

TO: Board Members

THROUGH: Kevin Patteson, Executive Administrator
Jeff Walker, Deputy Executive Administrator
Les Trobman, General Counsel

FROM: Annette Lown Mass, Assistant General Counsel
Nancy Richards, Team Lead

DATE: March 28, 2016

SUBJECT: Lake Livingston Water Supply and Sewer Service Corporation

ACTION REQUESTED

Approve by Resolution the request by Lake Livingston Water Supply and Sewer Service Corporation (Corporation) for a partial release of lien on one tract of property.

BACKGROUND

The Texas Water Development Board (TWDB) currently holds the following debt of the Corporation:

Loan ID	Original Principal	Principal Remaining Balance	Call Date	Program	Type of Proceeds
L070049	\$ 17,500,000	\$ 15,280,000	12/01/2017	DWSRF	Taxable
L1000099	\$ 3,130,000	\$ 3,080,000	12/01/2023	DWSRF	Taxable

As part of the pledged security for the loans, the TWDB holds a Deed of Trust and Security Agreement that creates a security interest in the real property of the Corporation as well as the personal property of the Corporation necessary to operate the system. Section 28(a)(2) of each of the Corporation’s bond resolutions for its financial assistance from the TWDB, require consent from the TWDB prior to the Corporation’s encumbrance or impairment to title.

By letter dated March 21, 2016, the Corporation requested that the Board release its lien on one individual lot of land that was inadvertently included in its 2007 Deed of Trust.

The tract is identified in a 2007 Deed of Trust provided by the Corporation to the TWDB. The same tract is also identified in a redacted Warranty Deed dated November 2005 granting the land to private landowners.

KEY ISSUES

The Corporation provided to the TWDB a Deed of Trust in 2007 as security for \$17,500,000 in financial assistance. Included in the 2007 Deed of Trust is a tract of land that the Corporation did not own at the time. The tract had been conveyed by the Corporation to private landowners in 2005. The tract was inadvertently included and recorded in Polk County as part of the 2007 Deed of Trust. The private landowners now wish to clear the title to their land.

The land did not belong to the Corporation at the time the 2007 Deed of Trust was issued to the TWDB and the Corporation has operated without the use of the land since at least 2005. Therefore, the release of this tract of land will not impair or affect the operation of the Corporation.

Further, the remaining security pledged by the Corporation is sufficient to ensure that the TWDB remains a secured creditor with respect to the remaining obligations of the Corporation. The release of the tract of land will neither compromise the security offered by the Corporation under the Deed of Trust and Security Agreement nor impair the Corporation's ability to meet its debt obligations.

The attached Resolution provides the Board's approval of the partial release of lien and authorizes the Executive Administrator to take actions necessary to give effect to this Resolution. The Resolution also requires that (1) the Corporation will pay any and all costs of documentation and filing of the partial release of lien; and (2) the Corporation must provide to the TWDB a file stamped copy of the Deed of Trust on the remaining properties.

RECOMMENDATION

The Executive Administrator recommends that the Board approve a Resolution granting the Corporation's request for partial release of its lien conditioned on the following:

1. The Corporation is responsible for paying all costs of documentation and filing of the partial release of lien; and
2. The Corporation will continue to abide by all conditions and meet all obligations in accordance with the TWDB Resolutions and Bond Ordinances.

Attachments:

- A. Letter requesting Partial Release of Lien from Skelton Slusher Barnhill Watkins Wells, PLLC
- B. Redacted 2005 Warranty Deed conveying the tract of land from the Corporation to private landowners
- C. Excerpt of 2007 Deed of Trust and Security Agreement providing security to TWDB
- D. Draft Board Resolution granting the Partial Release of Lien

Skelton | Slusher
Barnhill | Watkins | Wells

PLLC

Attorneys at Law

March 2, 2016

John D. Stover
Direct Dial: 936.632.3130
Direct Fax: 936.632.6545
jstover@skeltonslusher.com

VIA EMAIL annette.mass@twdb.texas.gov

Ms. Annette Mass
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

In re: Lake Livingston Water Supply and Sewer Service
Corporation Taxable Water Revenue Bonds, Series 2007
(\$17,500,000)

Dear Ms. Mass:

By Warranty Deed and Vendor's Lien dated November 15, 2005, Lake Livingston Water Supply and Sewer Service Corporation conveyed Lot 80, Block 6, Section 2 of the Nugent's Cove subdivision to Eugene L. Taylor and Lucy J. Taylor. A copy of the Deed is attached.

On July 26, 2007, Lake Livingston Water Supply and Sewer Service Corporation executed a Deed of Trust and Security Agreement to secure the payment of the above referenced bonds which are owned by the Texas Water Development Board. Unfortunately, Lot 80, Block 6, Section 2 of Nugent's Cove was included in the many different tracts in the Deed of Trust. I have attached (Tract 21) excerpts from the Deed of Trust.

As is obvious, Lot 80 should not have been included in the Deed of Trust. I have enclosed a Partial Release to be signed by the Texas Water Development Board releasing its lien on it. Please let me know what else may be necessary in order to secure this Release.

Very truly yours,


John D. Stover

JDS/rc

ND: 4822-3333-5342, v. 1

cc: Jeanette Montgomery

the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute.

FIRST BANK & TRUST EAST TEXAS, at the instance and request of the Grantees herein, having advanced and paid in cash to the Grantor herein a portion of the purchase price of the herein described property as is evidenced by the hereinbefore described ~~SECURED NOTE~~ the Vendor's Lien, together with the Superior Title to said property, is retained herein for the benefit of said FIRST BANK & TRUST EAST TEXAS and the same are hereby TRANSFERRED and ASSIGNED to said FIRST BANK & TRUST EAST TEXAS.

EXECUTED this the 15th day of November, 2005.

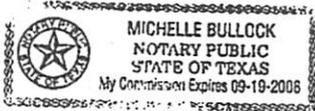
LAKE LIVINGSTON WATER SUPPLY and SEWER SERVICE CORPORATION

BY: *Doyle LaGow*
Doyle LaGow, President

THE STATE OF TEXAS)
COUNTY OF POLK)

This instrument was acknowledged before me on this the 22 day of November, 2005, by DOYLE LaGOW, the President of LAKE LIVINGSTON WATER SUPPLY and SEWER SERVICE CORPORATION, in the capacity therein stated and as the act and deed of said corporation.

Michelle Bullock
Notary Public in and for the State of Texas
My commission Expires 9/19/06
Michelle Bullock
Printed Name of Notary



Return to:

~~Barbara Middleton~~
~~County Clerk~~
~~Polk County, Texas~~

State of Texas)
County of Polk)
I, BARBARA MIDDLETON hereby certify that this instrument was FILED in the file number assigned for this state and is the true stamped version by me and was duly RECORDED in the Official Public Records in Volume and Page of the named RECORDS of Polk County, Texas as stamped herein by me.

NOV 30 2005



Barbara Middleton
COUNTY CLERK
POLK COUNTY, TEXAS

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2005 NOV 30 P 3:29

Barbara Middleton
BARBARA MIDDLETON
POLK COUNTY CLERK

Uniform Commercial Code
P.O. Box 13193
Austin, Texas 78711-3193

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Hope Andrade
Secretary of State

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VOL. 1034 PAGE 001 22646

Office of the Secretary of State

Texas UNIFORM COMMERCIAL CODE Certified Copy Acknowledgment

August 01, 2011
Page 1 of 1

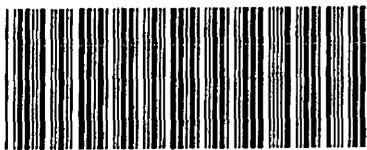
Document Number: 379991890002

Images printed on August 01, 2011

The Texas Secretary of State's Office has received and processed your request.

<u>Filing Number</u>	<u>Filing Type</u>	<u>Page Count</u>
11-0021719810	Utility Security Instrument	56
Total Pages:		56

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2011011325 57 PGS



Hope Andrade
Secretary of State

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FILED FOR RECORD - HARDIN COUNTY, TEXAS
INST NO 2011-23115 Filed: 09/22/2011 at 12:05:00 PM



UTILITY SECURITY INSTRUMENT

THIS INSTRUMENT GRANTS A SECURITY INTEREST BY A UTILITY

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS,

DEED OF TRUST AND SECURITY AGREEMENT

56

11-0021719810

07/25/2011 05:00 PM



FILED TEXAS SECRETARY OF STATE



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STATE OF TEXAS §

COUNTY OF POLK §

THIS DEED OF TRUST AND SECURITY AGREEMENT, dated as of 7/26, 2007 (together with any amendments or supplements hereto, the "Mortgage"), executed by Lake Livingston Water Supply & Sewer Service Corporation (the "Issuer"), a water supply corporation created and existing under the laws of the State of Texas, including particularly Chapter 67 of the Texas Water Code, Vernon's Texas Codes Annotated, Article 1434a, Vernon's Texas Civil Statutes, whose address is P.O. Box 1149, Livingston, Texas 77351, and Nancy Marstiller, whose address in c/o Texas Water Development Board, Attention: Development Fund Manager, 1700 North Congress, P.O. Box 13231, Austin, Texas 78711, as mortgage trustee (the "Mortgage Trustee"):

WITNESSETH:

WHEREAS, on June 28, 2007 the Board of Directors of the Issuer has duly adopted a "RESOLUTION AUTHORIZING THE ISSUANCE OF LAKE LIVINGSTON WATER SUPPLY & SEWER SERVICE CORPORATION TAXABLE WATER REVENUE BONDS, SERIES 2007, \$17,500,000.00; PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; MAKING PROVISIONS FOR THE PAYMENT OF THE PRINCIPAL AND INTEREST ON THE BONDS; AUTHORIZING THE SALE OF THE BONDS TO THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE EXECUTION AND DEED OF TRUST AND SECURITY AGREEMENT; A TRANSFER AND PAYING AGENT AGREEMENT AND CERTAIN OTHER MATTERS IN CONNECTION THEREWITH," which, together with any amendment thereto, is hereinafter called and designated the "Bond Resolution;" and

WHEREAS, the Board Resolution authorized the issuance of that issue of Lake Livingston Water Supply & Sewer Service Corporation Taxable Water Revenue Bonds, Series 2007, in the original principal amount of \$17,500,000 (the "Series 2007 Bonds"); and

WHEREAS, the Series 2007 Bonds (as hereinafter defined) and any replacement bonds and any additional parity revenue bonds (Additional Bonds") authorized to be issued by the Bond Resolution, are hereinafter collectively called the "Bonds;" and

WHEREAS, as used in this Mortgage the word "Bond Resolution" shall mean and include

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	OR		

Beginning at an iron rod found for the Southwest corner of the herein described tract, also representing the Southwest corner of said Lot 23, and the Southeast corner of Lot 24 of said Forest Hills, said iron rod also being in the North right of way of Pine Ridge Drive;

Thence N 85 degrees 25' E 28.9 feet along the North right of way of said Pine Ridge Drive to its intersection with the West right of Way of White Oak Drive, an iron rod found representing the corner of the herein described tract and of said original Lot 23;

Thence N 38 degrees 30' E 120.0 feet along the West right of way of said White Oak Drive to an iron rod set for the most Eastern corner of the herein described tract, said rod being in the Southeastern line of said original Lot 23;

Thence N 42 degrees 27' W 124.13 feet to an iron rod set for the Northeast corner of the herein described tract, said rod being in the North line of said original Lot 23;

Thence S 69 degrees 52' W 36.0 feet along said North line to an iron rod found for the Northwest corner of the herein described tract, also representing the Northwest corner of said original Lot 23;

Thence S 04 degrees 35' E 176.0 feet to the place of beginning and containing with these bounds 0.30 of an acre of land.

Tract Seventeen: Being Lot Five Hundred Seventy-Seven (577), Block One (1), Section Seven (7) of SPORTSMAN'S RETREAT, a subdivision in Polk County, Texas, as depicted upon plat thereof duly recorded in Volume 5, Page 32 of the Plat Records of Polk County, Texas.

Tract Eighteen: Being Lot One (1), Section Seven (7), of INDIAN SPRINGS LAKE ESTATES, a subdivision in Polk County, Texas, as depicted upon plat recorded in Volume 1, Page 164 of the Plat Records of Polk County, Texas.

Tract Nineteen: Being Lot One Hundred Thirty (130), Section Sixteen (16) of INDIAN SPRINGS LAKE ESTATES, a subdivision in Polk County, Texas, as depicted upon plat thereof recorded in Volume 2, Page 33 of the Plat Records of Polk County, Texas.

Tract Twenty: Being Lot Six (6), Block Eleven (11), Section One (1) of NUGENT'S COVE, a subdivision in Polk County, Texas, as depicted upon plat duly recorded in Volume 3, Page 21 of the Plat Records of Polk County, Texas.

Tract Twenty One: Being Lot Eighty (80), Block Six (6), Section Two (2) of NUGENT'S COVE, a subdivision in Polk County, Texas, as depicted upon plat duly recorded in Volume 3, page 42 and in Volume 3, page 70 of the Plat Records of Polk County, Texas.

A RESOLUTION OF
THE TEXAS WATER DEVELOPMENT BOARD
APPROVING A REQUEST OF
LAKE LIVINGSTON WATER SUPPLY AND SEWER SERVICE CORPORATION
FOR PARTIAL RELEASE OF LIEN

(16-)

WHEREAS, the Texas Water Development Board (the "TWDB"), made a loan to the Lake Livingston Water Supply and Sewer Service Corporation (the "Corporation") through the purchase of the Corporation's \$17,500,000 Taxable Water Revenue Bonds, Series 2007 and \$3,130,000 Taxable Water Revenue Bonds, Series 2013 (the "Obligations"); and

WHEREAS, the Corporation's Obligations are secured by two Deeds of Trust and Security Agreements (the "Deeds of Trust") dated July 26, 2007 and March 15, 2013, on the Corporation's water system assets; and

WHEREAS, the 2007 Deed of Trust inadvertently included one tract of land that the Corporation had conveyed to private landowners in 2005;

WHEREAS, the private landowners wish to clear the title to their property; and

WHEREAS, Section 28(a)(2) of the Corporation's bond resolutions for its \$17,500,000 Taxable Water Revenue Bonds, Series 2007, and \$3,130,000 Taxable Water Revenue Bonds, Series 2013 require TWDB consent for the encumbrance or impairment to title; and

WHEREAS, the TWDB further finds that it is in the public interest for the TWDB to grant this partial release of lien in order to permit the Corporation to release the subject tract of land from its 2007 Deed of Trust.

NOW THEREFORE, based on said considerations and findings, the Texas Water Development Board resolves as follows:

1. The TWDB approves a partial release from its lien on the Property;
2. The Corporation will pay any and all costs of documentation and filing of the partial release of lien;
3. The Corporation must provide to the TWDB a file-stamped copy of the Deed of Trust on the remaining properties; and
4. The TWDB authorizes the Executive Administrator to take all actions necessary to give effect to this Resolution.

APPROVED and ordered of record this the 11th day of April, 2016.

TEXAS WATER DEVELOPMENT BOARD

Bech K. Bruun, Chairman

DATE SIGNED: _____

ATTEST:

Kevin Patteson
Executive Administrator