

MINUTES

At 5:30p.m. President Jerry Hayes called this continuation meeting to order at the ESCUD office. The Commissioners were asked to introduce themselves; it was found that Commissioner Jerry Hayes, Commissioner Dan Barnett, and Commissioner Ron Cooley were all present. ESCUD Attorney Doug Overby introduced himself. Greg Mize with TDEC was introduced. It was stated that the meeting was recorded by different people. The Secretary Commissioner Ron Cooley records all meetings to make the minutes of the meetings.

- 1) President Hayes had the minutes from 02/09/2023, 02/16/2023, and the special meeting 02/27/2023 in hand. He read the highlights from these meetings. All Commissioners had typed copies of the minutes.
Commissioner Cooley made a motion to approve the minutes. Seconded by Commissioner Barnett. Motion passed unanimously.
- 2) The treasurer report was next on the agenda. The Commissioners were under the impression that Alliance would be presenting this report. There was no report to give. There were checks made out to

A. Big Orange Electric amount of \$6,615.00

B. McGill Associates amount of \$4,242.50.

C. First Horizon Bank amount of \$2,000.00

D. Selective Insurance amount of \$788.00

E. EMPOA amount of \$500.00.

F. Land Air Communications amount of \$208.41

G. Mission Communication amount of \$1,690.20

H. Power Pumping amount of \$2,700.00

A final check to Alliance Water to be made in the further in the amount of \$54,000. **Commissioner Barnett made a motion to approve these**

- a) **Stephen Bradley** He asked how this was going to work with Alliance doing the billing and after that what would happen. President Hayes explained it was the same as ours and should remain the same.
 - b) **Heather Cartier** Asked if Alliance had been taken off the account. President Hayes explained to her that only President Hayes and Commissioner Cooley could sign checks jointly. Commissioner Barnett explained that there really needs to be an audit conducted.
 - c) **Chris Rabidoux** Thanked the Board for the changes it was trying to complete and make the water system better. President Hayes explained that well D was still not what he wanted it like and the filtration system at well C was going to be moved to well D
 - d) **Harry Ogle** Brought a copy of his bill and presented it to President Hayes. President Hayes said that appeared to be a major difference in what he was billed for usage and what he normally used. Bill was given to President Hayes
 - e) **Heather Fromm** Complained about the dirty water that she receives from well D. She said she still holds the Board accountable. President Hayes apologized for the dirty water.
 - f) **Shirley** She showed a new towel that was dirty looking because of the dirty water
 - g) **Charles Rogers** Stated that a lot of work behind the scenes to get some help with the water on the mountain. He is pleased with all that has been accomplished so far.
 - h) **Debbie Curtman** Spoke about rumors (Gossip) on the mountain and to the integrity of President Hayes.
 - i) **Jeff** Was a past employee with Alliance. He has seen a great improvement since the Board paid to have. Witt Utility completes some of the work to the infrastructure.
 - j) **Norm Bowen** Spoke to the Board was go getters and the improvements that have been made so far.
- 13) Commissioner Barnett instructed Bert Underwood to replace the signs at the off sites with the new number and to have Bert's cell phone updated on the website.

14) President Hayes Adjourned the meeting.

TERMINATION, SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This Termination, Settlement and Mutual Release Agreement ("Agreement") is entered into this 9th day of March, 2023, by and between the East Sevier County Utility District ("Utility") and Alliance Water Resources, Inc. ("Alliance") (Utility and Alliance collectively referred to through this Agreement as the "Parties"), with regards to the following:

WHEREAS, Utility entered into a professional services contract with Alliance on September 12, 2017, for Alliance to manage, operate and maintain Utility's water treatment, wastewater treatment, sewer collection and water distribution facilities (the "Contract"); and

WHEREAS, Utility and Alliance executed several memoranda ("Memoranda") related to the Contract and which, among other things, extended the term of the Contract; and

WHEREAS, the Contract and Memoranda are currently in force and effect; and

WHEREAS, the Parties wish to terminate the Contract and Memoranda amicably and fully, and wish to resolve any dispute, potential dispute, claim or potential claims that exist between them as of the date of this Agreement or that may arise in the future relating to the Contract, Memoranda and/or the services that are the subject of the Contract and Memoranda;

NOW, THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **No Admission of Liability.** Nothing in this Agreement, nor any act (including, but not limited to the execution of this Agreement) of the Parties, is or shall be treated, construed, or deemed as an admission by any Party hereto of any liability, fault, responsibility, or guilt of any kind to any other Party hereto or to any person, as to any allegation or claim, or otherwise, for any purpose whatsoever, all such liability, fault, responsibility, and guilt of any kind being expressly denied.

2. **Termination of Contract and Memoranda.** The Contract entered into on September 12, 2017, and the Memoranda related thereto, are voluntarily and mutually terminated by the Parties, effective as of the close of business on March 9, 2023 (the "Termination Date").

3. **Transition, Reasonable Cooperation, and Payment for Services.** As part of this Agreement, Alliance and Utility agree as follows:

- a. Alliance has completed billing for Utility customers for March 1, 2023.
- b. On or before the Termination Date, Alliance will turn over to Utility all customer lists, invoices, work orders, and keys in Alliance's possession.
- c. Alliance has paid the invoice for the month of March 2023 for use of Muni-Link software, owned and provided by third-party vendor Link Computer Corporation ("Software Provider"), in connection with Utility billing activities. Utility shall have access to Muni-Link software through March 31, 2023, after

which date access shall be discontinued unless Utility elects to continue to use Muni-Link software and executes an appropriate agreement with Software Provider. After March 31, 2023, should Utility elect to continue to use Muni-Link, Utility shall be solely responsible for payment of all Muni-Link Invoices and billings from Software Provider.

- d. Notwithstanding the provisions of Paragraph 2 of this Agreement, from March 10, 2023 through March 31, 2023, Alliance will respond to telephone inquiries as reasonable and necessary from Utility regarding the management, operation and maintenance of the Utility's water treatment, wastewater treatment, sewer collection and water distribution facilities.
- e. Alliance shall leave in place and not remove any equipment, vehicles, inventory, files, documents, office supplies, personal property, or other assets owned by Utility. As part of this Agreement, it is expressly agreed by the Parties that the items listed in the document attached as Exhibit A to this Agreement are property owned by Alliance and that said property, in addition to any other property owned by Alliance, shall not remain with Utility.
- f. On March 9, 2023 Utility will pay Alliance \$54,395.00 (Fifty-four thousand, three hundred and ninety-five dollars and no cents) for services rendered.

4. **Mutual Release of Claims and Hold Harmless.** In consideration of the mutual promises, warranties, and covenants contained in this Agreement, and to the extent allowed by law, it is further agreed that Utility and Alliance, on behalf of themselves, including, but not limited to, employees, attorneys, agents, insurers, successors or assigns, hereby agree to fully release, hold harmless, and forever discharge and covenant not to sue one another or any employees, attorneys, agents, successors or assigns of one another, and agree to release one another from any and all claims existing as of the date of this Agreement or that may arise in the future which arise out of or are related to the Contract, the Memoranda and/or the services that are the subject of the Contract and Memoranda. This release includes, but is not limited to, any claims for services, obligations, payments, refunds, and/or damages of any and all types, including statutory damages, actual damages, compensatory damages, emotional distress, punitive damages, costs, interest, attorneys' fees, and any other damages, whether known or unknown, anticipated or unanticipated, foreseen or unforeseen.

Each of the Parties represents and warrants to the other that no claim released by such Party in this Agreement has previously been assigned and that it is the sole owner of such claims free and clear of all liens and claims of any other Party and this representation and warranty shall survive the consummation of this settlement and is a material inducement to each party in entering into this Agreement.

5. **Authority.** By executing this Agreement, each of the undersigned represents that: (a) the person executing this Agreement on its behalf is duly authorized and empowered to execute and deliver this Agreement; and (b) this Agreement constitutes the legal, valid, and binding obligation of the Parties hereto, enforceable against such Parties in accordance with its terms.

6. **Advice of Counsel / Interpretation.** The Parties hereto have sought advice from their respective counsel before executing this Agreement. In construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any Party because such provision, or this Agreement as a whole, was purportedly prepared or requested by such Party.

7. **Titles.** The Parties expressly acknowledge and agree that the titles used herein are provided for reference only and shall not be determinative of the intent or meaning of any provision herein. Instead, each provision shall be interpreted and understood according to its content and not its title.

8. **Integration.** This Agreement constitutes the entire agreement and understanding among the Parties relating to the subject matter hereof, and supersedes all prior proposals, negotiations, agreements, and understandings relating to such subject matter, and no other understandings or agreements, written or oral, shall be used to interpret this Agreement.

9. **Amendment.** This Agreement may not be amended unless such amendment is in writing and signed by both of the Parties hereto.

10. **Severability.** If any provision of this Agreement shall be found by a court to be void, voidable, invalid, or unenforceable, the remaining portions shall remain in full force and effect.

11. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts by the use of separate signature pages, which will be fully effective and legally binding on all Parties executing the Agreement, whether or not executed contemporaneously.

12. **Electronic Execution.** An executed copy and/or facsimile copy of this Agreement is and shall be deemed an original for all intents and purposes. The Parties further agree that signature pages of the Agreement may be exchanged via facsimile transmission or e-mail and that a facsimile or electronic signature of any of the Parties hereto shall be the same as an original.

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

14. **Binding Effect; Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

15. **Enforcement of this Agreement.** Notwithstanding anything to the contrary contained in this Agreement, the Parties hereto expressly reserve unto themselves any claims or causes of action, whether at law or in equity, arising out of the non-performance of this Agreement. In the event either Party files suit or otherwise incurs attorneys' fees or expenses to enforce the terms of this Agreement, the prevailing Party in such dispute shall be entitled to recover its reasonable attorneys' fees and expenses from the other Party, to the extent allowed by law.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have subscribed their names on the day and year written above.

East Sevier County Utility District

Alliance Water Resources, Inc.

By: Teray Hayes Rego (Name, Title)

By: Tim Geraghty, President

 (Signature)

_____ (Signature)

EXHIBIT A

The following items are the property of and owned by Alliance Water Resources.

- Dell Latitude Computer – 5510-57Z0573
- ICS Saw – 9/1/21-OptiPlex 5090-8VNK2G3
- 2011 Ford Ranger Supercab [Local Manager Vin #4968]
- 2019 Ford F-150 Supercab 4X4 [Local Manager Vin #2717]

**AGREEMENT BETWEEN THE EAST SEVIER COUNTY UTILITY DISTRICT AND
THE WITT UTILITY DISTRICT OF HAMBLLEN AND JEFFERSON COUNTIES**

This agreement is entered into on this 9th day of MARCH, 2023, between the East Sevier County Utility District (“ESCUD”) and the Witt Utility District of Hamblen and Jefferson Counties (“WUD”), sometimes referred to collectively as the “Parties,” to memorialize the agreement between the Parties concerning certain work to be performed by WUD on behalf of ESCUD.

WHEREAS, ESCUD and WUD are both utility districts created pursuant to the Utility District Law of 1937, Tenn. Code Ann. §7-82-101 *et seq.*; and

WHEREAS, ESCUD has experienced issues with its ability to reliably provide water to its customers, such that many of its customers are without water on a recurring basis; and

WHEREAS, ESCUD has sought aid or assistance from other cities and utility districts near its service area; and

WHEREAS, WUD is the only entity that has responded that it is capable of and will assist ESCUD with its immediate needs in order for ESCUD to be able to provide water on a reliable basis to its customers; and

WHEREAS, the parties have been in discussions concerning how WUD can help ESCUD and wish to enter into a formal agreement whereby WUD will provide services to ESCUD.

NOW, THEREFORE, in consideration of these premises, the Parties do hereby agree as follows:

1. Due to the immediate nature of ESCUD’s needs, and at ESCUD’s request, WUD agrees to provide certain assistance and services to ESCUD as outlined herein.
2. Attached hereto as **Exhibit A** is correspondence from WUD to ESCUD dated February 27, 2023, which outlines the qualifications of WUD, its willingness to provide assistance

to ESCUD due to the issues facing ESCUD, and the equipment that WUD may have available to assist ESCUD.

3. Attached hereto as **Exhibit B** is a proposed scope of work to be performed by WUD on behalf of ESCUD at a cost of \$110,000.00.

4. Due to the unknown condition of the facilities currently operated by ESCUD, it is anticipated that WUD will need to address other problems in addition to those outlined on Exhibit B. WUD will notify ESCUD when additional problems are identified and will provide supplemental information based on the additional work that may need to be done in order to properly repair ESCUD's facilities. ESCUD authorizes WUD to proceed with such additional repairs for any issues identified by WUD that will not exceed an additional amount of \$5,000.00 per identified repair. Any item in excess of \$5,000.00 will be presented to a representative of ESCUD for approval before work on the particular item in excess of ~~\$7,500.00~~ ^{45,000.00} is commenced. *MT MTD 3/9/23*
Such additional work and the costs thereof are not included in, but are in addition to, the amounts as shown on Exhibit B

5. WUD will submit periodic invoices to ESCUD for the work that has been performed, and ESCUD agrees to pay such invoices within 15 days of approval of such invoices by ESCUD's board of commissioners.

6. The Parties anticipate that ESCUD may request additional work to be performed by WUD on behalf of ESCUD, and that such additional work will be subject to further agreements between the parties that may be entered into between the Parties at a later date and after the immediate needs of ESCUD have been addressed by WUD. The Parties anticipate entering into an Intergovernmental Agreement pursuant to the Interlocal Cooperation Act that will define in greater detail the relationships between these parties.

7. This Agreement may be terminated by either Party upon ten (10) advance written notice sent by certified mail, return receipt requested, to the other Party at its principal office.

8. The individuals signing below represent that they have full authority to execute this Agreement on behalf of their respective Parties; that this agreement has received any approval required by law from their respective Parties; and that this agreement is legal, valid, and binding.

9. This agreement may be executed in counterparts and copies of signatures to this agreement delivered via facsimile or via email shall be deemed to be originals.

EAST SEVIER COUNTY UTILITY DISTRICT

By: *[Signature]* Pres. Chair

Date: 3-9-23

WITT UTILITY DISTRICT OF HAMBLEN AND JEFFERSON COUNTIES

Michael Pragan
By: *[Signature]* Vice Chair

Date: 3/9/23

Michael T. Sell



WITT UTILITY DISTRICT

February 22, 2023

East Sevier County Utility District
420 Robert Henderson Road
Sevierville, TN 37862

Attn: Board of Commissioners

To my fellow ESCUD Board of Commissioners:

In response to your request for an IGA (*Intergovernmental Agreement*) for mutual aid in an emergency, **Witt Utility** would be happy to assist if deemed necessary. **Witt Utility** would only answer the ESCUD Board directly for unforeseen situations requiring prompt action to avoid a disaster. **Witt Utility** would make repairs needed by ESCUD board in accordance with TDEC (*Tennessee Department of Environment and Conservation*) rules and regulations. If assistance were needed often, **Witt Utility** would issue a price for services rendered.

Witt Utility has years of experience in heavy construction including, but not limited to; grading, boring up to 72" horizontal with casing, hauling, excavation, blasting, structural concrete, all commercial and municipal building repair, well pump install, water treatment, pipe install up to 36" diameter, electrical single & three phase, pump repair, rebuild & replacement, and rock crushing.

Witt Utility has included in this letter a list of equipment WUD has on-site, and which can be utilized by **Witt Utility** employees. **NOTE: All crew members would stay until water is restored.**

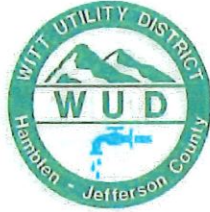
If assistance were to be needed, a ESCUD Board member would need to contact the following:

Benjamin Harris, Witt Utility General Manager

Cell Phone: (423) 839-7737

Email: btharris31@gmail.com

EXHIBIT A



WITT UTILITY DISTRICT

List of Witt Utility's Equipment

- (3) 4-Wheel drive Backhoes
- (1) 22,000lb & (1) 40,000lb Track hoe
- Boring rigs from 2" to 24" with steel casings
- Tapping machine $\frac{3}{4}$ up to 12" for any pipe type.
- D-3 Dozer
- 963 high-lift
- Trencher 16" width
- (2) 12-ton dump trucks
- 6-ton to 55-ton low boy trailers (*Detached trailer*)
- All construction tools (chop saws, chainsaws, drills, etc.)
- Rock drills, blasting mats and dynamite
- Most pipe fittings up to 16" in stock
- (1) T770 Bobcat with tracks
- (1) 186 Bobcat with tires
- (2) 600amp generators (3-phase)
- (1) 200amp single phase generator
- (1) 120amp generator single or 3-phase
- (2) 50amp single phase
- (2) 30amp single phase
- Stick, wire, mig, & tig welders
- All types of rigging equipment up to 60-ton
- (2) portable light towers
- (20) Stand lights & cords
- (10) Utility trucks (4-wheel drive)
- 2-way radios in case of phone service interruption
- (4) trash pumps; 2,3 & 6"
- Multiple fuel transport tanks
- Multiple heaters, diesel propane, & electric
- 30ft scissor-lift
- Cones & traffic control
- Gear & rigging to pull well pumps up to 8"



WITT UTILITY DISTRICT

East Sevier County Utility District
420 Robert Henderson Road
Sevierville, TN 37862

Attn: Board of Commissioners

To my fellow ESCUD Board of Commissioners:

Below is what is included in the price:

Installation of pump, pipe, and all materials to activate (Well F), including tying (Well F) into the main water system. This includes all materials that will be needed to get the well into full working operation.

Labor of laying 4-inch pipe throughout Half High Street, replacing an estimated 1,000 feet, and including connections.

Installation of 4 inline valves including 4 jumper feeds and pressure reducing valves.

Installation of 8 air release valves

Diagnosis of pump at (Well C)

Install external tank gauge for well c water tank

Replace and lower 500 feet of 4-inch water main on Old Laurel Lane and Red Maple for exposed pipe.

Perform leak detection on all water meters within the system and valves.

All work to be performed by Witt Utility will provide labor and materials to perform work.

Total Cost: \$110,000

EXHIBIT B