclaimed Water
  3. Sanitary Sewer Collection



Engineering and Surveying  
2107 CityWest Blvd., 3rd Floor  
Houston, Texas 77042  
(713) 783-7788 (713) 783-3580, Fax  
TBPE FIRM REG. No. 280  
TBPLS FIRM REG. No. 100486

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