IN THE CIRCUIT COURT FOR THE SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS

MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS,	)	
Plaintiffs,	)	'14 MR 1234
v.	)	Case No.
KENT W. SHODEEN, individually and as Trustee of the Kent W. Shodeen Trust Number 1; SHO DEEN, INC.; EAGLE GOLF; GOLF VISIONS MANAGEMENT, INC.; MILL CREEK LAND COMPANY, an Illinois corporation; TANNA FARMS, LLC; and MILL CREEK COUNTRY CLUB, INC.	)	
Defendants.	)	

FILED
ENTERED
2014 DEC -1 A 8:40
THOMAS M HARTWELL
CIRCUIT COURT CLERK
KANE COUNTY, IL

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

NOW COME the Plaintiffs, MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS, and for their Complaint against the Defendants, KENT W. SHODEEN, individually and as Trustee of the Kent W. Shodeen Trust Number 1; SHO DEEN, INC.; EAGLE GOLF; GOLF VISIONS MANAGEMENT, INC.; MILL CREEK LAND COMPANY, an Illinois corporation; TANNA FARMS, LLC; and MILL CREEK COUNTRY CLUB, INC., say as follows in separate counts.

Count I – for Injunctive Relief (against all defendants)

A. The Plaintiffs

1. Plaintiff, Mill Creek Water Reclamation District (the "District") is an Illinois unit of local government and body politic organized pursuant to the Illinois Sanitary District Act of 1936, 70 ILCS 2805/1 *et seq.*

NOTICE
BY ORDER OF COURT THIS CASE IS HEREBY SET FOR CASE MANAGEMENT CONFERENCE BEFORE THE ABOVE NAMED JUDGE
ON 3/18/15
_____, AT 9:30 A.M./P.M.
FAILURE TO APPEAR MAY RESULT IN THE CASE BEING DISMISSED OR AN ORDER OF DEFAULT BEING ENTERED

2. Plaintiffs Michael Iwan and Richard L. Williams are two individuals who each reside and own property within the geographic boundaries of the District, and are each duly appointed members of the District's Board of Trustees. Each of these individual trustees is statutorily charged with operating the District as an independent governmental body.

3. The District supplies potable water to and processes the wastewater of its customers.

B. The Defendants

4. Defendant Kent W. Shodeen is an individual who resides in the City of Geneva, Kane County, Illinois. At relevant times hereto Mr. Shodeen was the Trustee and beneficiary of the Kent W. Shodeen Trust No. 1 (the "Trust") under a Declaration of Trust made April 15, 1979.

5. Sho Deen, Inc., is a foreign corporation registered in Illinois having its principal office in Geneva, Illinois ("Sho Deen"). Sho Deen is a residential and commercial land developer doing business in Kane County, Illinois.

6. Mill Creek Land Company is an Illinois corporation having its principal place of business in Geneva, Illinois, and at times material hereto Kent W. Shodeen was its President. Mill Creek Land Company obtained various development approvals from the County of Kane for the Mill Creek Planned Unit Development. Mill Creek Land Company is sometimes referred to herein as the "Developer."

7. Mill Creek Country Club, Inc., is an Illinois corporation having its principal place of business in Geneva, Illinois. Mill Creek Country Club, Inc., was at times material hereto the owner of record of the property commonly known as the "Mill Creek Golf Course," consisting of

an 18 hole golf course with club house and practice facility, including a driving range, practice holes, and a nine hole mini "pitch and putt" golf facility.

8. The Mill Creek Golf Course is leased to and managed by Defendant Eagle Golf, a Texas company. Eagle Golf operates Mill Creek Golf Course.

9. Tanna Farms, LLC, is an Illinois limited liability company also having its principal place of business at Geneva, Illinois. Tanna Farms, LLC, was at times material hereto the owner of record of the property commonly known as the "Tanna Farm Golf Course," consisting of an 18 hole golf course with club house and pavilion in the Mill Creek Planned Unit Development.

10. The Tanna Farms Golf Course is leased to and managed by defendant GolfVisions Management, Inc., an Illinois corporation. GolfVision operates the Tanna Farm Golf Course.

11. Kent W. Shodeen, the Trust and/or Sho Deen, Inc., have claimed to the Plaintiffs that they or one of them have the right to control and regulate the irrigation, and the right to lease the control of the irrigation, of the two aforementioned golf courses.

C. History of the District and Mill Creek Subdivision.

12. The District was established by Sho Deen to provide potable water and sanitary waste water disposal for the benefit of residents and customers of the Mill Creek Planned Unit Development.

13. Mill Creek is an award-winning, mixed, planned unit development (residential, retail, school and recreation) located on approximately 1,375 acres of land in unincorporated Blackberry and Geneva Townships, Kane County, Illinois. Mill Creek is presently composed of approximately 1950 single and multifamily dwelling units, two 18 hole golf courses (Mill Creek

Golf Course and Tanna Farms Golf Course), two elementary schools (Mill Creek Elementary School and Fabyan Elementary School), a residential facility for profoundly disabled children and adults (Marklund), an older adult community of 260 independent, assisted and skilled nursing units (GreenFields of Geneva), and various commercial uses in the "Village Center."

14. In order to achieve residential housing densities that were typically achieved in incorporated municipal developments, Mill Creek's viability hinged upon the establishment of the District and the construction of a combined waste water treatment and waterworks system to provide potable water and waste water disposal to Mill Creek's residents and customers (the "Water Works System"). Absent the successful creation of the District and Water Works System, all property owners within Mill Creek Planned Unit Development would have been dependent on separate well and septic systems, that were, as of the time of the subdivision's early development, the typical source of water and waste water disposal for subdivisions established within Kane County and otherwise outside the jurisdiction of any municipal water supply and disposal system.

15. The successful establishment of the District and the Waste Water System was of tremendous economic value to the Trust, Sho Deen and/or the Developer (Mill Creek Land Company), as it would permit residential, commercial, and institutional densities typically found in incorporated municipal developments, thereby increasing the value of the 1,375 acres owned or controlled by Mr. Shodeen, the Trust, Sho Deen and/or the Developer.

16. In 1994, the Developer obtained the necessary approvals for the Mill Creek Planned Unit Development from the County of Kane.

17. Concurrently with the Kane County approval process, the Trust and Developer actively worked to establish the District. The District was established pursuant to court order

dated November 23, 1993 in the Circuit Court for the 16th Judicial Circuit, Kane County, Case No. 1992 MC 0004. Without the establishment of the District, the development of Mill Creek Planned Unit Development would have been impossible.

18. The District's Water Works System, Wastewater System, and Stormwater System were initially constructed and paid for by Sho Deen, the Trust and/or the Developer.

19. Shortly after the District's establishment, the initial Board of Trustees of the District consisted of: (i) Christopher Vieau (President); (ii) Patricia Shodeen (Treasurer); and, (iii) Pamela Shodeen (Secretary). At all times relevant, Christopher Vieau was an employee of Sho Deen, under Sho Deen's direct supervision and control and the President of the District, and Patricia Shodeen and Pamela Shodeen were and/or are daughters-in-law of Kent W. Shodeen.

20. Upon receipt of the necessary development of approvals from County of Kane, and establishment of the District, Sho Deen and/or the Developer began the construction of the Mill Creek Planned Unit Development and the Water Works System.

21. Mill Creek was unique in that it was one of the first communities in Illinois to implement a "land application system" for the disposal of waste water generated from its residential and commercial water users. The Mill Creek Waste Water Reclamation & Reuse System, "WWRRS," treats the community's sewage in deep, aerated treatment cells where, over time, the waste water is reclaimed as clean water that is beneficially reused to irrigate the two aforementioned golf courses and other areas. Because the Illinois Environmental Protection Agency, "IEPA," permit, which governs the construction and operation of the WWRRS, limits irrigation to the growing season, the reclaimed water is stored on the District's site from the end of November through mid-April each year.

D. The District's Operations.

22. The District's customers are persons and other entities who own property in the subdivision known as Mill Creek in Blackberry and Geneva Townships, Kane County, Illinois, as shown by the plat thereof recorded as instrument number 94K091698 in the Kane County Recorder's Office on December 22, 1994 in Plat Envelope Number 892A and B (and as from time to time thereafter amended).

23. As already described in some detail in paragraph 13 above, the District's customers in Mill Creek include persons and other entities who own single family residences, multiple family residences, and businesses, as well as the churches, schools, and other facilities within the subdivision.

24. Other than the District, the District's customers have no alternative source for the water they need or for processing their wastewater.

25. The District provides water to its customers from three wells, and makes potable water available to its customers through a piping and pumping system.

26. The District also receives wastewater, including sewage, from its customers and processes the wastewater at its water reclamation plant located within Mill Creek.

27. As part of the District's processing of wastewater, including sewage, the District utilizes a series of lagoons (treatment cells and reservoirs).

28. In order to continue to process wastewater being constantly received in the District's wastewater processing facility (WWRRS), from time to time, particularly during the months of April through November of each year, the District must land-apply from the lagoons a sufficient amount of water to permit wastewater from its customers to continue to flow into the wastewater processing plant and be processed.

29. The amount of water discharged by the District, after processing, has in recent years averaged between 160 and 170 million gallons per year.

30. The means by which the District discharges water from its lagoons is a waterworks and wastewater management system which includes piping to and discharge mechanisms (including sprinklers) at the two golf courses located within Mill Creek, the Tanna Farms Golf Club and the Mill Creek Golf Club.

31. That is, the ultimate discharge point for the treated wastewater of the District's customers is and has been the two golf courses.

32. The District has no alternative properties on which to discharge the treated wastewater from any or all of its customers.

33. A demonstrative diagram of the District's WWRRS operation is **Exhibit A** hereto.

34. Both golf courses have benefitted and continue to benefit from the discharge of water onto the golf courses because, otherwise, the golf courses would have no means of irrigation. In some years, including the spring, summer and fall of 2012, the golf courses needed virtually all the reclaimed wastewater which the District was able to process in order to maintain the turf at the golf courses.

E. The Purported "Lease Agreement"

35. The District began discharging its treated wastewater onto the golf courses after execution of a certain August 1, 1995 agreement purporting to be a "Lease Agreement" between the District and Defendant Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1, which "Lease Agreement" is attached hereto and made a part hereof as **Exhibit 1,** and is hereinafter referred to as the "Lease Agreement." Despite its title, the Lease Agreement is in

fact a license since, by its terms, it does not grant the District possession or control of the real estate therein described, but merely purports to confer upon the District the right to use the real estate "for the sole purpose of permitting the District to dispose of" the District's wastewater (Ex. 1, ¶1, p. 1). Furthermore, the real estate described in the Lease Agreement is leased to defendant(s) Eagle Golf and/or Golf Visions Management, Inc., for the purposes of running the golf courses and related golfing facilities thereon. The Lease Agreement itself was assigned to Defendant Mill Creek Country Club, Inc., in July 2009 by that certain assignment, a true, correct, and complete copy of which is Exhibit 1A attached hereto and made a part hereof.

36. The District and Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1 operated under the Lease Agreement until on or about April 2012, when it expired by its own terms.

37. Thereafter, the parties to the Lease Agreement did not renew it.

38. Nevertheless, the District has continued to discharge the treated wastewater onto the golf courses. Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1, the golf courses, and their respective managers have accepted the District's treated wastewater without charge to the District.

39. The Trustees of the District ceased making payments under the Lease Agreement because they determined that the Lease Agreement was void from its inception for reasons including those described in the following paragraphs.

F. The Illegality of the Lease Agreement

40. Because of the relationship between Christopher Vieau, Patricia Shodeen, and Pamela Shodeen on the one hand, and, on the other hand, Kent W. Shodeen, Sho Deen, Inc., and/or one or more of the other Defendant entities, at all times during which Christopher Vieau,

Patricia Shodeen and Pamela Shodeen served as Trustees of the District, they were, directly or indirectly, financially interested in the Lease Agreement, Exhibit 1 hereto, and/or in the manner in which the District's wastewater was processed thereunder.

41. Mr. Vieau's direct or indirect interest resulted from his being employed by Sho Deen, Inc., and possibly other defendant entities, as well as his personal relationship to Kent W. Shodeen.

42. Patricia Shodeen and Pamela Shodeen were directly or indirectly interested because of their familial relationship to Kent W. Shodeen.

43. At all times material hereto, Kent W. Shodeen was the sole beneficiary of Kent W. Shodeen Trust Number 1 described in the Lease Agreement, Exhibit 1, as the "owner," and the Trust was the sole beneficiary of land trusts which owned numerous parcels in Mill Creek (identified on Exhibit A to the Lease Agreement, Exhibit 1).

44. At all times material hereto, there was in full force and effect in the State of Illinois a statute commonly known as the Public Officer Prohibited Activities Act, and that Act provides in pertinent part as follows:

> No person holding any office, either by election or appointment under the laws or Constitution of this State, may be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. No such officer may represent, either as agent or otherwise, any person, association, trust, or corporation, with respect to any application or bid for any contract or work in regard to which such officer may be called upon to act or vote. Nor may any such officer take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. *Any contract made and procured in violation hereof is void.*

50 ILCS 105/3(a). (emphasis added).

45. Each of the then-trustees, Christopher Vieau, Patricia Shodeen and Pamela Shodeen, voted in favor of or otherwise approved the Lease Agreement, Exhibit 1, in violation of 50 ILCS 105/3(a).

46. Furthermore, at all times material hereto, there was in full force and effect in the State of Illinois a statute commonly known as the Sanitary District Act of 1936, and that Act provides in pertinent part as follows:

> ...No trustee or employee of such sanitary district shall be directly or indirectly interested in any contract, work or business of the district, or the sale of any article, the expense, price or consideration of which is paid by such district; nor in the purchase of any real estate or property belonging to the district, or which shall be sold for taxes or assessments, or by virtue of legal process at the suit of such district.

70 ILCS 2805/3(d).

47. By virtue of the foregoing, the Lease Agreement was void and illegal.

48. Furthermore, any purported extension of the Lease Agreement entered into by the parties thereto was illegal and unenforceable. *See generally Ritacca v. Girardi*, 2013 IL App (1st) 113511, ¶26.

G. Grounds for Injunctive Relief

49. Plaintiffs have a clearly ascertainable right and need to protect the ability of the District to discharge wastewater, and thus prevent the cessation of its services not only to the individual Plaintiffs, but to all of the District's other customers. Said rights arise (in part) out of the acceptance by the Defendants and/or the golf courses, since April 2012, of the District's wastewater without any charge to the District, as well as the acceptance of the District's wastewater discharge before April 2012.

50. Furthermore, Plaintiffs have a clearly ascertainable right to prevent the cessation of their services to their customers because, by billing and accepting money from their

customers, the District has impliedly contracted with its customers to provide them with water and to dispose of their wastewater, and the District's performance of its obligations will be rendered impossible if for any reason the golf courses cease accepting wastewater from the District.

51. If the Defendants, or any of them, cease accepting wastewater from the District, the Plaintiffs will suffer irreparable harm, as will all of the customers of the District, because the District will be unable to process and land-apply its customers' wastewater. If the District is unable to land-apply treated wastewater onto the golf courses, wastewater would overflow the banks of the District's lagoons (treatment cells and reservoirs), flood adjacent private properties and public rights-of-way, and enter the Mill Creek storm water system, eventually polluting not only retention basins within the Mill Creek Subdivision, but also the watercourse commonly known as Mill Creek and its tributaries, all in violation of the District's IEPA permits. Alternatively, were the District forced to prevent such overflow and its consequences, the District would be required to shut down its operations by turning off lift stations which permit its customers' wastewater to reach the District's treatment plants with the result that customers would soon experience sewage back-up and other ill consequences.

52. There is no adequate remedy at law for this harm to the individual Plaintiffs, the District's other customers, the watercourses, and the general public, and money damages will not be adequate or even possible to determine, should disposal of treated wastewater become impossible.

53. The Plaintiffs have a reasonable likelihood of success on the merits for reasons including, but not necessarily limited to the following:

A. The acceptance of treated wastewater in the past by the golf courses and

by such of the Defendants as are interested therein or have had control thereof from time to time;

B. The invalidity and illegality from inception of any limitations imposed upon the District by the Lease Agreement, Exhibit 1 hereto, or any other agreement by the parties to the Lease Agreement or any assignee.

WHEREFORE, the Plaintiffs, MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS, pray for orders against the Defendants, and each of them, granting the following injunctive relief:

1. A preliminary injunction against the Defendants, and each of them, from in any way interfering with the operations of the District, and in particular, the ability and processes of the District for the discharge of treated wastewater onto the golf courses, and/or any interference with any part of the system in place to discharge treated wastewater;

2. A permanent injunction against the Defendants and each of them, from in any way interfering with the operations of the District, and in particular, the ability and processes of the District for the discharge of treated wastewater onto the golf courses, and/or any interference with any part of the system in place to discharge treated wastewater;

3. For such other, further, or different relief as to the Court seems just.

Count II – Declaratory Judgment (against all Defendants)

1-53. For paragraphs 1 through 53 of this Count II, Plaintiffs repeat, reallege and incorporate herein, as though fully set forth, paragraphs 1 through 53 of the foregoing Count I.

54. Simultaneously with the execution of the Lease Agreement aforementioned, Exhibit 1 hereto, on or about August 1, 1995, the District and Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1, as well as the Developer, Defendant Mill Creek Land Company, entered into a certain Purchase Agreement, a true and correct copy of which is

attached hereto and made a part hereof as Exhibit 2 (without all exhibits)

55. In the Purchase Agreement, Exhibit 2 hereto, the District agreed to purchase the Water Works System, the Waste Water Disposal System and the Stormwater System from the Trust, which systems, for purposes of the Purchase Agreement, were collectively referred to as the "Systems", and defined as follows:

"1. a *complete drainage system* consisting of but not limited to the following: ditches, culverts, storm sewers, inlets, manholes, channels, dry and wet stormwater detention facilities, and related appurtenances, *and lands and easements necessary therefor*; and

2. a *complete waterworks system* including supply, treatment, storage and distribution facilities consisting of but not limited to the following: a water well, adapter units, submersible pumps and motors; pump house facilities including structural, mechanical, electrical and chemical treatment components; water storage tank; water mains, valves and hydrants; *and all other appurtenances, and lands and easements necessary therefor*; and,

3. a *complete waste water management system* consisting of but not limited to the following; collection, transmission, treatment, disposal and monitoring system including: gravity sanitary sewers, risers, services and manholes; waste water pumping stations, and pressure sanitary sewer; communicator; aerated treatment lagoons, storage lagoons, intermittent sand filters, and control building facility including structural, mechanical, electrical and chemical treatment components; waste water pumping station, distribution, sprinkler and subsurface drainage system; monitoring and supply wells and components; and all other related appurtenances necessary or useful and convenient for

the collection, treatment and disposal in a sanitary manner, of sewage and waters, *and lands and easements necessary therefor*."

Exhibit 2, pp. 1-2 (emphasis added).

56. The plans and specifications for the Systems were obtained by Sho Deen and/or the Developer, as were the estimated costs of construction. The Purchase Agreement estimated the cost of the System at $8,100,000. *Id.*, p. 2, ¶F.

57. More or less concurrently with the execution of the Purchase Agreement, the District issued $8,000,000 in revenue bonds ($3,000,000 for the Waterworks System and $5,000,000 for WasteWater Management System), the proceeds of which were turned over to the Developer for the construction of the System.

58. Furthermore, in or about September 1995, the District and Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1, entered into a certain Assignment of Excess Capacity, a true and correct copy of which is attached hereto and made a part hereof as **Exhibit 3**.

59. Taken together, these instruments, Exhibits 1, 1A, 2 and 3 inclusive, deprive the District of rights and authority normally accorded sanitary districts under the Sanitary District Act of 1936, 70 ILCS 2805/0.1, *et seq.*, and have accorded to Kent W. Shodeen, as Trustee of the Kent W. Shodeen Trust Number 1, as well as to the golf courses and to such other of the Defendants as may have an interest of any nature in the golf courses, undue and improper benefits, including, but not necessarily limited to the following:

A. A windfall in the form of free golf course irrigation;

B. A windfall in the form of monies paid to the Defendants, or some of them, for disposing of the District's wastewater on the golf courses;

C. Avoidance of potential connection fees;

D. The right to approve future annexations to the District;

E. The right to charge future developments, which may annex to the District, connection fees to connect to the District's system.

60. Kent W. Shodeen, individually and as Trustee of the Kent W. Shodeen Trust Number 1, as well as other Defendants, have asserted, or may assert, the validity of the aforementioned instruments, the Lease Agreement, the Assignment of the Lease Agreement, the Purchase Agreement and the Assignment of Excess Capacity (Exhibits 1, 1A, 2 and 3 inclusive).

61. The District deems said instruments, and each of them, to be illegal and unenforceable for the reasons aforementioned, including those set forth in paragraphs 40 through 48 above.

62. Furthermore, while the Sanitary District Act of 1936 empowers the District to enter into contracts to reimburse a developer for the costs of building a public sewer system, there is no statutory provision for the developer to make a continuing profit from the operation of the system. *See generally* 70 ILCS 2805/8.1.

63. The Purchase Agreement, Exhibit 2, allows for profit by Kent W. Shodeen as Trustee of the Kent W. Shodeen Trust Number 1 by, among other things, both transferring the Excess Capacity to the Shodeen Trust (Exhibit 2, ¶2 c) i)), and freeing the Trust and Mill Creek Land Company from Tap-On Fees after the Bonds contemplated by the Purchase Agreement were paid (Ex. 2, ¶¶ 7 d) and 10 a)).

64. Furthermore, while the Sanitary District Act allows the District to enter into leases, the Act stipulates that leases may have terms no longer than 50 years. 70 ILCS 2805/12(b). The Lease Agreement, Exhibit 1 hereto, provides for automatic renewals,

potentially in perpetuity and without a 50 year outside limit.

65. Therefore, an actual controversy exists concerning the validity and enforceability of said instruments between the Plaintiffs and the Defendants, or some of them.

66. Pursuant to 735 ILCS 5/2-701(a), in cases of actual controversy, this Honorable Court may make binding declarations of the rights of the parties, determine and construe the validity of the written instruments at issue, and find and declare the parties' rights with respect thereto.

WHEREFORE, the Plaintiffs, MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS pray for relief including the following:

A. That the Court find and declare that the Lease Agreement, Exhibit 1 hereto, and Assignment thereof, Exhibit 1A hereto, are and have been void since inception, and are unenforceable;

B. That the Court find and declare that the Purchase Agreement, Exhibit 2 hereto, is and has been void since inception, and is unenforceable;

C. That the Court find and declare that the Assignment of Excess Capacity, Exhibit 3 hereto, is and has been void since inception, and is unenforceable;

D. That the Court find and declare that the Plaintiff District, and the District alone, owns the Systems described in paragraph 55, and all appurtenances thereto, and is entitled to, *inter alia*:

1. The right to irrigate the golf courses without charge;

2. All connection (Tap-On) fees to the District's system;

3. The right to approve all future annexations to the District;

4. The right to charge future developments, which may annex to the District, connection fees; and/or

5. The right to determine the amount or rate of and for connection and other fees customarily and usually charged by sanitary districts under the Sanitary District Act of 1936;

E. For such other, further, or different relief as to the Court seems just.

Count III – Unjust Enrichment (against certain Defendants)

1-66. For paragraphs 1 through 66 of this Count III, Plaintiffs, repeat, reallege and incorporate herein, as though fully set forth, paragraphs 1 through 66 of the foregoing Count II.

67. The bonds were redeemed and paid in full in March, 2000.

68. At the time that the bonds were paid in full, neither the Trust nor the Developer had paid the District any sums for connection to the system, despite the provision of the Purchase Agreement requiring that each lot in the subdivision pay a combination water and sewer tap-on fee of $15,500 per lot. Exhibit 2, p. 6, §7a.

69. During the term of the Lease Agreement, Exhibit 1 hereto, that is, from its inception in 1995 until April 2012, the District has paid approximately $2,376,823 to the Trust on account of the Lease.

70. In such circumstances, the receipt of benefits by any of the Defendants under any of the aforementioned instruments (the Lease Agreement, the Assignment thereof, the Purchase Agreement, and/or the Assignment of Excess Capacity, Exhibits 1, 1A, 2 and 3) has been the receipt of benefits properly belonging to the District under the Sanitary Act of 1936 and/or custom and practice common to sanitary districts.

71. Furthermore, the reception and retention of such benefits by any of the

Defendants has been without fair compensation to the District, and violates fundamental principles of justice, equity, and good conscience, particularly to the extent that any such benefits received by any of the Defendants exceeded the total cost of construction of the "Water Works System," the "Wastewater System," and the "Storm Water System," referred to in the Purchase Agreement.

72. Justice, equity, and good conscience require that the District be fairly compensated for at least the following:

A. Money paid by the District over the years under the Lease Agreement;

B. The fair value of the water furnished, without charge, to the golf courses; ;

C. Any connection fees received by the Defendants or any of them;

D. Any fees received by the Defendants or any of them for the annexation and/or connection of any property or facility to the District.

WHEREFORE, the Plaintiffs, MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS, pray for a money judgment in their favor, and against the Defendants, KENT W. SHODEEN, individually and as Trustee of the Kent W. Shodeen Trust Number 1; SHO DEEN, INC.; MILL CREEK LAND COMPANY; TANNA FARMS, LLC; and MILL CREEK COUNTRY CLUB, INC., for a sum in excess of the jurisdictional minimum of $50,000, plus costs of suit on account of the unjust enrichment aforesaid, for an accounting of the sums wrongfully taken by Defendants, or some of them, and for such other, further or different relief as to the Court seems just.

Count IV – Promissory Estoppel (against all Defendants)

1-72. For paragraphs 1 through 72 of this Count IV, Plaintiffs, repeat, reallege and incorporate herein by reference, as though fully set forth, paragraphs 1 through 72 of the

foregoing Count III.

73. Defendants Kent W. Shodeen, individually and as Trustee of the Kent W. Shodeen Trust Number 1, Sho Deen, Inc., and Mill Creek Land Company, an Illinois corporation, made promises (binding upon their co-defendants as their successors in interest), which promises included the following:

A. To the Plaintiff Mill Creek Water Reclamation District: that the District was an Illinois unit of local government and body politic duly organized pursuant to the Illinois Sanitary District Act of 1936, 70 ILCS 2805/1 *et seq.*; and that, as such, the District had and would have all the statutory, usual and customary powers and authorities of Illinois sanitary districts;

B. To the individual Plaintiffs and/or their predecessors in title to the real estate which they now own: that the District was an Illinois unit of local government and body politic duly organized pursuant to the Illinois Sanitary District Act of 1936, 70 ILCS 2805/1 *et seq.*; that, as such, the District had and would have all the statutory, usual and customary powers and authorities of Illinois sanitary districts; and that the District could operate as a sanitary district now and in the future.

74. The District relied upon these promises by, among other things: issuing and incurring Bond obligations in the amount of $8,000,000; extending its services to various customers, including single family residences, multiple family residences, businesses, churches, schools, and other facilities within the subdivision; charging hookup fees; and collecting monthly charges for its services.

75. The individual Plaintiffs relied upon these promises by purchasing their homes within the District, paying monthly fees to the District, and agreeing to serve on the District's

Board.

76. The Plaintiffs' reliance upon the aforementioned promises was reasonable on the part of the Plaintiffs for reasons including that the Mill Creek subdivision could not have been built without the facilities operated by the District and that no residence or other facility in the District would have potable water or waste disposal without the promises being fulfilled.

77. The Plaintiffs' reliance was reasonably foreseeable and actually expected by the Defendants for reasons including that, without the District, there is no source of potable water or means of wastewater treatment within the confines of the District.

78. The Plaintiffs have relied on the aforementioned promises to their detriment and sustained damages for reasons including, but not necessarily limited to:

A. Bonds obligations were incurred as aforesaid;

B. Defendant Kent W. Shodeen individually and/or as Trustee of the Kent W. Shodeen Trust Number 1, illegally and wrongfully collected from the District in excess of $2.3 million of rent under the Lease Agreement and threatens to collect further sums;

C. Defendants have hindered the District, as well as the individual Plaintiffs in their capacities as Trustees thereof, in the exercise of the statutory, usual, and customary powers and authorities of sanitary districts organized pursuant to the Illinois Sanitary District Act of 1936.

79. In equity and good conscience, Defendants, and each of them, should be estopped to deny their promises aforesaid, and in particular:

A. That the District, to the exclusion of all other persons and entities, owns the Systems described in paragraph 55 above, together with a license to dispose of the District's reclaimed wastewater by irrigating the golf courses as needed by the District;

B. That the District, to the exclusion of all other persons and entities, has within its boundaries, as now constituted or as hereafter expanded, the sole and exclusive right to exercise any and all powers accorded sanitary districts under the Illinois Sanitary District Act of 1936, including, but not necessarily limited to the following rights and authority to:

1. Irrigate the golf courses without charge;

2. Determine and collect connection (tap-on) fees to the District's System;

3. Approve all future annexations to the District;

4. Charge future developments, which may annex to the District, connection fees; and

5. Determine the rate of and for connection and other fees customarily and usually charged by sanitary districts under said Act.

WHEREFORE, the Plaintiffs, MILL CREEK WATER RECLAMATION DISTRICT, a body politic, MIKE IWAN, and RICHARD L. WILLIAMS, pray for a judgment in their favor and against the Defendants, KENT W. SHODEEN, individually and as Trustee of the Kent W. Shodeen Trust Number 1; SHO DEEN, INC.; EAGLE GOLF; GOLF VISIONS MANAGEMENT, INC.; MILL CREEK LAND COMPANY, an Illinois corporation; TANNA FARMS, LLC; and MILL CREEK COUNTRY CLUB, INC.,

(a) Finding and declaring that the Defendants, and each of them, are estopped to deny the aforementioned promises, and that the District, and the District alone has the right to:

1. Irrigate the golf courses without charge;

2. Determine and collect connection (tap-on) fees to the District's System;

3. Approve all future annexations to the District;

4. Charge future developments, which may annex to the District, connection fees; and

5. Determine the rate of and for connection and other fees customarily and usually charged by sanitary districts under said Act;

(b) Awarding Plaintiffs their damages incurred as aforesaid, plus costs; and

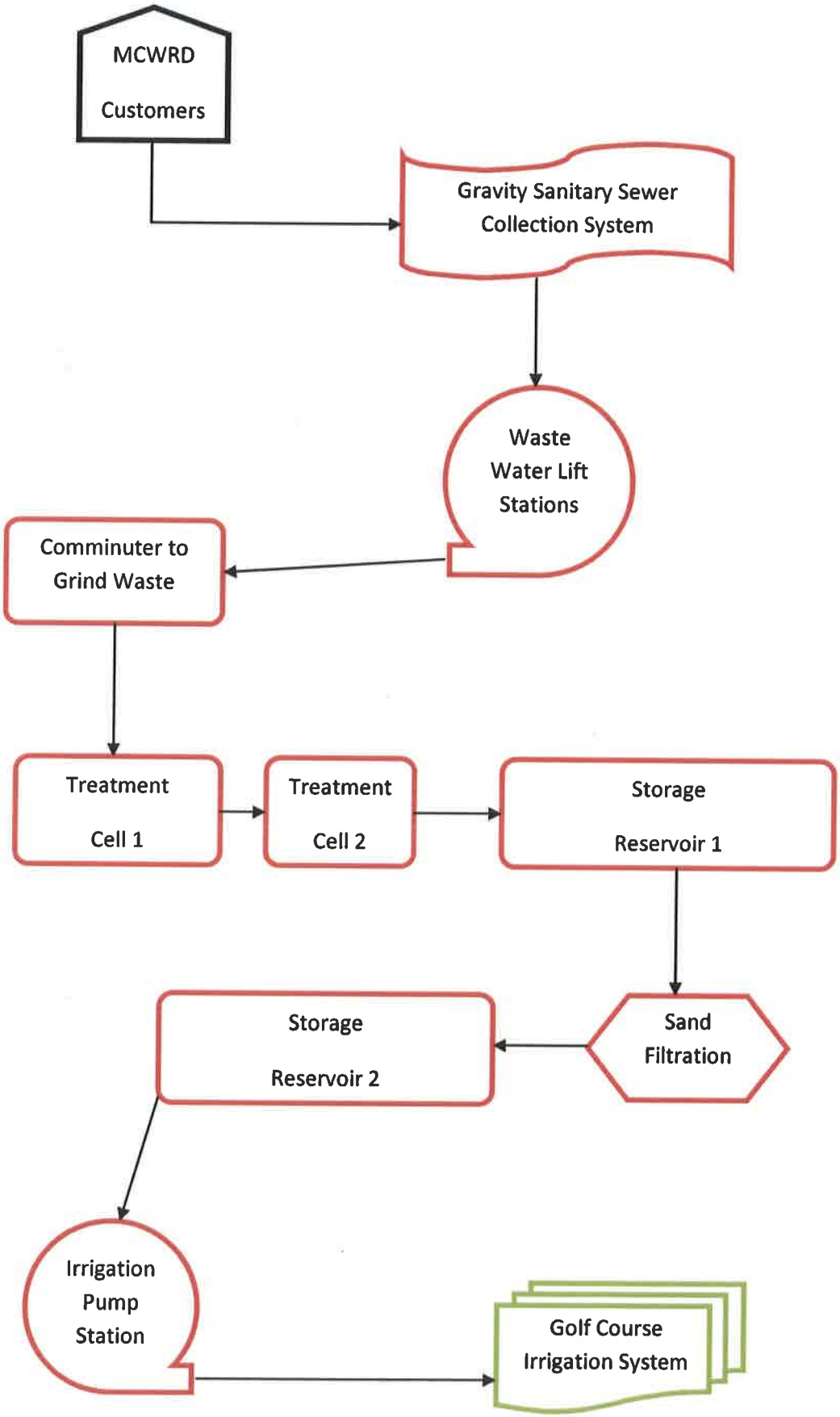
(c) For such other, further or different relief as to the Court seems just.

SPEERS, REULAND & CIBULSKIS, P.C.

BY: _____

Timothy J. Reuland (02319489)
Attorney for Plaintiffs
1981 West Downer Place, Suite 401
Aurora, Illinois 60506
(630) 264-2626

Mill Creek Wastewater Process Flow Diagram



EXHIBIT

A

LEASE AGREEMENT

THIS AGREEMENT is made this 1st day of August, 1995, between KENT W. SHODEEN, as Trustee of the Kent W. Shodeen Trust No. 1 (the "Owner") and MILL CREEK WATER RECLAMATION DISTRICT, a body politic (the "District").

W I T N E S S E T H:

A. The Owner is the sole beneficiary of the land trusts which are the owners of the land legally described on Exhibit "A" attached hereto which is being improved with an eighteen (18) hole golf course (the "Premises"). The Owner may in the future construct an additional nine (9) hole golf course and if so, the land on which the additional nine hole golf course is located shall be added to and become a part of the Premises. The legal description of the Premises is subject to amendment as required by the Owner in constructing the eighteen hole and nine hole golf course, if applicable.

B. The District is a sanitary district organized and existing pursuant to the laws of the State of Illinois which was created in order to operate a sanitary sewage treatment and waste water disposal system, and a storm water drainage system (the "Systems").

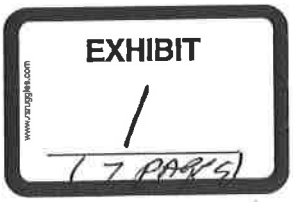
C. As part of the customary and usual operations of the Treatment Systems, large quantities of treated wastewater (the "Wastewater") are generated by the District which need to be disposed of in an economical and safe manner.

D. The District purchased the Systems from the Owner pursuant to the provisions of a Purchase Agreement dated as of August 1, 1995 and the purchase price for the Systems was substantially less than the cost of construction of the Systems by the Owner.

E. As additional consideration for the purchase of the Systems the District has agreed to lease the Premises from the Owner and dispose of the Wastewater on the Premises in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing statements, the mutual covenants herein contained and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. LEASE. The Owner hereby leases the Premises to the District for the sole purpose of permitting the District to dispose of the Wastewater on the Premises in strict conformance with all the terms and conditions of this Agreement. In addition, the District shall have the benefit of an easement which permits the Owner, in its discretion, to dispose of the Wastewater on those parcels of land within the corporate boundaries of the District which in the future will be owned by the Geneva Park District (the "Park Property").



2. DISPOSAL; USE. The District agrees to dispose of the Wastewater on the Premises and the Park Property, if applicable, during the term of this Agreement. The District shall have the right to use the Premises solely for the purpose of disposing of the Wastewater subject to the provisions of paragraph 6 of this Lease. The rights of the District contained herein shall at all times be subject to the rights of the Owner to operate a golf course, or golf courses, upon the Premises. The District shall use the Premises for the purposes stated herein in accordance with the reasonable rules and regulations promulgated by the Owner from time to time dealing with the hours of the day and months of the year when the District may dispose of the Wastewater upon the Premises.

3. TERM. This Agreement shall commence on September 1, 1995, and shall continue for a term of fifteen (15) years (the "Term"). Upon expiration of the Term, and any renewal term, this Agreement shall be automatically renewed for successive terms of five (5) years apiece unless either party gives written notice of non-renewal not more than one hundred eighty (180) days nor less than ninety (90) days prior to the expiration of the Term.

The District shall have the right to terminate this Agreement by giving one (1) year's written notice to the Owner and pay to the Owner any accrued and unpaid Rental Payments, together with interest thereon as provided in paragraph 4 below, on or before the effective date of termination.

In the event the District elects to terminate this Agreement as provided in the immediately preceding paragraph, and at any time thereafter the District receives a bona fide offer for an agreement for disposal of the Wastewater which the District intends to accept (the "Offer"), then the Owner shall have a right of first refusal to enter into an agreement with the District on identical terms as set forth in the Offer. If the Owner does not accept the Offer within thirty (30) days after notice from the District of the terms of the Offer, then this right of first refusal shall thereafter be null and void unless the District does not accept the Offer from the third party, in which event the right of first refusal shall continue in full force and effect.

4. RENTAL. In consideration for the Owner's agreement to lease the Premises to the District for the sole purpose of disposing of the Wastewater thereupon, the District covenants and agrees to pay to the Owner during the Term of this Agreement payments (the "Rental Payments") equal to fifty per cent (50%) of the sanitary sewer user fees (but not water user fees) collected from the users of the Systems (the "User Fees"). The District shall pay the Rental Payments to the Owner for the prior calendar year on or before January 31st of the immediately succeeding year.

The User Fees will not include any tap-on, connection fees or special assessments paid to, or on behalf of, the District.

The District will maintain full and complete records of all billings for the User Fees (the "Billings"). The Owner shall have the right to inspect and/or audit the Billings during the regular business hours of the District and upon reasonable notice to the District. If the

Owner's audit establishes a discrepancy of more than three per cent (3%) between the amount that was due to the Owner and the amount actually paid by the District to the Owner, the District shall reimburse the Owner for the cost of the audit, and shall pay the amount of the underpayment to the Owner within thirty (30) days.

Payment of the annual Rental Payment shall be made by the District to the extent permitted by the Indenture of Trust dated as of August 1, 1995 between the District and Harris Trust and Savings Bank, as trustee in connection with the issuance by the District of its $5,000,000 Sewage Revenue Bonds, Series 1995 (the "Bonds") and the ordinance of the District authorizing the issuance of the Bonds.

To the extent there are insufficient funds in the Surplus Account to pay the entire annual Rental Payment, then the amount of the unpaid annual Rental Payment shall continue to be the obligation of the District, together with interest thereon at nine per cent (9%) per annum, and shall be cumulative until paid from available funds in the Surplus Account.

Once the Bonds have been redeemed, the District shall pay the Rental Payment on a quarterly basis with the payment for the preceding calendar quarter being due on the tenth (10th) day of the month following the end of a calendar quarter. Any unpaid cumulative Rental Payments shall be paid by the District in equal quarterly payments over a five (5) year period.

5. THE TRANSFER SYSTEM.

a). Acquisition. Pursuant to the terms of a Purchase Agreement dated July 1, 1995 the District has contracted to purchase the Systems, the necessary pipes and other conduits to transfer the Wastewater to the Premises (the "Transfer System") and one or more storage reservoirs for the storage of the Wastewater (the "Storage Reservoirs").

b). Irrigation System. The District will construct from time to time on the Land, various water mains, sprinkler heads and other related irrigation equipment (the "Irrigation System") which will be used to water the Land and the Park Property, at the option of the Owner.

c). Maintenance and Repairs. The Owner shall be solely responsible for maintaining and repairing the Irrigation System in accordance with the Applicable Laws (as hereinafter defined) and the District shall be responsible for maintaining and repairing the Treatment Systems and the Transfer System in accordance with the Applicable Laws.

In the event either party fails to properly perform its maintenance obligations, and such failure continues for thirty (30) days after written notice from the other party, then the party not in default shall have the right, but not the obligation, to perform such maintenance obligations and collect the cost

thereof from the party who failed to perform such maintenance. If the District is required to perform any of the Owner's obligations hereunder, then the District shall have the right to deduct any amounts incurred by it from the Rental Payments.

6. THE STORAGE RESERVOIRS. The Owner shall have the discretion to determine, based on weather, economic, and other relevant considerations during what time periods, the Transfer System will be operative and running. During the time periods the Transfer System remains idle (the "Non-Transfer Periods"), including, but not limited to, periods of cold weather and precipitation, the Wastewater shall be stored in the Storage Reservoirs.

The District shall be responsible that the Storage Reservoirs, based on the expected wastewater output of the Systems, shall be adequate in size and design to safely store the Wastewater during the Non-Transfer Periods. The Storage Reservoirs will have an aeration system to prevent stagnation of the Wastewater.

In the event the District is not permitted by the Owner to dispose of the Wastewater on the Premises based on weather, economic or other relevant considerations, and the Storage Reservoirs become full, then the District may make alternative arrangements to dispose of the Wastewater until the Premises can once again be used. The Owner shall use reasonable efforts to have the Premises available for disposal of the Wastewater.

7. APPLICABLE LAWS. The District shall obtain all permits, licenses and approvals required by applicable governmental authorities in accordance with all applicable laws and ordinances (the "Applicable Laws") necessary for the operation of the Systems, including but not limited to, the Transfer System and Storage Reservoirs.

At or before the time the District commences operation of the Treatment Systems and the Storage Reservoirs, the District shall, to the Owner's satisfaction, provide the Owner with documented evidence of the District's compliance with all Applicable Laws, including, but not limited to the Safe Water Drinking Act, the Clean Water Act, and the regulations promulgated by the Environmental Protection Agency and the Illinois Environmental Protection Agency.

The District's obligations set forth in this Paragraph 6 shall continue for the duration of this Agreement.

8. MORTGAGES.

a). Permitted Mortgages. The Owner shall have the right at any time and from time to time during the Term of this Agreement to subject the Land, or any part or parts thereof, to a mortgage and/or other security or financing agreements to any one or more Lending Institutions (the "Permitted Mortgages").

For the purpose of this Agreement, the term "Lending Institution" shall mean any insurance company, bank or trust company, college, university, charitable institution, union pension, profit or retirement fund or trust, governmental agency or fund, or other financial or lending institution whose loans on real estate or with respect thereto are regulated by state or federal law.

b). Subordination of this Agreement. In the event the Owner enters into a Permitted Mortgage, this Agreement and the interest of the District in the Land, at the request of the Lending Institution, shall be subject and subordinate to a Permitted Mortgage, as long as the Lending Institution shall grant non-disturbance assurances and attornment provisions to the District.

c). Instruments of Subordination. The Owner and the District shall execute, whenever requested by a Lending Institution, holding or intending to hold a Permitted Mortgage on the Land, a proper instrument of subordination, non-disturbance and attornment.

9. DEFAULT. In the event either party to this Agreement fails to timely perform its obligations hereunder, the other party shall give written notice of such failure to the defaulting party, stating the nature of such default. If the same is not corrected within thirty (30) days of the date of such notice, the non-defaulting party may terminate this Agreement after said thirty (30) day period by giving written notification thereof to the defaulting party. The non-defaulting party shall also have the option, but shall not be obligated to do so, to correct the default, which cost and expense shall be immediately due and payable from the defaulting party plus interest at the prime rate, plus six per cent (6%).

10. NOTICE. If at any time after the execution of this Agreement it shall become necessary for one of the parties to serve any notice, demand, or communication upon the other party, such notice, demand or communication shall be in writing signed by the party serving the same, deposited in the registered or certified United Stats mail, return receipt requested, postage prepaid. Any notice so mailed shall be deemed to have been given as of the time the same is deposited in the United States mail addressed to the respective parties as follows:

Owner: 17 North First Street
Geneva, Illinois 60134

District: 39W065 Fabyan Parkway
Geneva, Illinois 60134

11. NATURE AND SURVIVAL OF REPRESENTATIONS. The representations and agreements made by the parties hereto in this Agreement shall survive the execution and delivery of this Agreement and the consummation of transactions contemplated hereby.

12. THIS AGREEMENT. This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and it supersedes and discharges all prior

agreements (written or oral) an negotiations and contemporaneous oral agreements concerning such subject matter. There are no oral conditions precedent to the effectiveness of this Agreement.

13. NO MODIFICATION WITHOUT WRITING. This Agreement may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing signed by the party or parties sought to be bound thereby.

14. NON-RECORDING. The Owner and District mutually agree that this Agreement will not be recorded in the office of any governmental agency or in any other way be made part of a public record.

15. SEVERABILITY. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

16. SUCCESSORS. The terms of this Agreement shall be binding upon and inure to the benefit of the parties, their respective successors an assigns.

17. CAPTIONS. The captions and paragraph numbers appearing in this Agreement are inserted only as a matter of convenience. They do not define, limit or describe the scope or intent of the provisions of this Agreement.

18. GOVERNING LAW. This Agreement has been executed at Geneva, Illinois, and shall be construed in accordance with, and governed by, the internal laws of the State of Illinois applicable to contracts made and to be performed in Illinois.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OWNER:

KENT W. SHODEEN, as Trustee of the
Kent W. Shodeen Trust No. 1

DISTRICT:

MILL CREEK WATER RECLAMATION DISTRICT

By:

Title:

EXHIBIT "A"

LEGAL DESCRIPTION

Parcels 2, 5, 7, 8, 10, 13, 15 and 18 of Mill Creek, in Blackberry Township, Kane County, Illinois.

MCWRD-AssignmentLeaseJuly09.wpd
PREPARED BY AND AFTER
RECORDING RETURN TO:
William B. Phillips, Esq.
Attorney At Law
221 North LaSalle Street
Chicago, Illinois 60601

FOR RECORDERS USE ONLY

ASSIGNMENT OF LEASE AGREEMENT

KENT W. SHODEEN, as Trustee of the Kent W. Shodeen Trust No. 1 (the "Assignor") hereby assigns, transfers and conveys to MILL CREEK COUNTRY CLUB, INC., an Illinois corporation (the "Assignee") all of its right, title and interest in that certain Lease Agreement dated as of August 1, 1995 between the Assignor and Mill Creek Water Reclamation District, a body politic (the "Lease Agreement").

IN WITNESS WHEREOF, the Assignor has executed this Assignment of Lease Agreement this 30th day of July, 2009.

KENT W. SHODEEN, as Trustee of
the Kent W. Shodeen Trust No. 1

ACCEPTANCE

MILL CREEK COUNTRY CLUB, INC., an Illinois corporation, hereby accepts the foregoing Assignment of Lease Agreement this 30th day of July, 2009.

MILL CREEK COUNTRY CLUB, INC., an Illinois corporation

By:
Title: Chairman

EXHIBIT
1A
(2 PAGES)

STATE OF ILLINOIS)
) SS:
COUNTY OF KANE)

I, Lisa K Smith, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that KENT W. SHODEEN, as Trustee of the Kent W. Shodeen Trust No. 1, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 31ST day of July, 2009.

Notary Public

"OFFICIAL SEAL"
LISA K. SMITH
Notary Public, State of Illinois
My Commission Expires 03/23/10

STATE OF ILLINOIS)
) SS:
COUNTY OF KANE)

I, Lisa K. Smith, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that KENT W. SHODEEN, Chairman of MILL CREEK COUNTRY CLUB, INC., an Illinois corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 31ST day of July, 2009.

Notary Public

"OFFICIAL SEAL"
LISA K. SMITH
Notary Public, State of Illinois
My Commission Expires 03/23/10

PURCHASE AGREEMENT

THIS AGREEMENT is made as of the 1st day of August, 1995 between KENT W. SHODEEN, as Trustee of the Kent W. Shodeen Trust No. 1 (the "Beneficiary"), MILL CREEK LAND COMPANY, an Illinois corporation (the "Developer") and MILL CREEK WATER RECLAMATION DISTRICT, a body politic (the "District").

W I T N E S S E T H:

A. The District is a sanitary district organized and existing pursuant to the laws of the State of Illinois in order to operate a water works system (the "Water Works System"), a sanitary sewage system and a waste water disposal system (the "Wastewater System") and a storm water drainage system (the "Stormwater System").

B. The Beneficiary is the sole beneficiary of Old Kent Bank, as Trustee under Trust Agreement dated August 24, 1994 and known as Trust No. 6901 (the "Trust") which is the owner of the approximately 24.939 acre parcel of land in Kane County, Illinois which is legally described on Exhibit "A" attached hereto (the "Land").

C. The Developer is the sole beneficiary of various land trusts which are the owners of, or have contracted to purchase, approximately 1,375 acres of land within the corporate boundaries of the District which the Developer intends to improve with various residential and commercial buildings, a school, a church, parks and other recreational facilities (the "Development").

D. The Beneficiary is the sole shareholder of the Developer and Kent W. Shodeen, individually, is the sole beneficiary of the Beneficiary.

E. The Beneficiary has constructed, or agrees to construct, the following water, wastewater treatment and stormwater drainage facilities, which are collectively referred to as the "Systems" in accordance with the Plans and Specifications (as hereinafter defined):

1. a complete drainage system consisting of but not limited to the following: ditches, culverts, storm sewers, inlets, manholes, channels, dry and wet stormwater detention facilities, and related appurtenances, and lands and easements necessary therefor; and

2. a complete waterworks system including supply, treatment, storage and distribution facilities consisting of but not limited to the following: a water well, adapter units, submersible pumps and motors; pump house facilities including structural, mechanical, electrical and chemical treatment components; water storage tank; water mains, valves and hydrants; and all other related appurtenances, and lands and easements necessary therefor; and

EXHIBIT 2 (18 PAGES)

3. a complete wastewater management system consisting of but not limited to the following: collection, transmission, treatment, disposal and monitoring system including: gravity sanitary sewers, risers, services and manholes; waste water pumping stations, and pressure sanitary sewer; communicator, aerated treatment lagoons, storage lagoons, intermittent sand filters, and control building facility including structural, mechanical, electrical and chemical treatment components; waster water pumping station, distribution, sprinkler and subsurface drainage system; monitoring and supply wells and components; and all other related appurtenances necessary or useful and convenient for the collection, treatment and disposal, in a sanitary manner, of sewage and wastes, and lands and easements necessary therefor.

F. The total cost of construction of the Systems, when completed, will be in excess of Eight Million One Hundred Thousand Dollars ($8,100,000.00).

G. The Systems, when completed, will have sufficient capacity to provide water, wastewater treatment and stormwater drainage and storage for the intended use of the entire Development and the existing single family residences commonly known as the Craig Shodeen house, the Leas of Geneva Unit No. 1, Christman's Subdivision and the Geddes parcel (the "Existing Property").

H. The District desires to purchase the Systems from the Beneficiary in order for the District to be able to carry out its governmental purpose of providing the Water Works System, the Wastewater System and the Stormwater System.

I. In order to pay for a portion of the cost of the acquisition of the Systems the District shall issue the following (the "Bonds"):

1. Mill Creek Water Reclamation District Waterworks Revenue Bonds, Series 1995 in the principal amount of Three Million Dollars ($3,000,000.00); and

2. Mill Creek Water Reclamation District Sewerage Revenue Bonds, Series 1995 in the principal amount of Five Million Dollars ($5,000,000.00).

J. The Bonds are being issued pursuant to the provisions of Ordinances No. _____ and _____ adopted by the Board of Trustees of the District on September ___, 1995 (the "Bond Ordinances") and the Indentures of Trust dated as of August 1, 1995 between the District and Harris Trust and Savings Bank, as Trustee (the "Indentures").

K. Due to the fact that the District is newly created, has no operating history nor revenues at the present time, nor any assets, the Developer is willing to provide certain credit enhancement in connection with the issuance of the Bonds by the District in order the facilitate the sale of the Bonds, all on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties agree as follows:

1. SALE OF THE SYSTEMS: The Beneficiary hereby agrees to sell the Systems to the District, and the District agrees to purchase the Systems from the Beneficiary, on the terms and conditions contained herein, and the Beneficiary shall cause the Land to be conveyed to the District.

2. PURCHASE PRICE: The consideration to be paid by the District for the acquisition of the Systems shall be:

a). the sum of SIX MILLION FOUR HUNDRED FIFTY-FIVE THOUSAND DOLLARS ($6,455,000.00) (the "Purchase Price") payable at the Closing (as hereinafter defined), by certified or cashier's check or wire transfer of immediately available funds [except for the Construction Holdback (as hereinafter defined)];

b). the agreement of the District to provide the Developer, its successors and assigns, with connection to the Systems for the entire Development and the Existing Property as provided in paragraph 7 of this Agreement; and

c). since the Purchase Price is less than the cost of construction of the Systems, as additional consideration for the purchase of the Systems, the District agrees to:

i). transfer the Excess Capacity (as hereinafter defined) to the Beneficiary; and

ii). dispose of its wastewater upon a portion of the Development pursuant to the terms of the Lease Agreement attached hereto as Exhibit "B" (the "Disposal Lease").

3. TITLE COMMITMENT AND SURVEY: The Beneficiary shall, at its expense, furnish to the District:

a). an ALTA Form B owner's title insurance policy (the "Title Policy") issued by Chicago Title Insurance Company (the "Title Company") in the amount of Six Hundred Sixty-Seven Thousand Dollars ($667,000.00) showing fee simple title to the Land to be held by the District.

b). legible copies of all recorded documents shown on Schedule B of the Title Commitment (the "Title Documents"); and

c). a plat of survey of the Land prepared by an Illinois registered land surveyor, dated after the date of this Agreement (the "Plat of Survey"), certified as having been prepared for the District, in accordance with the "Minimum Standard Detail Requirements for Land Title Surveys" jointly established and adopted by the American Land Title Association and American Congress on Surveying and Mapping in 1962 and reaffirmed in 1992, and the laws of the State of Illinois. The Plat of Survey shall incorporate and indicate:

i). the legal description of the Land;

ii). the location of all improvements situated on the Land;

iii). the location of easements, building set back lines and rights-of-way;

iv). all other visible matters affecting legal title to the Land; and

v). ingress and egress to public roads and the amount of the gross acreage in the Land.

4. TITLE AND SURVEY APPROVAL: The District has reviewed and approved the Title Policy and the Plat of Survey. All matters of title and survey shown on the Title Policy and the Plat of Survey shall be the "Permitted Exceptions".

5. THE BONDS:

a). As soon as is practical following the execution of this Agreement the District shall adopt the Bond Ordinances in form and content as set forth on Exhibits "C" and "D" attached hereto.

b). At the time of the issuance of the Bonds, the Developer agrees to provide irrevocable letters of credit in the aggregate amount of Eight Hundred Thousand Dollars ($800,000.00) (the "Letters of Credit") in accordance with the terms of the Indentures. The Letters of Credit shall be renewed annually by the Developer in an amount equal to ten per cent (10%) of the amount of Bonds then outstanding, as provided in the Indentures.

c). Once the Bonds have been redeemed in accordance with the provisions of the Bond Ordinances and the Indentures, or there are sufficient monies on deposit with the bond trustee, including monies in the Operating Deficit Account and the Debt Service Reserve (as those terms are defined in the Indentures) to redeem the Bonds, the Bonds shall be redeemed as provided in the Indentures and the Bond Ordinances, and the Letters of Credit shall be

returned to the Developer if they have not been drawn upon pursuant to the terms of the Indentures.

d). In the event of a Determination of Taxability (as defined in the Indentures) the District shall use its best efforts to cause the Bonds to be refinanced within one hundred eighty (180) days following the Determination of Taxability with new tax-exempt bonds at the lowest market rate of interest available and for a term of not less than the remaining term of the Bonds, provided, that, the Beneficiary or the Developer, or their respective successors and assigns, agree to pay such connection fees or other payments to the District in an amount necessary to amortize the principal and interest payments on those bonds and all other ordinary and reasonable expenses in connection with the issuance of those new bonds.

e). If requested by the Developer, the District shall use reasonable efforts to cause the Bonds to be refinanced at the lowest market rate of interest available and for a term not less than the remaining term of the bonds, provided, that, the Beneficiary or the Developer, or their respective successors and assigns, agree to pay such connection fees or other payments to the District in an amount necessary to amortize the principal and interest payments on those bonds and all other ordinary and reasonable expenses in connection with the issuance of those new bonds, and provided that the District determines it is in its financial interest to do so.

6. SPECIAL ASSESSMENT: The Developer acknowledges that the District shall levy an Eight Million Dollar ($8,000,000.00) special assessment (the "Special Assessment") against the Development in order to provide a method to pay the interest and principal on the Bonds in the event the revenue of the District and other sources of payment set forth in the Indentures are insufficient. The amount of the Special Assessment shall be allocated on the basis of approximately Four Thousand Four Hundred Dollars ($4,400.00) per residential lot. The initial Special Assessment shall be allocated against the various parcels of the Development as set forth on Exhibit "E" attached hereto. Each time the Developer pays a Tap-On Fee for a lot the District shall issue and record a partial release of the lien of the Special Assessment with respect to that lot as provided in the Indentures.

The District acknowledges that the initial allocation of the Special Assessment shall, in addition to the residential lots, cover portions of the Development which are non-buildable areas such as future roads, future parks and other areas designated for open space. As a result the District covenants and agrees that when the Developer, its successors and assigns prepare and record final plats of subdivision and plats of resubdivision from time to time in substantial compliance with the concept plan for the Development as previously approved by the County of Kane, the District shall, at its expense, promptly petition the Circuit Court of Kane County, Illinois, or other court of competent jurisdiction, to reallocate the special assessment on that portion of the Development affected by the plat of subdivision, or plat of resubdivision, on the basis of Four Thousand Four Hundred Dollars ($4,400.00) per subdivided lot, it being the

intent of the District that the Special Assessment will be evenly allocated to the 1,822 residential lots for which the Development is zoned. The District shall also, from time to time, issue partial releases of the lien of the Special Assessments on those portions of the Development which are not to be subdivided into residential lots, as provided in the Indentures.

Once the Special Assessment is confirmed, the Developer and the District agree that no further action shall be taken to collect all or any portion of the Special Assessment until the first voucher is filed pursuant to 65 ILCS 5/9-2-48 (the "First Voucher") in accordance with the provisions of the Indentures.

When the Bonds have been redeemed as provided in the Indentures a final release of the Special Assessment against the Development shall be issued as provided in the Indentures.

7. THE DEVELOPMENT: The District and the Developer hereby agree that the District shall provide water, sanitary sewer and storm water drainage service to the Development and the Existing Property on the following terms and conditions:

a). Subject to the provisions of subparagraph d)., each lot within the Development is subject to, and the Developer, its successors and assigns, and all other property owners within the District, as its corporate boundaries may from time to time be changed, (except for the owners of the Existing Property) shall pay a combination water and sewer tap-on fee (the "Residential Tap-On Fee") to the District at the time the owner of a residential parcel applies for a building permit. The Residential Tap-On Fee shall be Fifteen Thousand Five Hundred Dollars ($15,500.00) for each lot.

b). Subject to the provisions of subparagraph d)., the Developer, its successors and assigns, and all other property owners within the District, as its corporate boundaries may from time to time be changed, (except for the owners of the Existing Property) shall pay a combination water, sewer and drainage tap-on fee (the "Commercial Tap-On Fee") to the District at the time the owner of a commercial, multi-family, institutional or governmental parcel applies for a building permit for any commercial, institutional or governmental lot. The Commercial Tap-On Fee shall be substantially similar in amount to the tap-on fees charged by the City of Geneva, Illinois from time to time, for restricted businesses, institutional, multi-family, general business and industrial use.

c). The Residential Tap-On Fee and the Commercial Tap-On Fee (collectively the "Tap-On Fees") are intended to compensate the District for the cost of acquisition of the Systems. The District shall use the Tap-On Fees solely in accordance with the provisions of the Indentures. The Tap-On Fees shall be assigned by the District to the bond trustee and shall be paid by the Developer, and any other property owners, directly to the bond trustee.

d). Once the Water Bonds and the Sewer Bonds have been redeemed in full in accordance with the Indentures, or sufficient monies are on deposit with the bond trustee (including the Operating Deficit Account and the Debt Service Reserve) to redeem the Bonds in full as provided in the Indentures, then no further Tap-On Fees shall be due and payable by the Developer, its successors and assigns, or any other property owners, to the District.

e). The District shall establish from time to time user fees in order to provide revenue to pay the customary and usual operating expenses of the District and to comply with the rate covenant set forth in the Indentures.

f). The owners of the Existing Property shall not be required to pay any Tap-On Fee based upon their current use of the Existing Property and the current number of users, but shall be obligated to pay user fees computed on the same basis as is charged to owners of lots within the Development.

g). If the First Voucher is filed pursuant to the Special Assessment then the District covenants and agrees that it shall look solely to payment of the Special Assessment and the user fees in order to pay the principal and interest on the Bonds and the Developer, its successors and assigns, shall not be required to pay any Tap-On Fee in order to connect to the Systems from and after the date of filing of the First Voucher.

8. THE EXCESS CAPACITY: In consideration of the agreement of the Beneficiary to sell the Systems to the District for less than the cost of construction of the Systems, the District hereby agrees to assign and transfer to the Beneficiary at the Closing the right to use any and all capacity of the Systems not needed by the District, if any, to serve the requirements of the Development and the current uses and numbers of users on the Existing Property as reasonably determined by Sheaffer & Roland, Inc. (the "Excess Capacity"). This Agreement shall constitute the contract of the District to provide water, wastewater treatment and stormwater drainage service, to the extent of the Excess Capacity (as it may increase from time to time) to those parcels of real estate designated from time to time by the Beneficiary, his successors and assigns (the "Additional Land") whether or not the Additional Land has been annexed to the corporate boundaries of the District, as long as such use is in compliance with all applicable federal and state laws. The Developer acknowledges that there may never be any Excess Capacity.

If petitioned by the Beneficiary, his successors and assigns, the District shall from time to time annex portions of the Additional Land to the District, as long as the Additional Land is contiguous to the corporate boundaries of the District and such annexation is otherwise permitted by law. The owners of the Additional Land shall be required to pay a Residential Tap-On Fee or a Commercial Tap-on Fee, as applicable, as provided in paragraph 7(a) or 7(b) above, subject to the provisions of paragraph 7 (g) above, until such time as the Bonds have been redeemed in full, or sufficient monies are on deposit with the bond trustee to redeem the Bonds in full. Thereafter, the District agrees not to charge the owners of the Additional Land any Tap-On Fees and the owners of the Additional Land shall only be obligated to pay the

customary and usual user fees as established by the District from time to time on a uniform basis for all users within the corporate boundaries of the District.

The District and the Beneficiary acknowledge and agree that the Excess Capacity may increase from time to time due to technological changes in treating wastewater, decreased usage by owners and users within the Development and the Existing Property and amended governmental regulations. The District agrees that any increased capacity over and above the needs of the Development and the current uses and number of users on the Existing Property, however created, shall be reserved for the sole and exclusive use of the Beneficiary, its successors and assigns, to the extent permitted by applicable federal and state law.

Nothing contained herein shall be deemed to prohibit the Beneficiary, its successors and assigns from charging a fee to the owners of the Additional Land for the privilege of connecting to the Systems.

9. FUTURE EXTENSIONS: The Developer, the Beneficiary and the District acknowledge and agree that it may be necessary, from time to time, to construct additional wells, storage reservoirs, and water, sanitary sewer and storm sewer lines in order to connect the Additional Land, if applicable, to the Systems (the "Future Extensions"). The District shall benefit from the Future Extensions since the increased number of users will permit the District to provide water, sewer and drainage services in a more economical manner to the residents of the District.

As additional consideration for the sale of the Systems by the Beneficiary to the District, the District agrees, if requested by the Beneficiary or the Developer, to adopt appropriate resolutions, from time to time if permitted by the terms of the Bonds and applicable laws, authorizing the issuance and sale of its bonds in order to pay for the cost of the Future Extensions, provided that the Beneficiary or the Developer, or their respective successors or assigns, agree at such time to pay additional connection fees or other payments to the District in an amount necessary to amortize the principal and interest payments on those bonds and all other ordinary and reasonable expenses in connection with the issuance of those bonds in addition to the obligation to pay the Tap-On Fees. If the Beneficiary or the Developer do not request the District to issue additional bonds and the Beneficiary or the Developer pays for the Future Extensions then the District shall not charge tap-on or connection fees for the Additional Land except as provided in paragraph 7 above.

10. COVENANTS OF THE DISTRICT: In order to induce the Beneficiary to sell the Systems to the District, for the Developer to provide the Letters of Credit and consent to the Special Assessment on the Development, the District covenants and agrees with the Beneficiary and the Developer as follows:

a). Once the bond trustee has advised the District that the Bonds have been paid in full in accordance with the Indentures the District shall release the lien of the Special Assessment and shall not charge the Beneficiary or the Developer, and their respective successors and assigns, any Tap-On Fees or

connection fees for connection to the Systems, both with respect to the Development and the Additional Land, if any, except as provided in paragraph 9 above.

b). The District shall not seek to levy any additional special assessments with respect to the acquisition of the Systems.

c). The District shall pay to the issuer of the Letters of Credit any fee charged by the issuer for issuance of, or renewal of, the Letters of Credit as it exists from time to time, which shall be due upon issuance of the initial Letters of Credit and on each anniversary date thereof as long as the Letters of Credit are outstanding.

d). The District shall operate the Systems in an efficient manner in accordance with all applicable laws and regulations, and at the request of the Beneficiary from time to time, shall petition the applicable governmental bodies to increase the number of dwelling units which may be serviced by the Systems.

e). The District shall provide water, wastewater treatment and stormwater drainage services to the Additional Land, and annex the Additional Land, if requested by the Beneficiary, as long as the Excess Capacity of the Systems is sufficient to serve the proposed use of the Additional Land, or the Beneficiary or the Developer agrees to pay for the cost of the Future Extensions.

f). The District shall require any commercial, multi-family, industrial or institutional user who wishes to be served by the Systems to pay the Commercial Tap-On Fee as long as the Bonds are outstanding.

g). The District shall establish user fees from time to time which shall be uniform throughout the Development and the Additional Land based upon the application of current engineering standards applied to the different types of uses.

h). The District shall cause all monies on deposit with the bond trustee to be invested pursuant to the Indentures as reasonably directed by the Beneficiary, from time to time.

i). The District shall replace the bond trustee pursuant to the Indentures as directed by the Beneficiary from time to time.

j). The District shall not charge any Tap-On Fees if the First Voucher is filed pursuant to the Special Assessment.

k). The District shall enter into the Disposal Lease at the Closing.

11. COVENANTS OF THE DEVELOPER: The Developer hereby covenants with the District as follows:

a). The Developer shall consent to the levying of a special assessment upon the Development in an amount not to exceed Eight Million Dollars ($8,000,000.00) payable over a ten (10) year period as provided in Case No. MC 95 0002 in Kane County, Illinois.

b). The Developer shall provide the Letters of Credit as required by the terms of the Indentures.

c). The Developer shall furnish the District with its existing Phase I environmental report which covers the Land and additional property (the "Environmental Report").

d). The Developer represents and warrants that it has no knowledge of:

i). the existence of any underground storage tanks on the Land;

ii). violation of any environmental laws with respect to the Land or the Systems;

iii). any hazardous waste or materials having been disposed of, or located, on the Land.

e). The Developer shall construct all sewer and water lines within the rights-of-way of public roads or within utility easements granted to the District at no cost and expense to the District and shall dedicate such utility lines to the District at no cost and expense to the District.

f). The Beneficiary represents and warrants that the Systems, when completed, shall have adequate capacity to provide water, sanitary sewer and storm water drainage for the Development and the Existing Property.

g). Until the District acquires or constructs another water well, if the District's water well is ever inoperable the Beneficiary shall permit the District to temporarily use the Beneficiary's water well at no cost until the District's well is operable as long as the District is making reasonable efforts to repair its well.

h). The Developer will furnish to the District a set of "as-built" plans for the Systems when construction of the Systems is complete.

i). The Beneficiary and the Developer shall furnish all closing certificates and other items reasonably required in connection with the issuance of the Bonds and required by the purchaser of the Bonds.

j). The Developer shall provide the District with copies of its plats of subdivision for the Development so the District can reallocate the Special Assessment as provided in paragraph 6 hereof.

12. THE CLOSING: The closing of the sale and purchase of the Systems shall take place on September 1, 1995 (the "Closing") at the offices of the Underwriter, or such other time and place agreed upon by the parties hereto. A condition precedent to the Closing shall be the issuance by the District of the Bonds, and the Developer providing the Letters of Credit.

The cost to complete construction of the Systems, as certified by Sheaffer and Roland, Inc. (the "Construction Holdback") shall be deposited by the District with Harris Trust and Savings Bank pursuant to the terms of the Indentures and shall be disbursed to the Beneficiary in monthly installments based upon the cost of work completed in the Systems in such month as certified by the Beneficiary and Sheaffer & Roland, Inc. The District shall timely submit requisition certificates to the bond trustee pursuant to the terms of the Indentures.

In order to receive disbursements of the Construction Holdback, the Beneficiary shall:

a). Provide a "Payment Request" to the District which request should specify (i) the amount of the proceeds allocated for the specific line item; (ii) the amount of the advance requested by the Beneficiary for such line item; and (iii) the total amounts paid to date for each line item.

b). Each Payment Request should be accompanied by certifications from both the Beneficiary and from Sheaffer & Roland, Inc. (the "Engineer") stating among other things:

i). that all labor services and/or materials covered by the Payment Request have been performed or furnished in connection with the construction of the Systems;

ii). that there have been no material changes in the anticipated cost of completing the Systems;

iii). that all construction to date has been performed in accordance with the Plans and Specifications and in accordance with all applicable laws, codes and ordinances;

iv). that all advances previously disbursed from the Construction Holdback for labor and/or materials have been paid to the parties entitled thereto;

v). that there are sufficient funds remaining in the Construction Holdback to complete construction of the Systems in accordance with the Plans and Specifications.

c). If requested by the District, the Beneficiary shall also provide lien waivers from all contractors, general contractors, subcontractors, and material suppliers who are entitled to payment in connection with the requested advance.

d). In the event that the Beneficiary has not substantially completed the Systems and obtained the operating permits for the Systems on or before May 1, 1996, the District shall be entitled, but not obligated, to use the monies being held in the Construction Holdback to complete any items that have not previously been completed. The monies being held in the Construction Holdback shall not be a limitation on liability and to the extent that such funds are not sufficient to complete the Systems, the District shall be entitled to recover from the Beneficiary any additional costs or expenses incurred by the District due to the Beneficiary's failure to timely complete construction of the Systems.

e). The Beneficiary acknowledges that in addition to all the requirements set forth above, no payment shall be made from the Construction Holdback until such time as the District has obtained the written consent from a majority of the Bondholders authorizing the requested payment to be made to the Beneficiary as required by the Indentures.

13. COMPLETION OF CONSTRUCTION:

a). The Beneficiary shall, at its cost and expense, complete construction of the Systems on or before May 1, 1996, in accordance with the plans and specifications prepared by Sheaffer & Roland, Inc. which are described on Exhibit "F" (the "Plans and Specifications") attached hereto and in accordance with all applicable laws, and free and clear of any claims for mechanics' liens; provided, however, the Beneficiary shall have the right to contest any claims for mechanics' liens as long as the District's title to the Systems is not impaired. Until construction of the Systems is complete the Beneficiary shall maintain liability insurance in an amount not less than One Million Dollars ($1,000,000.00) and builders risk insurance naming the District as an additional insured.

b). The Beneficiary shall timely comply with and promptly furnish to the District true and complete copies of any official notices or claims by any governmental authority pertaining to the Systems.

c). At all times until the Systems have been completed, the Beneficiary shall maintain in full force and effect the following:

i). a physical damage hazard insurance policy written on a builder's risk, completed value non-reporting form, which shall include coverage therein for completion. The coverage shall not be less than that encompassed by "fire, extended coverage, vandalism and malicious mischief"; and perils brought into include the so-called "all risk of physical loss";

ii). comprehensive general liability insurance covering the District and the Beneficiary in such amounts as the District may require but in any event not less than Three Million Dollars ($3,000,000.00) bodily injury and/or property damage liability per occurrence;

iii). workers compensation insurance in accordance with applicable requirements of law and such other insurance coverages as may be reasonably requested by the District;

iv). all such insurance shall be issued by responsible carriers reasonably acceptable to the District and shall provide that at least thirty (30) days prior written notice to the District of cancellation, non-renewal or material change.

d). The Beneficiary agrees to indemnify, defend and hold the District harmless from and against any and all claims, charges, actions, suits, proceedings, lawsuits, obligations, liabilities, fines, penalties, costs and expenses (including but not limited to reasonable attorneys' fees and court costs incurred by the District) in any way relating to (i) the completion of construction of the Systems; (ii) the Beneficiary's presence on the Land in order to complete construction of the Systems; and (iii) any claims for mechanics' or other liens relating to the construction of the Systems.

e). The Beneficiary guarantees for a period of one (1) year from the date of completion of construction of the Systems (as determined by Sheaffer & Roland, Inc.) that the Systems shall be in compliance with all applicable laws and shall be free from defects due to workmanship or materials and the Beneficiary shall, at its cost and expense, repair any such defects or violations of applicable laws of which it has actual notice within such one (1) year period. The Beneficiary's liability hereunder shall be limited to the cost of any such repairs and the Beneficiary shall have no liability whatsoever for any consequential damages which may be sustained by the District.

14. CLOSING DOCUMENTS: At the Closing the Beneficiary shall execute and deliver, or cause to be executed and delivered, the following closing documents as a condition precedent to the District's obligation to pay the Purchase Price (the "Beneficiary's Closing Documents"):

a). trustee's deed and/or bill of sale, in recordable form, conveying fee title to the Systems to the District subject only to the Permitted Exceptions;

b). certification that the Beneficiary is not a "foreign person" as required by §1445 of the Internal Revenue Code;

c). ALTA Statements;

d). general assignment of all of the Beneficiary's right, title and interest in and to the engineering plans, drawings, plats and any and all other rights with respect to development of the Systems;

e). assignment of any and all warranties and guarantees with respect to the Systems; and

f). the Title Policy.

On the condition that the Beneficiary has delivered to the Title Company all of the Beneficiary's Closing Documents, in form and content reasonably acceptable to the District, the District shall deliver to the Title Company (the "District's Closing Documents"):

i). The Purchase Price;

ii). ALTA Statements; and

iii). Assignment of the Excess Capacity to the Beneficiary.

The Beneficiary and District shall jointly deposit:

w). Executed originals of the Disposal Lease;

x). State and County transfer declarations, if required;

y). Closing Statement; and

z). Such other documents reasonably necessary to effectuate this transaction.

15. PRORATIONS: The Beneficiary shall be responsible for and pay in a timely fashion the 1994 real estate taxes and the 1995 real estate taxes through the date of the Closing. The District shall be responsible for all real estate taxes, if any, from and after the date of the Closing.

16. NOTICES OF VIOLATIONS: If prior to the Closing the Beneficiary shall receive any notices of building, zoning, health, environmental or other violations issued by a

governmental body affecting the Systems, the Beneficiary shall promptly send a copy of the notice to the District. The Beneficiary shall, at its expense, correct the violations prior to the Closing. If the Beneficiary is unable to correct the defects prior to the Closing, but is exercising due diligence to correct them, then the District may elect, by giving written notice to the Beneficiary, to either extend the Closing until the defects are corrected, or receive a credit at Closing for the cost of correcting the remaining defects.

17. REMEDIES: In the event this Agreement is terminated due to the District's default, then the Beneficiary shall have all remedies available at law or in equity. In the event this Agreement is terminated due to the default of the Beneficiary, then the District shall have all remedies available at law or in equity.

In the event either party commences legal proceedings to enforce any of their rights set forth in this Agreement, the prevailing party shall be entitled to recover its out-of-pocket costs and expenses, including reasonable attorneys' fees, in connection therewith.

18. BROKER'S COMMISSIONS: The District and the Beneficiary represent and warrant unto each other that they did not have any negotiations or dealings in connection with this transaction with any brokers or finders and no brokerage commissions or finder's fee are payable in connection with the transaction contemplated by this Agreement. Each party hereto agrees to indemnify and hold the other harmless from and against the claims of any person, firm or corporation claiming any brokerage commission, finder's fee or similar compensation based on any alleged negotiations or dealings with the indemnitor contrary to the foregoing representations.

19. TAX-FREE EXCHANGE: The Beneficiary shall have the right, at its option, to assign all its rights and obligations under this Agreement in connection with a tax-free exchange of under §1031 of the Internal Revenue Code. The District agrees to execute any documents reasonably required in connection therewith, as long as such documents do not impose any additional obligations on the District other than are contained in this Agreement.

20. ADDITIONAL CONDITIONS:

a). Entire Agreement: This Agreement contains the entire agreement of the parties hereto and shall not be altered, modified, or changed except by an instrument in writing, executed by or on behalf of all the parties hereto.

b). Notices: All notices required or agreed to be given pursuant hereto shall be sufficient if in writing and mailed by United States Certified Mail, postage prepaid, addressed to the District and the Developer as follows:

If to the Beneficiary: c/o Sho Deen, Inc.
17 North First Street
Geneva, Illinois 60134

If to the Developer: c/o Sho Deen, Inc.
17 North First Street
Geneva, Illinois 60134

If to the District: 39W065 Fabyan Parkway
Geneva, Illinois 60134

c). Pronouns: All pronouns used herein shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the context thereof shall require.

d). Benefit: Upon the execution of this Agreement by or on behalf of the parties hereto, the provisions hereof shall be binding on the parties hereto, their respective successors, assigns, grantees and legal representatives, if any.

e). Survival: Any and all representations, warranties and agreements contained herein shall survive the Closing and shall not be merged into the trustee's deed from the Trust to the District.

f). Waivers: No act or acts, omission or omissions, or series of acts or omissions, or waiver, acquiescence or forgiveness by either party hereto as to any default in or failure of satisfaction or performance, either in whole or in part, by the other of any of the provisions of this Agreement shall be deemed or construed to be a waiver of or election of remedies as to the rights at all times thereafter and the non-defaulting party may insist upon the full and complete satisfaction and performance by the other of each and all the respective provisions thereof to be satisfied and performed, in the manner and to the extent as the same are herein required to be satisfied and performed. No such waiver shall be deemed to be effective unless made in writing and executed by the party against whom such waiver is asserted.

g). Fees and Costs: Each party hereto shall bear and pay its respective attorneys' and accountants' fees and all other costs incurred in this transaction.

h). Severability: In the event that any term, provision or agreement set forth herein shall for any reason be held to be invalid, illegal or unenforceable, such invalid, illegal or unenforceable term, provision or agreement (or such part of any term, provision or agreement that is invalid, illegal or unenforceable) shall be expunged from this Agreement and shall not affect any other term, provision or agreement contained herein and this Agreement shall be construed and interpreted as if such invalid, illegal or unenforceable provision, term or agreement had never been contained herein and in such a manner as to keep this Agreement in effect to the maximum extent permitted under applicable law.

It is the intention of the parties to comply with all applicable federal and state laws; accordingly, provisions hereof shall be interpreted in a manner so as to comply with applicable law. If under any circumstances the fulfillment of any provision hereof will violate applicable law, then automatically the obligations to be fulfilled shall be reduced to such an extent so as to be valid.

IN WITNESS WHEREOF, the Beneficiary, the Developer and the District have executed this Purchase Agreement the day and year first above written.

BENEFICIARY:

KENT W. SHODEEN, as Trustee of the
Kent W. Shodeen Trust No. 1

DEVELOPER:

MILL CREEK LAND COMPANY

By:
Title: **President**

DISTRICT:

MILL CREEK WATER RECLAMATION DISTRICT

By:
Title: President

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

Parcel 11, Mill Creek, Blackberry Township, Kane County, Illinois.

ASSIGNMENT OF EXCESS CAPACITY

THIS ASSIGNMENT is made this _____ day of September, 1995 by and between the MILL CREEK WATER RECLAMATION DISTRICT (the "District") and KENT W. SHODEEN, as Trustee of the Kent W. Shodeen Trust No. 1 (the "Trust").

W I T N E S S E T H:

A. The Trust constructed and sold to the District, pursuant to the terms of a Purchase Agreement dated as of July 1, 1995 (the "Purchase Agreement"):

1. a complete drainage system consisting of but not limited to the following: ditches, culverts, storm sewers, inlets, manholes, channels, dry and wet stormwater detention facilities, and related appurtenances; and

2. a complete waterworks system including supply, treatment, storage and distribution facilities consisting of but not limited to the following: a water well, adapter units, submersible pumps and motors; pump house facilities including structural, mechanical, electrical and chemical treatment components; water storage tank; water mains and valves; and

3. a complete wastewater management system consisting of but not limited to the following: collection, transmission, treatment, disposal and monitoring system including: gravity sanitary sewers, risers, services and manholes; waste water pumping stations, and pressure sanitary sewer; communicator, aerated treatment lagoons, storage lagoons, intermittent sand filters, and control building facility including structural, mechanical, electrical and chemical treatment components; waster water pumping station, distribution, sprinkler and subsurface drainage system; monitoring and supply wells and components; and all other related appurtenances necessary or useful and convenient for the collection, treatment and disposal, in a sanitary manner, of sewage and wastes;

which are collectively referred to as the "Systems".

B. The Systems are designed to provide water, wastewater treatment, and stormwater drainage services for the residential, commercial and institutional use of the real estate legally described on Exhibit "A" attached hereto (the "Development") which is the current corporate boundaries of the District, which uses shall be in accordance with the provisions of Kane County Ordinance No. 94-3393 adopted June 14, 1994 and the Existing Property (the "Required Capacity").

EXHIBIT 3 (4 PAGES)

C. The Systems may now, or in the future, due to technological changes, amended governmental regulations, or other unforeseen changes, have capacity to provide water, wastewater treatment and stormwater drainage capacity in excess of the Required Capacity (the "Excess Capacity").

D. As partial consideration for the sale of the Systems by the Trust, the District agreed pursuant to the terms of the Purchase Agreement to assign to the Trust the Excess Capacity.

E. Any capitalized terms which are not defined herein shall have the meanings set forth in the Purchase Agreement.

NOW, THEREFORE, in consideration of the sale of the Systems by the Trust to the District, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the parties agree as follows:

1. The District hereby assigns, transfers and coveys to the Trust, its successors and assigns, all of the District's right, title and interest in and to the Excess Capacity as it now, or in the future, may exist, and from and after the date hereof the Excess Capacity shall be the sole and absolute property of the Trust, its successors and assigns.

2. This Assignment shall constitute the contract of the District to provide water, wastewater treatment and stormwater drainage service, to the extent of the Excess Capacity (as it may increase from time to time) to those parcels of real estate designated from time to time by the Trust, its successors and assigns (the "Additional Land") whether or not the Additional Land has been annexed to the corporate boundaries of the District, as long as such use is in compliance with all applicable laws.

3. If petitioned by the Trust, its successors or assigns, the District shall from time to time annex those portions of the Additional Land to the District as long as the Additional Land is contiguous to the corporate boundaries of the District and such annexation is otherwise permitted by law. The owners of the Additional Land shall be required to pay a Residential Tap-On Fee or a Commercial Tap-on Fee, as applicable, as provided in paragraph 7(a) or 7(b) of the Purchase Agreement, subject to the provisions of paragraph 7 (h) of the Purchase Agreement, until such time as the Bonds have been redeemed in full, or sufficient monies are on deposit with the bond trustee (including the Operating Deficit Account and the Debt Service Reserve Account) to redeem the Bonds in full. Thereafter, the District agrees not to charge the owners of the Additional Land any Tap-On Fees and the owners of the Additional Land shall only be obligated to pay the customary and usual user fees as established by the District from time to time on a uniform basis for all users within the corporate boundaries of the District.

4. The District and the Trust acknowledge and agree that the Excess Capacity may increase from time to time due to technological changes in treating wastewater, decreased usage by owners and users within the Development and the Existing Property and amended

governmental regulations. The District and the Trust agree that any increased capacity over and above the needs of the Development and the current uses and number of users on the Existing Property, however created, shall be reserved for the sole and exclusive use of the Trust, its successors and assigns, to the extent permitted by applicable law.

5. Nothing contained herein shall be deemed to prohibit the Trust, its successors and assigns from charging a fee to the owners of the Additional Land for the privilege of utilizing all or a portion of the Excess Capacity.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the day and year first above written.

DISTRICT: MILL CREEK WATER RECLAMATION DISTRICT

By: Christopher Vieu
Title: President

TRUST:

KENT W. SHODEEN, as Trustee of the
Kent W. Shodeen Trust No. 1

EXHIBIT "A"

LEGAL DESCRIPTION OF LAND

Parcel 11, Mill Creek, Blackberry Township, Kane County, Illinois.