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SANITARY SEWER EXTENSION AGREEMENT

This agreement is made and entered into this 15TH day of NOVEMBER, 1995, by and between Apple Valley Utilities, Inc. ("Utility"), and Welsh, Inc., ("Welsh") and Gilmol Enterprises, L.P., ("Gilmol"). When referred to jointly, Welsh and Gilmol are hereafter referred to as "Owners."

WHEREAS, Utility leases and operates a private sanitary sewer system; and

WHEREAS, Welsh is the owner of certain lands in Lake County, Indiana, which are more fully described in Exhibit A-1, which is attached hereto and made a part hereof (the "Welsh Parcel"); and

WHEREAS, Gilmol is the owner of certain lands in Lake County, Indiana, which are more fully described in Exhibit A-2, which is attached hereto and made a part hereof, (the "Gilmol Parcel"); and

WHEREAS, the Owners wish to have Owners' Land served by a sanitary sewer system operated by Utility (The Welsh Parcel and the Gilmol Parcel are referred to jointly as "Owners' Land," which includes the property described in Exhibits A-1 and A-2, regardless of who then owns that property); and

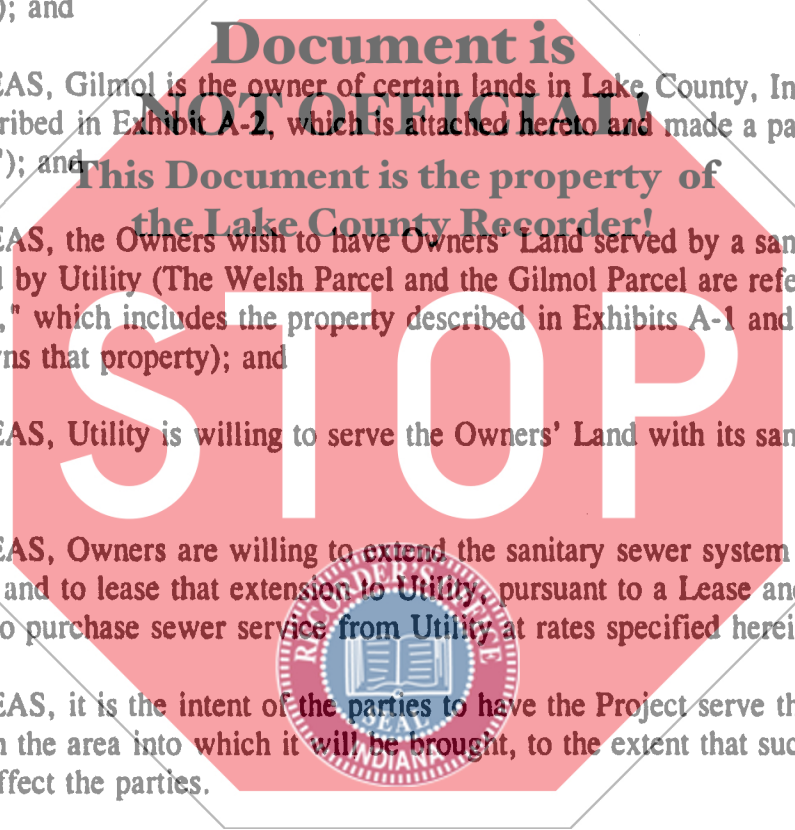
WHEREAS, Utility is willing to serve the Owners' Land with its sanitary sewer system; and

WHEREAS, Owners are willing to extend the sanitary sewer system to serve the Owners' Land, and to lease that extension to Utility, pursuant to a Lease and Option to Purchase, and to purchase sewer service from Utility at rates specified herein; and

WHEREAS, it is the intent of the parties to have the Project serve the sanitary sewer service needs in the area into which it will be brought, to the extent that such expansion does not adversely affect the parties.

NOW THEREFORE, Utility and Owners, each in consideration of the mutual covenants contained herein and on behalf of themselves and their successors and assigns, hereby agree as follows:

- Drawings, Plans, and Specifications for Sewer Line Extension. A sewer line extension will be constructed and installed as provided in this Agreement. Such sewer line extension (hereafter the "Project" or the "sanitary sewer line extension") will commence at the "Commencement Point" and will terminate at the "Termination Point", in accord with the Construction Drawings, subject to modifications due to conditions encountered during construction, attached hereto as Exhibit B-1, with the liquid flow direction to be from the Commencement Point to the Termination Point, will be situated in the locations designated



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on Exhibit B-3, which is attached hereto and incorporated herein by this reference, and will be constructed and installed in accordance with the Construction Drawings, attached hereto as Exhibit B-1 and incorporated herein by this reference (the "Drawings"), and the Plans and Specifications prepared by NIES Engineering, Inc., William A. Hupp, P.E., L.S., attached hereto as Exhibit B-2 and incorporated herein by this reference (the "Specifications"). The parties acknowledge and agree that Owners have no expertise with respect to sanitary sewer facilities and that Owners are relying upon the expertise of Utility with respect to the design, construction, maintenance, and operation of the Project. The Utility hereby approves the Drawings and Specifications and the Owners, based upon the preceding sentence and the approval of Utility, hereby approve the Drawings and Specifications. Utility hereby represents and warrants to Owners as follows:

- a. The Project, when constructed in accordance with the Drawings and Specifications, will have a capacity which is fully adequate to provide the sanitary sewer service described in this Agreement for the Welsh Parcel, the Gilmol Parcel.
- b. The Project, when constructed in accordance with the Drawings and Specifications, will constitute a facility which is fully adequate for all intended uses and purposes based upon current civil engineering, structural engineering, and construction standards, and will be in accordance with all applicable laws, statutes, ordinances, rules, regulations, and orders.
- c. Utility leases the facility to which the Project will attach at the Termination Point and all facilities through which sewage from the Project will flow between the Termination Point and the sewage treatment facility of Utility. Utility has the right under all such leases for such facilities to extend such leases for terms ending not earlier than the twenty-fifth (25th) anniversary of the date hereof; Utility has the right, under all such leases, to cause the Project and the items discharged from the Project to be released into such facilities; Utility intends to operate such sanitary sewage system and plant and to pay all rents and otherwise perform all acts necessary to continue all such leases in effect for a term ending not earlier than the twenty-fifth (25th) anniversary of the date hereof. All appropriate interface facilities between the Project and such facilities of the Utility either currently exist or will exist when the Project is constructed in accordance with the Drawings and Specifications. All facilities between (and including) the Termination Point and the sewage treatment facilities of Utility are and will remain fully adequate to accept and transport all sewage contemplated to flow through the Project.

2. Responsibilities of Utility.

- a. Construction Project Manager. Utility or its assigns will serve as project manager for the construction of the Project. In its capacity as project manager, Utility or its assigns will supervise the general contractor and will cause the Project to

be constructed in accordance with the Drawings and Specifications and in accordance with generally accepted engineering and construction practices.

b. Easements and Permits. Utility shall obtain all easements, licenses, and rights-of-way necessary for installation and maintenance of the Project at the sole cost of Utility. Owners are responsible for all permits and fees for such permits which pertain to additions or extensions within their own property to their sources of sewage. Such easements shall be perpetual or shall continue as long as they are used for their intended purpose, whichever is shorter, and shall accrue to the benefit of Utility and Owners and their respective successors and assigns in title. Utility shall obtain all permits required by regulatory authorities to install the Project, all fees for which shall be paid by Owners.

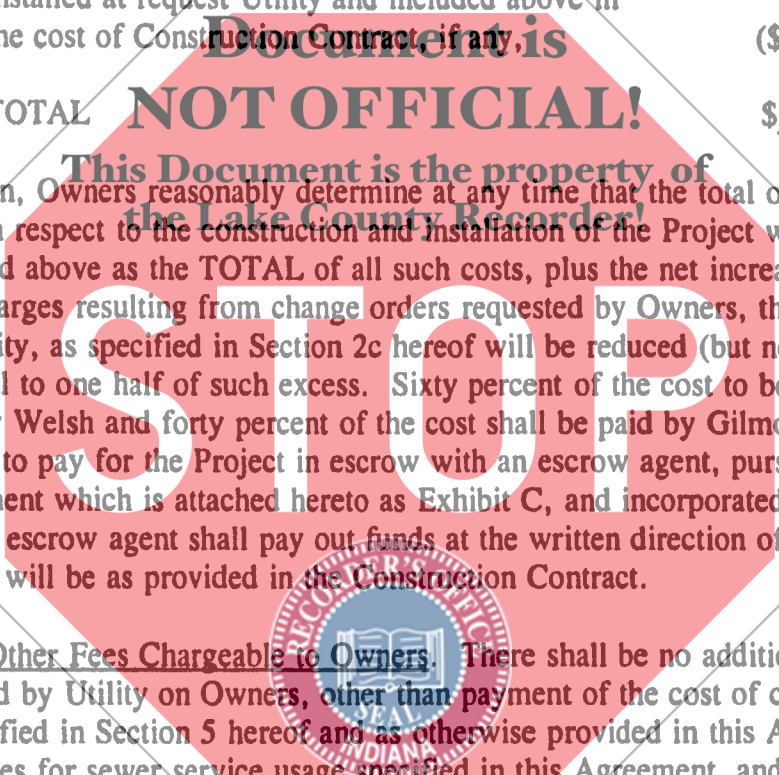
c. Compensation. In consideration of the services of Utility or its assigns as project manager for construction of the Project, and all other services of Utility or its assigns under this Agreement prior to the commencement of sanitary sewer service to the Welsh Parcel and the Gilmol Parcel, Owners will pay to Utility or its assigns a fee in the amount of Three Thousand Dollars (\$3,000.00) subject to reduction (if applicable) as provided in Section 5 hereof. Such fee will be paid upon or prior to the completion of construction of the Project.

3. Contractor; Control of Construction; Right of Inspections. The Project will be constructed by Big D Construction, Inc., Donald E. Cripe, President, ("Contractor") as general contractor in accordance with the Construction Contract in the form of Exhibit B-4, which is attached hereto and incorporated herein by this reference (the "Construction Contract"). The parties acknowledge that contractor has been approved by Utility. Owners and their agents shall have full rights to inspect the work at any time. Notwithstanding the right of Owners to inspect the work, the parties acknowledge and agree that Owners have no expertise with respect to sanitary sewer facilities and that Owners are relying upon the expertise of Utility with respect to the construction of the Project.

4. Construction Insurance. Liability insurance and builder's risk insurance with respect to the Project covering Owners and Utility during the construction phase of the Project shall be procured, if possible, by Contractor, and if not, it shall be procured by Utility. The liability insurance will be in the amount of not less than One Million Dollars and the Builder's Risk Insurance shall be in an adequate amount acceptable to the parties, and all such insurance will contain such provisions, and will be issued by such carriers as may be reasonably directed by Owners and Utility. Owners will pay the premiums for such insurance to the extent that Contractor is not obligated to obtain and pay for such coverage pursuant to the Construction Contract.

5. Price, Escrow of construction costs and Payments. The parties currently anticipate that the total of all costs relating to the construction and installation of the Project to be paid by Owners will be as follows.

Design and engineering fees for Drawings and Specifications (as specified in Section 1 hereof):	\$ <u>16,000.00</u>
Payment to Contractor under Construction Contract (as specified in section 3 hereof):	\$ <u>202,000.00</u>
Additional Insurance cost:	\$ <u>-0-</u>
Fee for services of Utility (as specified in Section 2c hereof):	\$3,000.00
Fees for permits not paid by Contractor:	\$ <u>340.00</u>
Less the increased cost of upgraded specifications installed at request Utility and included above in the cost of Construction Contract, if any.	(\$ <u>-0-</u>)
TOTAL	\$ <u>221,340.00</u>



If for any reason, Owners reasonably determine at any time that the total of all costs payable by Owners with respect to the construction and installation of the Project will exceed the amount specified above as the TOTAL of all such costs, plus the net increases, if any, in the Contractor's charges resulting from change orders requested by Owners, the fee for the services of Utility, as specified in Section 2c hereof will be reduced (but not below zero) in an amount equal to one half of such excess. Sixty percent of the cost to be paid by Owners shall be paid by Welsh and forty percent of the cost shall be paid by Gilmol. Owners shall place the funds to pay for the Project in escrow with an escrow agent, pursuant to the Escrow Agreement which is attached hereto as Exhibit C, and incorporated herein by this reference. The escrow agent shall pay out funds at the written direction of both Owners and Utility. Draws will be as provided in the Construction Contract.

6. Other Fees Chargeable to Owners. There shall be no additional fees or other charges imposed by Utility on Owners, other than payment of the cost of constructing the Project as specified in Section 5 hereof and as otherwise provided in this Agreement and the agreed upon rates for sewer service usage specified in this Agreement, and an inspection fee comprised of Utility's actual cost of inspection for any later additional tap-ons serving Owners' Land, within the agreed upon capacities reserved by Welsh and Gilmol respectively to serve their respective parcels, or any reallocation thereof between Gilmol and Welsh agreed to by Gilmol and Welsh.

7. Date of Completion and Approval of Extension. The Date of Completion shall be not later than February 1, 1996, and shall coincide with the date on which service begins and the sanitary sewer line extension Project is approved, as specified herein. The date of Completion shall be extended, if necessary, in an amount of time equal to time lost due to delay beyond the control of Contractor/Utility. Such delay shall include, but not be limited

to, fires, floods, labor disputes, abnormal weather conditions or acts of God. After the completion of the Project, Owners shall approve the Project provided that the Project was completed in accordance with the "as built" Drawings and Specifications, based on an inspection done by Utility and Owners. The parties acknowledge and agree that Owners have no expertise with respect to sanitary sewer facilities and that Owners may, but are not required to, approve the construction of the Project in reliance upon the expertise of Utility with respect to the design, construction, maintenance, and operation of the Project. In the event of the reasonable rejection by Owners, a reasonable opportunity for cure shall be granted to Utility.

8. Ownership: Option to Purchase.

a. Rights of Owners. Owners shall remain owners of the Project (except that part of the Project which is located on property owned or leased by Utility, which shall belong to Utility), and unless and until Utility exercises its option to purchase the Project as provided herein.

b. Property Subject to Purchase Option. Owners hereby grant to Utility the exclusive right to purchase the Project as provided in this Section. For purposes of this Section, the purchase of the Project by Utility will consist only of the purchase of:

- i. the personal property constituting the Project;
- ii. the easement rights with respect to the Project over properties other than the Welsh Parcel and the Gilmol Parcel to the extent that such easement rights run with the Welsh Parcel and/or the Gilmol Parcel; and
- iii. reasonable easement rights with respect to those portions of the Welsh Parcel and the Gilmol Parcel on which the Project is then situated.

Not by way of limitation, Utility will not acquire any title to any portion of the Welsh Parcel and/or the Gilmol Parcel in such purchase, and Welsh and Gilmol will retain all rights to use their respective properties in any manner not inconsistent with the easement rights granted to Utility.

c. Exercise of Option. Utility may exercise its option to purchase the Project at the end of the seventh year after the Date of Completion of the Project. The price for purchase of the sanitary sewer line extension shall be \$5,000.00. Such amount shall be payable to Owners as follows: 60% to Welsh and 40% to Gilmol, unless Owners specify differently in written notice to Utility prior to closing on the sale. Utility shall give written notice of its desire to exercise its option to purchase at least 60 days prior to the anticipated date of closing. The terms of the Lease and Option to Purchase attached hereto as Exhibit D, are incorporated herein by this reference and

binding upon the parties hereto. Utility may exercise its option to purchase at any time prior to the end of the seventh year after the date of Completion, however, in that event the purchase price shall be equal to the certified costs of the Project, less the part of the certified cost of the Project which Owners have already depreciated for tax purposes.

9. Lease of Sewer Line Extension, Maintenance. After completion of the sanitary sewer line extension contemplated by paragraph 1, Owners shall lease to Utility, and Utility shall lease from Owners the sanitary sewer line extension, pursuant to the terms of the "Lease and Option to Purchase," attached hereto as Exhibit D and made a part hereof. This Lease shall be a triple net lease, with option to purchase on the terms specified therein. The lease shall provide that Utility shall operate and shall pay all costs of operating the sewer line extension, and that Utility shall maintain and pay all costs of maintenance, all reasonable insurance covering Owners and Utility, and taxes, and any other cost related to the operation or maintenance or replacement of the sanitary sewer line extension and any part thereof, including any lift stations. Utility or its assigns, may at Utility's sole cost, modify lines as needed to serve the intended purposes of utility. Utility shall warrant that any modifications of said system shall not adversely affect service to the Owners' land.

10. Access by Utility. Owners, on behalf of themselves and their successors and assigns, hereby grant to Utility a license to enter onto their respective properties for the purpose of monitoring and testing incoming water meters and related devices, and for the purpose of performing maintenance work required of Utility on the sanitary sewer line extension serving Owners' Land. Owners shall grant to Utility such other licenses and/or easements as are necessary and useful in complying with the terms of this Agreement, as reasonably agreed by Owners.

11. Standards. Utility is aware of the current expected use of Utility's sanitary sewer services by Owners and will accept all such use by Owners. Owners agree that no storm water shall be placed in sewer, and that anything placed in the sewer shall be metered. Such use, however, shall be subject to the terms and conditions set forth in the Apple Valley Utilities, Inc., Statement of Sewer Use Policy, dated the 17th day of July, 1995, which is attached hereto as Exhibit F, and incorporated herein by this reference, and by any future standards required to be implemented as a result of regulatory action.

12. Agreement to Provide Sanitary Sewer Service; Rates. Utility intends to provide Sewer service to Owners, their successors and assigns, to serve Owners' Land, through Utility's plant for a period of not less than 25 years, normal wear and tear excepted. For the first seven years of service, Utility guarantees that the rates it will charge Owners, their successors and assigns, for sewer service to the Land described in Exhibits A-1 and A-2 will be in accord with the terms set forth in Exhibit E, which is attached hereto and incorporated herein by this reference.

Permissible rates for the eighth through twelfth years of service shall not exceed the following. The rate in effect for the eighth year of service shall not exceed the sum of the rate in effect for the previous year plus a percentage change equal to the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for All Items in the Chicago, Gary, Lake County Area (or the relevant updated area then in effect), hereafter referred to as the CPI-W, in the twelve month period beginning with the first day of the first month of the seventh year of service through the end of the twelfth month of the seventh year of service. For example, if the first day of the first month of the seventh year of service is December 1, 2001, and if the change in the CPI-W for the relevant area, from December, 2001 through November, 2002, is a five percent increase, then the rate in effect for the eighth year of service, from December 1, 2002 through November 30, 2003 can be increased by five percent over the rate in effect for the seventh year. The maximum rate for years nine through the end of year twelve of service shall be calculated in a similar manner and for any of those years the rate in effect shall not exceed the sum of the rate from the previous year plus a percentage increase (or decrease) equal to the change in the CPI-W from the beginning of the previous year to the beginning of the then current year of service.

13. Reserved Capacity. The term "GPDU" means the monthly average "Gallons Per Day usage" of a customer of Utility, and may refer to the amount of capacity reserved for that customer's use, or may refer to the rates charged for such usage. An average usage of one thousand GPDU would result in 30,000 gallon usage in a month. Utility warrants that it has reserved capacity of 25,000 GPDU to serve Owners' Land. Initially, the reserved capacity is allocated as follows: 15,000 average GPDU belongs to Welsh to serve the Welsh Parcel, and 10,000 average GPDU reserved capacity belongs to Gilmol to serve the Gilmol Parcel. As between themselves, their successors and assigns, the allocation of the 25,000 average GPDU reserved capacity is freely assignable and transferrable, at the Owner or Owners discretion, as the case may be, so that the actual allocations agreed upon by the Owners, and/or their successors and assigns, shall be controlling, so long as all such usage is limited to serving all or some portion of the Land as described in Exhibits A-1 and A-2. Any of the reserved capacity (measured as monthly average GPDU) of Owners hereunder, which is not being utilized to serve the Owner's Land, as defined herein, at the end of the 12th year of service may not thereafter be sold or assigned by any owner of that reserved capacity.

14. Right of Control of Use of Sanitary Sewer Line Extension. Utility and Gilmol and Welsh shall each have the right to control whether any others may tap-on to and use the sanitary sewer line extension. Prior to being granted permission by Utility to tap into and/or otherwise use and deposit sewage into the sanitary sewer line extension or any extension or lateral thereof, during the seven years following the Date of Completion, any person or entity seeking to tap into or use it must first obtain the written permission of each Owner to do so. Such permission may be granted or withheld by any owner at that Owner's sole discretion. Utility warrants that any such additional tap into and use of the sanitary sewer line extension serving land other than Owners' Land will not affect service to the Owners'

Land and will not diminish the reserved capacity guaranteed herein to Owners and their successors and assigns.

15. During the seven year period following the Date of Completion, Utility shall require any person or persons and/or entity or entities which apply to tap into and use the sanitary sewer line extension (the Project), or any extension or lateral thereof, to pay for the building of additional capacity at the plant equivalent to their usage needs. Utility shall require the next person or persons and/or entity or entities which apply to tap into and use the sanitary sewer line extension, or any extension or lateral thereof, to pay for extension of the sewer line to the west side of Utility's current plant, under Bryant Ditch, with appropriate lift station, or to an alternate location, at Utility's option, in addition to any other charges or payments required by Utility and/or pursuant to this Agreement.

Utility agrees that from the Date of Completion until seven years thereafter no person or entity shall be granted permission to tap into and/or use or deposit sewage or storm water in the sanitary sewer line extension or any other extension or lateral thereof, to serve property other than Owners' Land, without such person or entity first having obtained the written permission of each Owner to do so.

16. Unauthorized Tap-On. Utility agrees to use reasonable diligence to prohibit anyone without authorization from tapping into and/or using or depositing sewage into the sanitary sewer line extension on a temporary or permanent basis. However, that in the event of any tap or connection made into the sanitary sewer line extension without authorization, including not having obtained written permission from each Owner, then, on the request of an Owner or Owners, Utility shall remove or cause to be removed such unauthorized tap or connection. Owners agree that the Owner or Owners requesting such removal shall pay all costs, including reasonable attorney fees, incurred by Utility in removing an unauthorized tap or connection.

17. Termination. The portion of this agreement concerning the requirement of obtaining Owner's written permission in order to be allowed to tap into the sanitary sewer extension line or any extension or lateral thereof shall terminate seven years after the Date of Completion or when Utility exercises its option to purchase and closes that transaction, whichever is earlier.

18. Recording and Filing. This Agreement shall be recorded in the office of the Recorder of Lake County, Indiana, by Owners who shall pay the costs of recording. Any party may file this Agreement with the Indiana Utility Regulatory Commission.

19. Owners hereby waive their right to remonstrate against additional changes to the Apple Valley Sewer System, during the twelve years after the Date of Completion, unless such change may adversely affect or interfere with an Owner's or Owners' use of the sewer system or use of their own property, or unless an Owner or Owners have refused to grant

permission, when such permission is required, for another to tap into the sewer extension line or any extension or lateral thereof, and the proposed change relates thereto.

20. Certification of Costs. Within thirty days of the Date of Completion of the Project, Owners shall certify the costs of the Project and shall submit notice of those certified costs and the Date of Completion to Utility. "Certified Costs" shall include the expenses of Owners to construct the sanitary sewer line extension, including construction expenses as specified in paragraph 5 of this Agreement, engineering fees and attorneys' fees.

21. Transfer of Real Property. Nothing herein shall be construed to prohibit Welsh or Gilmol from selling or otherwise transferring all or a portion of their properties described in Exhibits A-1 and A-2, hereto. In the event of a transfer of all or a portion of either the Welsh or the Gilmol parcels, all or a portion of the reserved capacity then owned by that Owner may be transferred with the property, together with all rights and obligations hereunder, except those rights and obligations which may not be assigned pursuant to other provisions of this Agreement. In the event of the transfer of all or a portion of either of the Owner's parcels, that Owner may transfer any portion of its reserved capacity with that portion of its parcel, together with all rights and obligations associated therewith, including the agreed upon rate structure specified herein, but excluding those rights and obligations which may not be assigned pursuant to other provisions of this Agreement.

22. Assignment. At any time during the continuance of this Agreement, Welsh, Gilmol, and/or Utility shall have the right to sell, assign, transfer and set over its respective interest in this Agreement, in whole or in part, with all of its rights, title, and interest therein, to any persons or entities, and the assignee thereof shall acquire all the rights granted to that Party herein, which that Party has transferred, and shall be subject to any obligations that the Party may have under this Agreement. The rights of each Owner, pursuant to paragraph 14 of this Agreement, to control whether any others may tap-on to and use the sanitary sewer line extension, is a personal right of each Owner which does not run with the land and which is not assignable.

23. Governing Law. This Agreement is intended to be in compliance and governed by the laws of the State of Indiana; and is binding upon the heirs, successors and assigns of the parties hereto.

24. Dispute Resolution.

a. Resolution of Disputes. The parties hereto agree to make good faith efforts to resolve any differences or disputes which may arise under this Contract in an expeditious manner. Such good faith efforts will, as appropriate, take into account the intent of the parties with respect to the provisions of this Contract and may, as appropriate, include involvement of outside experts to assist in expeditious dispute resolution. If any dispute arising under this Contract is not resolved within thirty (30) days after it arises, then any party, upon notice to all other affected parties, may submit the dispute for resolution by

binding arbitration by one arbitrator, pursuant to the rules and procedures of the American Arbitration Association (AAA), for Commercial Arbitrations, as modified herein.

b. Statement of Intention. It is the intention of the parties that any arbitration hereunder will be conducted in a manner so as to reasonably minimize the time for resolving the dispute and the time and monies which the parties expend in the arbitration process. Accordingly, the provisions of this Section will be liberally construed in order to effectuate this intention.

c. Commencement of Arbitration. The party seeking such arbitration (the "Claiming Party") will give notice to all other affected parties (collectively the "Responding Party"), of such election (the "Demand for Arbitration"), which shall contain a statement setting forth the nature of the dispute, the amount involved, if any, and the remedy sought. The Claiming Party shall file copies of the Demand for Arbitration with the regional office of the AAA, together with the Claiming Party's portion of the appropriate administrative fee. Within fourteen (14) days after receiving any Claim Notice, the Responding Party shall give a written statement of the position of the Responding Party to the Claiming Party, and file same with the AAA, together with the Responding Party's portion of the administrative fee.

d. Selection of Arbitrator. The parties may agree upon the appointment of an arbitrator. However, if no such agreement is reached within fourteen days after the Demand for Arbitration is filed, the parties shall utilize the selection procedure for the AAA, as follows: The AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the panel. Each party to the dispute shall have seven days from the mailing date within which to cross off any names objected to, number the remaining names to indicate the order of preference, and return the list to the AAA. If a party does not return the list within the time specified, or seek an extension from the AAA, all persons named therein shall be deemed acceptable to that party. From among the persons who have been approved on all lists, and in accord with the designated order of mutual preference, the AAA shall invite the acceptance of an arbitrator to serve. If the parties fail to agree on any of the persons named, if acceptable arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, a second list of arbitrators shall be supplied by the AAA, and the same procedure followed as above. If no arbitrator agrees to serve from the second list of arbitrators, the AAA shall have the power to make the appointment from among the other members of the panel without the submission of any additional list. The arbitrator should be an individual with substantial professional experience in the subject matter involved in the dispute.

e. Hearing and Decision. A hearing shall be scheduled at which the Arbitrator shall hear evidence presented by the parties and/or their representatives. The Arbitrator shall set the hearing procedures and will render a decision on the dispute as quickly as reasonably possible, and shall attempt to render his or her binding decision in writing to the parties within 30 days after the hearing, or thirty days after the submission of post hearing briefs, if such are submitted pursuant to agreement with the Arbitrator. As a part of the decision, the

Arbitrator may, where appropriate, make a determination as to any amounts of money which may be payable by one party to the other, whether arising under contractual obligations, as damages for any breach or tort, or otherwise. Notice of such decision will be given to the parties. The parties agree that any decision reached by the Arbitrator will be binding upon the parties, and that a judgment in accordance with the decision of the representatives may be entered in any court of proper jurisdiction. Not in limitation of the foregoing, the parties expressly acknowledge and agree that the procedures provided for the resolution of disputes in this Section constitute full, fair, and adequate procedures and the parties expressly waive any and all rights not provided herein.

f. **Good Faith.** The parties will in good faith make all reasonable efforts to permit the Arbitrator to fairly resolve the dispute as promptly as reasonably possible. Not in limitation of the foregoing, each party will, in good faith and whether or not requested by the Arbitrator, give to the Arbitrator all information and documentation available to such party which is relevant to the matter being considered by the Arbitrator, regardless of whether such items are favorable to the position taken by such party. No party will make any false or misleading assertions of any fact or other matter. No party will make any effort to prevent any relevant facts or other matters from being presented for consideration by the Arbitrator. No party will assert any unreasonable position in or with respect to any proceeding or dispute.

g. **Fees.** Each party will pay all fees charged by their own representative, if any. The fees of the Arbitrator will be equally paid by the parties. However, if the Arbitrator determine that:

- i. a party has taken an unreasonable position in the proceeding, either with respect to the dispute or with respect to any matter arising in the proceeding; and/or
- ii. a party has attempted to make a false or misleading assertion of any fact or other matter; and/or
- iii. a party has attempted to prevent any relevant facts or other matters from being presented to or considered by the Arbitrator; and/or
- iv. a party intentionally made an effort to delay the proceedings; and/or
- v. a party has failed to comply in good faith with the requirements of Subsections (e) and/or (f) of this Section; and/or
- vi. a party has otherwise intentionally made an effort to hinder, delay, and/or otherwise make more difficult the consideration of the dispute by the Arbitrator,

the Arbitrator may order that all or a portion of any or all of another party's legal fees for representation in the matter, and/or any other costs and charges incurred with respect to the arbitration, be paid by such party.

h. **Reasonableness.** Not in limitation of any other provisions of this Section, the existence of a mere colorable argument in support of a party's position will not render the position reasonable or otherwise not in violation of the provisions of Subsections (f) or (g) of this Section. A party's position on any matter will, for all purposes of this Section, be deemed to be unreasonable unless the position:

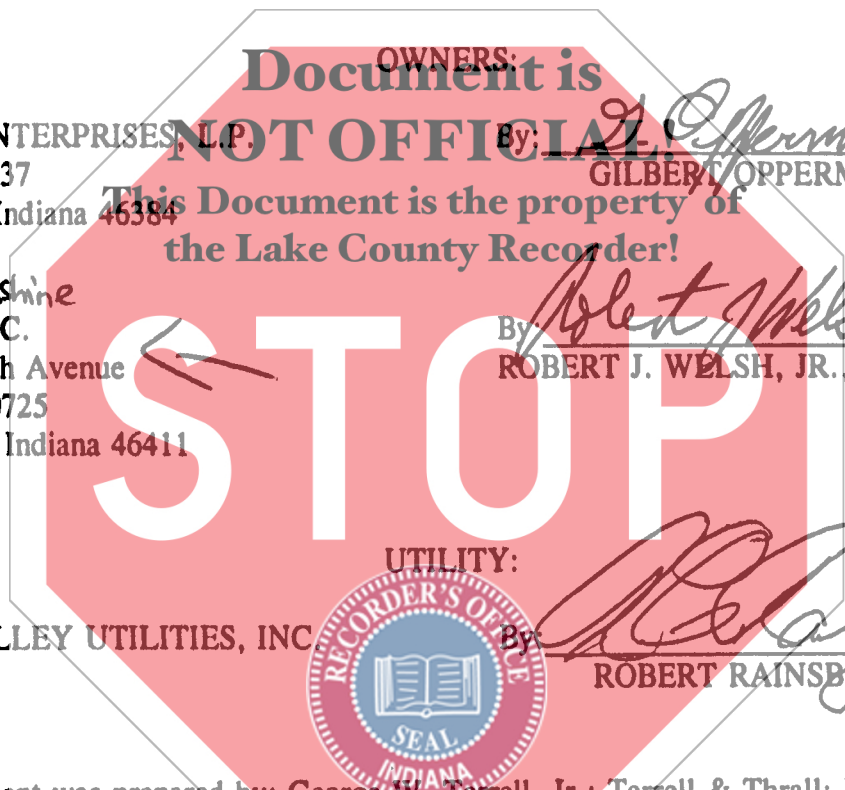
- i. is presented in good faith, and
- ii. is substantially in accordance with all applicable law, and
- iii. is substantially in accordance with the provisions of this Contract and any other relevant agreement by which the party is bound, and
- iv. is reasonable in accordance with the customs and usual practices in the profession or trade involved in the dispute; and
- v. is a position which could be believed to be correct by a reasonable and impartial person who has substantial experience in the field, has knowledge of all relevant laws and agreements, and has knowledge of all facts which are known (or could or should be known) by the party and/or any officer, director, partner, employee, agent, or attorney thereof who is in any way participating in the proceedings.

25. **Miscellaneous Matters.** This Agreement may be executed in any number of counterparts and each of such counterparts shall, for all purposes, be deemed as original documents and all such counterparts shall together constitute one and the same instrument. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof and no other verbal statements or representations have served as an inducement to the parties to enter into this agreement, nor are there any terms and provisions of the parties' agreement, other than those specifically expressed herein and/or incorporated herein by specific reference, and all prior negotiations and understandings are merged herein. The terms hereof may be changed only by an agreement in writing, signed by the party to be charged or his duly authorized agent. In construing this Agreement, paragraph headings shall not be considered, such headings being used solely for convenience of reference. No rule of law or evidence construing a document against the preparer thereof shall be invoked or applied in the event that the meaning of any of the terms or expressions contained in this Agreement become disputed. If any portion of this Agreement is held to be unlawful or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be fully enforced as if such invalid, unlawful or unenforceable portion or portions did not exist. This agreement shall be construed according to the laws of the State of Indiana, and the

parties agree that all claims or demands relating to an alleged breach of this Agreement or a default hereunder shall, if litigated, be filed in the court of preferred venue in Indiana. The parties hereto shall from time to time, at the request of the other party, execute and deliver such agreements and take such other actions as may be reasonably required to carry out the terms and conditions of this Agreement. In any claim or demand or litigation relating to an alleged breach of this Agreement or a default hereunder, the costs and attorney fees of the prevailing party or parties shall be paid by the non-prevailing party or parties.

26. Acknowledgment - By signing below the parties verify that they have read, fully understand, and approve this Agreement and acknowledge receipt of a signed copy.

This Agreement has been executed by the parties hereto as of the date first written above.



OWNERS:
GILMOL ENTERPRISES, L.P. By: *G. Opperman*
P.O. Box 1037 GILBERT OPPERMAN, III
Valparaiso, Indiana 46384

Attn: *Suzanne Mulshine*
WELSH, INC.
800 East 86th Avenue
P.O. Box 10725
Merrillville, Indiana 46411

By: *Robert J. Welsh, Jr.*
ROBERT J. WELSH, JR.,

UTILITY:
APPLE VALLEY UTILITIES, INC. By: *Robert Rainsberger*
ROBERT RAINSBERGER

This instrument was prepared by: George W. Terrell, Jr.; Terrell & Thrall; Lincoln Square - Suite 1006; 150 Lincolnway; Valparaiso, Indiana 46383; (219) 465-1766

G:\...\GILMOL.ENT\SEWERX4.AGT

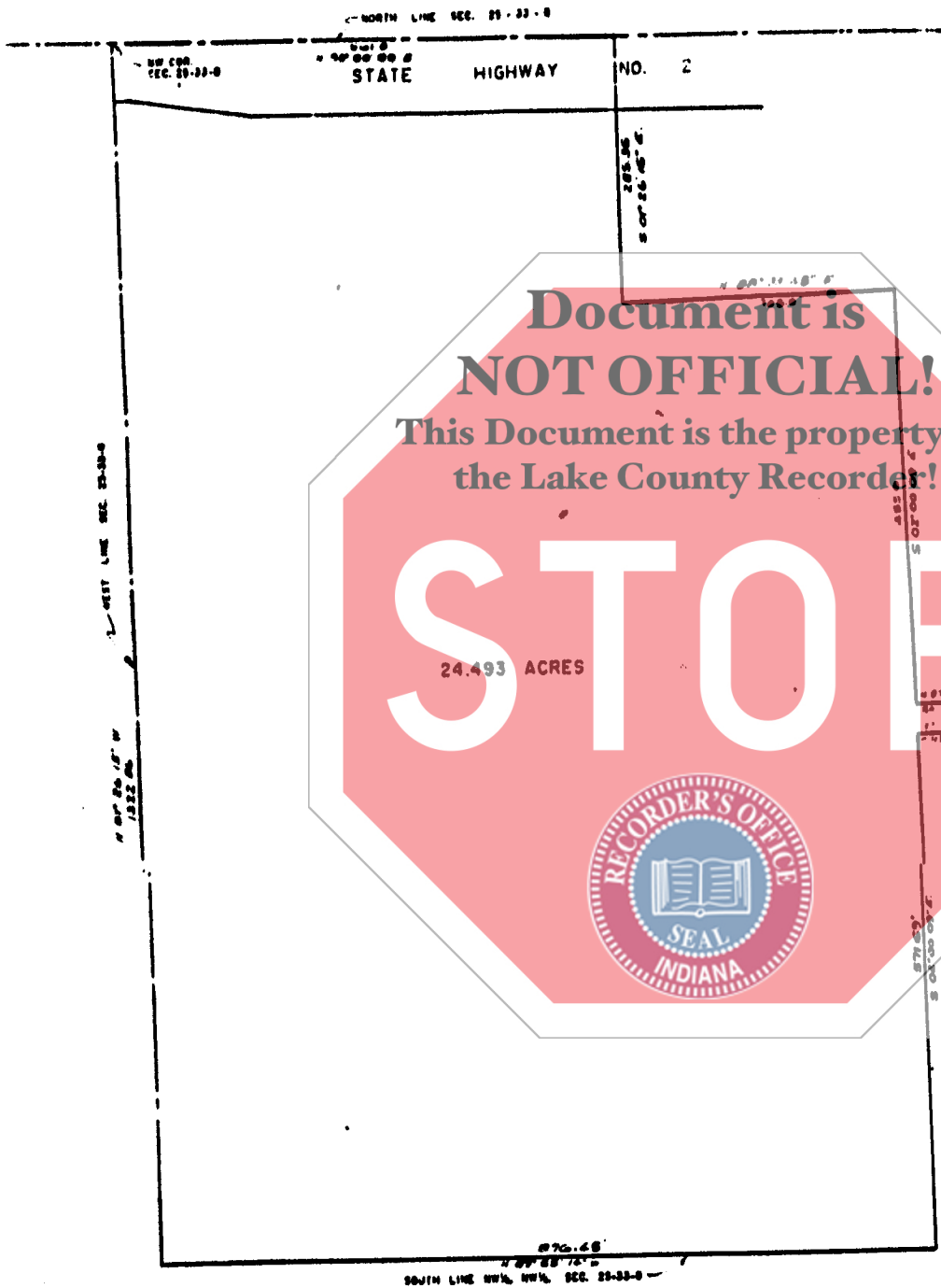
EXHIBITS

- Exhibit A-1 - Legal Description Welsh Parcel, and plat or survey
- Exhibit A-2 - Legal Description Gilmol Parcel, and plat or survey
- Exhibit B-1 - Construction Drawings
- Exhibit B-2 - Project Plans & Specifications
- Exhibit B-3 - Map or Survey showing location of Project
- Exhibit B-4 - Construction Contract
- Exhibit C - Construction Escrow Agreement
- Exhibit D - Lease and Option to Purchase
- Exhibit E - Guaranteed Rates
- Exhibit F - Apple Valley Utilities, Inc., Statement of Sewer Use Policy



LEGAL DESCRIPTION

Part of the NW1/4 Section 25, Township 33 North, Range 8 West of the 2nd P.M., described as follows: Beginning at the Northwest corner thereof; thence North 90°00'00" East along the North line of said Section 25 a distance of 561.00 feet; thence South 01°26'15" East, parallel to the West line of said Section 25, a distance of 285.35 feet; thence North 88°33'45" East, 305.00 feet; thence South 02°00'09" East, 455.00 feet; thence North 87°59'51" East, 50.0 feet; thence South 02°00'09" East, 30.0 feet; thence South 87°59'51" West, 50.0 feet; thence South 02°00'09" East, 571.69 feet more or less to the South line of said NW1/4, NW1/4; thence North 89°55'14" West along said South line, 876.45 feet more or less to the West line of said Section 25; thence North 01°26'15" West along said West line 1322.86 feet more or less to the point of beginning, containing 24.493 acres more or less.



EXPLANATIONS

NO DIMENSIONS SHOULD BE ASSUMED BY SCALE MEASUREMENTS UPON THIS PLAT
 NOTE—Construction of buildings should be planned to conform with the lines shown on this plat and the grantor's deed. If any building is constructed on the land, the grantor's deed should be referred to for the location of the building and a T-ONCE report and survey in accordance therewith before the sale of the property. The construction, maintenance of same, etc., shall be governed by the deed in this respect.

FILED _____ PAGE _____ PLAT NO. _____
 WELSH C. J.

SCALE 100 FT = 1"



STATE OF INDIANA, COUNTY OF LAKE, NOV 16 1901

THIS IS TO CERTIFY THAT I HAVE EXAMINED THE ABOVE DESCRIBED PLAT ACCORDING TO THE OFFICIAL RECORDS

ROBERT A. KRALL
 RECORDING AND LAND SURVEYOR

EXHIBIT A-1

LEGAL DESCRIPTION OF WELSH PARCEL
(To be provided)

SURVEY PROVIDED SEPARATELY



EXHIBIT
A-1

EXHIBIT A

Legal Description of Welsh Parcel

The NW¼ of the NW¼ of Section 25, Township 33 North, Range 8 West of the 2nd P.M., excluding therefrom the following parcel:

Part of the NW¼, NW¼ Section 25, Township 33 North, Range 8 West of the 2nd P.M., described as follows: Beginning at a point on the North line of said Section 25 and 561.0 feet East of the Northwest corner thereof; thence South 01°26'15" East, parallel to the West line of said Section 25 a distance of 285.35 feet; thence North 88°33'45" East, 305.00 feet; thence South 02°00'09" East, 445.00 feet; thence North 87°59'51" East, 50.00 feet; thence South 02°00'09" East, 30.0 feet; thence South 87°59'51" West, 50.0 feet; thence South 02°00'09" East, 571.69 feet, more or less to the South line of said NW¼, NW¼; thence South 89°55'14" East, 458.21 feet more or less to the Southeast corner of said NW¼, NW¼; thence North 01°12'50" West, 1324.59 feet more or less to the Northeast corner of said NW¼, NW¼; thence North 90°00'00" West, 778.73 feet more or less to the point of beginning.



EXHIBIT A-2

LEGAL DESCRIPTION OF GILMOL PARCEL

Part of the NW 1/4, NW 1/4 Section 25, Township 33 North, Range 8 West of the 2nd P.M., described as follows: Beginning at a point on the North line of said Section 25 and 561.0 feet East of the Northwest corner thereof; thence South 01°26'15" East, parallel to the West line of said Section 25 a distance of 285.35 feet; thence North 88°33'45" East, 305.00 feet; thence South 02°00'09" East, 445.0 feet; thence North 87°59'51" East, 50.00 feet; thence South 02°00'09" East, 30.0 feet; thence South 87°59'51" West, 50.0 feet; thence South 02°00'09" East, 571.69 feet, more or less to the South line of said NW 1/4, NW 1/4; thence South 89°55'14" East, 458.21 feet more or less to the Southeast corner of said NW 1/4, NW 1/4; thence North 01°12'50" West, 1324.59 feet more or less to the Northeast corner of said NW 1/4, NW 1/4; thence North 90°00'00" West, 778.79 feet more or less to the point of beginning.



EXHIBIT
A-2

EXHIBIT B-1

**CONSTRUCTION DRAWINGS
(To be Provided)**

EXHIBIT B-2

**PROJECT PLANS AND SPECIFICATIONS
(To be Provided)**



EXHIBIT
B 1-4

CONSTRUCTION ESCROW AGREEMENT

This Construction Escrow Agreement is made as of November __, 1995, by APPLE VALLEY UTILITIES, INC., an Indiana corporation ("Utility"), WELSH, INC., an Indiana corporation ("Welsh"), GILMOL ENTERPRISES, L.P., an Indiana limited partnership ("Gilmol"), and BURKE, MURPHY, COSTANZA & CUPPY (the "Escrow Agent").

The parties state as follows:

A. The parties hereto entered into a certain Sanitary Sewer Extension Agreement as of the date hereof (the "Sewer Agreement") whereby a certain sanitary sewer extension as provided therein (the "Sewer Project") would be constructed and operated.

B. Pursuant to section 3 of the Sewer Agreement, the parties agreed to enter into a certain construction contract (the "Construction Contract") with Big D Construction, Inc. (the "Contractor") for the construction of the Sewer Project.

C. Pursuant to section 5 of the Sewer Agreement, Welsh and Gilmol agreed to deposit a total of \$ 202,000.00 into escrow (the "Escrow Deposit") to pay for the construction of the Sewer Project, and to execute an escrow agreement in the form hereof.

D. The parties wish to enter into an agreement for the receipt and distribution of the Escrow Deposit.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

Section 1. Delivery of Escrow Deposit. Within fourteen (14) days after execution hereof, Welsh will deposit \$ 121,200.00 into escrow with the Escrow Agent and Gilmol will deposit \$ 80,800.00 into escrow with the Escrow Agent; the sum of said amounts is the Escrow Deposit amount. The Escrow Deposit will be held by the Escrow Agent in a non-interest bearing account during the term of this Agreement. The Escrow Agent will have no obligation to cause the full amount of the Escrow Deposit to be so paid. If the Escrow Agent receives a lesser amount, such lesser amount will constitute the Escrow Deposit hereunder.

EXHIBIT

C

Section 2. Term. This Construction Escrow Agreement will take effect upon the receipt of the Escrow Deposit (or any portion thereof) by the Escrow Agent and will, except as provided in Section 3 or in Section 7 hereof, terminate on the earliest of the following dates:

- (a) the date of the termination of the Construction Contract;
- (b) the date on which, pursuant to the terms of this Agreement, the Escrow Agent delivers the Escrow Deposit to the Utility, Welsh, and/or Gilmol; and
- (c) December 31, 1996.

Upon termination of this Agreement, except as provided in Section 3 hereof, Escrow Agent will deliver the Escrow Deposit to Welsh and Gilmol in the proportions Escrow Agent received monies pursuant to Section 1 hereof. Such delivery will fully and finally terminate all responsibilities of Escrow Agent under this Agreement.

**This Document is the property of
the Lake County Recorder!**

Section 3. Disbursements from Escrow.

(a) **Notification that Disbursements are Payable.** Utility will give the Escrow Agent, Welsh, and Gilmol written notification as and when disbursements are to be made pursuant to the Construction Contract. Utility will, prior to each such notification, make a determination as to whether all necessary statements and lien waivers have been obtained and will state, in each such notification, that all lien waivers have been obtained for the full amount of each such draw. Each such notification will state the amount payable at such time pursuant to the Construction Contract. Escrow Agent may rely on such statement of the Utility and will have absolutely no responsibility or liability with respect to any lien waivers and/or any mechanics' liens or similar obligations which may arise with respect to the Sewer Project. Escrow Agent will have no obligation or responsibility to review any such lien waivers or to otherwise make any determination as to whether the appropriate statements and lien waivers have been obtained with respect to any draw and/or whether the amount of such draw, as stated in the notification from the Utility, is correct or otherwise in accordance with the Construction Contract.

(b) **Payments from Escrow.** Unless, within seven (7) days after receipt of such notification by the Escrow Agent, the Escrow Agent receives from Welsh and/or Gilmol a written statement, which written statement purports to have been executed by an agent of Welsh and/or Gilmol, stating that the amount provided in the notification from the Utility is not payable, then the Escrow Agent will, within a reasonable time after the seventh (7th) day after receipt of such notice from the Utility by the Escrow Agent, deliver the amount specified in such notification (but not more

then the portion of the Escrow Deposit then held in escrow hereunder by the Escrow Agent) to the Utility.

If, after receiving such notification from the Utility, the Escrow Agent receives the above-described written statement from Welsh and/or Gilmol within seven (7) days after receipt of such notice from the Seller by the Escrow Agent, except as provided in the following paragraph, the Escrow Agent will retain the Escrow Deposit until this Agreement terminates as provided in Section 2 hereof or until the Escrow Agent receives either:

(a) a written direction, executed by Utility, Welsh and Gilmol, directing the disposition of the Escrow Deposit; or

(b) a court order or arbitration ruling directing the disposition of the Escrow Deposit.

Upon receipt of either of such items, Escrow Agent will dispose of the Escrow Deposit as directed.

The Escrow Agent may, in its discretion, appear in any matter pending in any court or before any arbitrator wherein the Utility (or its successor or assign) and Welsh and/or Gilmol (or their successors or assigns) are parties and wherein the subject matter hereof is, in any way, in dispute, and the Escrow Agent may move for the entry of an order directing the disposition of the Escrow Deposit. The Utility, Welsh, and Gilmol will be jointly and severally liable for all legal expenses and fees incurred by the Escrow Agent while acting under the provisions of this paragraph.

Section 4. Compensation. All compensation for the services of the Escrow Agent hereunder will be paid by Welsh. In addition, the Utility, Welsh, and Gilmol will jointly and severally reimburse Escrow Agent for all expenses incurred which acting under this Agreement.

Section 5. Liability. The Escrow Agent will not, by reason of its execution of this Agreement, assume any responsibility or liability for any transaction between the Utility and Welsh and Gilmol other than the performance of its obligations, as Escrow Agent, with respect to the Escrow Deposit held by it in accordance with this Agreement.

Section 6. Notices. All notices or other communications required or contemplated herein will be in writing, sent by personal delivery or by certified mail, return receipt requested, addressed to:

Escrow Agent: Burke, Murphy, Costanza & Cuppy
Suite 600
8585 Broadway
Merrillville, Indiana 46410
attention: Demetri J. Retson

Utility: Apple Valley Utilities, Inc.

Welsh: Welsh, Inc.
800 East 86th Avenue
P. O. Box 10725
Merrillville, Indiana 46411
attention: Suzanne W. Mulshine

Gilmol: Gilmol Enterprises, L.P.
P. O. Box 1037
Valparaiso, Indiana 46384

or such other addresses as the parties may, from time to time, designate by notice to the other parties. However, if any party attempts to give notice by certified mail and the addressee fails to claim or accept such mail, such notice may be given by first class mail.

Section 7. Removal or Resignation of Escrow Agent.

(a) **Removal.** The Escrow Agent will deliver the Escrow Deposit to such person or entity as may be specified in a notice to the Escrow Agent executed by the Utility, Welsh, and Gilmol within a reasonable time after the Escrow Agent receives such notice. This Agreement will terminate upon such delivery with no further obligations or liabilities of any sort on the part of the Escrow Agent under this Agreement.

(b) **Resignation.** The Escrow Agent may resign at any time by giving notice of such resignation to the Utility, Welsh, and Gilmol (or any successors or assigns thereof) at least three months prior to the effective date of such resignation. On or within a reasonable time after the effective date of such resignation, the Escrow Agent will deliver all items held in escrow under this Agreement to Welsh and Gilmol or to such other person or entity as may be designated in a notice to the Escrow Agent executed by the Utility, Welsh, and Gilmol. This Agreement will terminate upon such delivery with no further obligations or liabilities of any sort on the part of the Escrow Agent under this Agreement.

The Utility, Welsh, and Gilmol acknowledge and agree that it is their mutual intention that the Escrow Deposit will be held in escrow by a third party at least until the earlier of the date of termination of the Construction Contract and December 31, 1996. Accordingly, in the event of the resignation of the Escrow Agent, the Utility, Welsh, and Gilmol agree that they will select a mutually acceptable escrow agent to hold the Escrow Deposit and that they will give notice thereof to the Escrow Agent prior to the effective date of the resignation of the Escrow Agent.

IN WITNESS WHEREOF, the parties have executed this Construction Escrow Agreement as of the day and year first set forth above.

Utility:

APPLE VALLEY UTILITIES, INC.

Document is
NOT OFFICIAL!

By:

[Signature]
Robert Rainsberger, President
the Lake County Recorder!

Welsh:

WELSH, INC.

By:

[Signature]
Suzanne W. Mulshine, Secretary

Gilmol:

GILMOL ENTERPRISES, L.P.

By:

[Signature]
Gilbert Opperman, III
General Partner

Escrow Agent:

BURKE, MURPHY, COSTANZA & CUPPY

By:

[Signature]
Demetri J. Retson, Partner

LEASE AND OPTION TO PURCHASE

This Lease and Option to Purchase is made as of November __, 1995, by WELSH, INC., an Indiana corporation, and GILMOL ENTERPRISES, L.P., an Indiana limited partnership (collectively, "Owners"), and APPLE VALLEY UTILITIES, INC., an Indiana corporation ("Utility").

The parties state as follows:

A. Utility is a public utility which owns and operates a sanitary sewer system.

B. Utility and Owners are parties to a certain Sanitary Sewer Extension Agreement dated as of 11/5/95, 1995 (the "Sewer Agreement").

C. Owners are owners of the Project (as defined in the Sewer Agreement).

D. Pursuant to the Sewer Agreement, Owners agreed to grant to Utility a lease and option to purchase with respect to the Project.

E. Owners are willing to lease certain property rights with respect to the Project to Utility with an option to purchase on the terms and conditions provided herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, Owners hereby lease to Utility certain property rights with respect to the Project on the terms and conditions provided herein.

Section 1. Term. The term of this Lease will be for a period of seven (7) years, commencing on the Date of Completion (as defined in the Sewer Agreement), which is currently contemplated to be on or before February 1, 1998, and terminating on the seventh (7th) anniversary of the commencement of the term of this Lease. This Lease is non-cancelable; Utility is and will be required to make all rent and other payments required hereunder throughout the term hereof in all events.

EXHIBIT

D

Section 2. Property Leased.

(a) **Property.** The property leased hereunder will consist of the following:

(i) the personal property constituting the Project;

(ii) easement rights with respect to the Project obtained by Utility pursuant to the Sewer Agreement over properties other than the Welsh Parcel (as defined in the Sewer Agreement) and the Gilmol Parcel (as defined in the Sewer Agreement) to the extent that such easement rights run with the Welsh Parcel and/or the Gilmol Parcel; and

(iii) easement rights with respect to those portions of the Welsh Parcel and the Gilmol Parcel on which the Project is then situated as provided in this Section

(the "Leased Property").

NOT OFFICIAL!

Easement Rights Over Owners' Properties. The easement rights over the Welsh Parcel and the Gilmol Parcel provided in Section 2(a)(iii) hereof will consist of a right of Utility to enter onto portions of said parcels, which portions are 20 feet in width and centered over the portions of the Project situated on said parcels, for the purpose of installing, constructing, maintaining, operating, and/or replacing underground sanitary sewer facilities, provided that no above-ground facilities will be constructed, installed, or operated by Utility on said easement parcels, and further provided that Utility will make all reasonable efforts to minimize the number and duration of all such entries onto said parcels and will make all reasonable efforts to minimize disruption of the owners' operations on said parcels. Immediately after each entry pursuant to such easement rights, Utility will repair and restore the lands so entered onto and the improvements thereon to their prior condition. The portions of the Project situated on such easement parcels will be constructed, installed, and maintained such that the owners thereof may pave over all or any portion of such parcels and use such paved areas for roadways, parking areas, and/or driveways. The owners of such parcels will at all times retain the right to use any portion or all of such parcels in any manner not inconsistent with the rights granted to Utility hereunder. Upon the request of any party hereto, the parties will execute appropriate easement agreements in recordable form which provide for the rights described herein and any party may cause such easement document or documents to be recorded in the Office of the Recorder of Lake County, Indiana.

(c) **Expressly Retained Rights.** Not by way of limitation, Utility will not acquire any title to any portion of the Welsh Parcel and/or the Gilmol Parcel pursuant to the easement rights granted under this Section. Owners will retain all rights to use

their respective properties in any manner not inconsistent with the easement rights granted to Utility.

(d) **Relocation.** The sewer line extension and the easement rights with respect thereto may, at any time, be changed by Owners provided that:

(i) the new location for such sewer line extension will provide for service substantially equivalent to the service provided in the prior location; and

(ii) the Owners of the respective parcels effectuating such change will pay all costs of relocating such sewer line extension.

Section 3. Rental Consideration. For and in consideration of the leasing of the Leased Property, Utility expressly agrees to pay to Owners, in addition to other charges hereinafter provided, as rental for the Leased Property, a rent of one dollar (\$1.00) annually payable in advance prior to the date of commencement of the term of this Lease and each anniversary thereof during the term hereof. Additional consideration from Utility for the leasing of the Leased Property includes: lower developmental sewer service rates, as approved by the Utility Regulatory Commission and agreed to in by the parties hereto in the Sewer Agreement; Utility's contractual obligation to repair and maintain the sanitary sewer extension; Utility's grant to Lessors of reserved and utilized sanitary sewer capacity at Utility's plant; easements; and Utility's grant of right to Owners to tap into and use Utility's existing sewer lines, pumps, lift station apparatus, and force main.

Section 4. Property Taxes. Utility will be responsible for all real property taxes, all personal property taxes, and all assessments with respect to the Leased Property (collectively, "Impositions") which accrue during the term of this Lease. If and to the extent that any of the Impositions are billed to either or both of Owners, and/or if and to the extent that any taxes or assessments not relating to the Leased Property are billed to Utility, the parties will make appropriate prorations and allocations whereby each party will pay all obligations with respect to their separate properties (with the Leased Property being the property of Utility for purposes of this Section). Utility will be responsible for its pro rata share (based upon the number of days) for any partial year during the term of this Lease. At the option of Owners, Owners may make any or all such payments or Owners may require Utility to make direct payment of any or all billings. If Owners make any payment or payments, Utility will reimburse Owners for the full amount of each such payment within fifteen (15) days of notice thereof from Owners. If Owners require Utility to make direct payment of any billed amount or amounts, Utility will deliver to Owners proof of the making of each such payment and Utility will be responsible for all penalties and interest which may accrue thereon.

Section 5. Maintenance And Repairs. Utility will keep in a good state of maintenance and repair all portions of the Leased Property, and will make such repairs or replacements as may be necessary to keep the Leased Property in good operating condition for all purposes provided in the Sewer Agreement. The obligations of Utility hereunder will include, but not be limited to, the obligation to promptly replace or rebuild any portion or all of the Leased Property which may be destroyed or damaged by any cause whatever. Utility agrees to provide sanitary sewer service to Owners at all times throughout the duration of this Lease as provided in the Sewer Agreement, and any failure to provide sanitary sewer service at any time during Utility's lease of the Leased Property constitutes a breach of the Lease and Option to Purchase Agreement. Owners will provide no maintenance or repairs of any sort to or for any portion of the Leased Property at any time during the term hereof. Utility will be responsible for and will pay all costs incurred in performing its duties under this Section 5.

Section 6. Insurance. Utility will be responsible for insuring the Leased Property as provided in this Section. It is the intention of the parties that Owners will pay no amounts for the insurance of the Leased Property during the term of this Lease. At all times during the term of this lease, Utility will insure against damage to the Leased Property by cause customarily included in the term "extended coverage" for facilities comparable to the Leased Property. Additionally, Utility will maintain general liability insurance (issued by insurance companies and containing terms reasonably acceptable to Owners) with limits of not less than \$1,000,000.00 for personal injury (single limit type policy), and \$250,000.00 for property damage with respect to the Leased Property. All such policies will be issued by insurance companies and will contain terms reasonably acceptable to Owners, and such insurance will be in a sum not at any time less than the replacement value of the Leased Property. If reasonably possible, Owners will be listed as an additional insured party on all such policies. Copies of all such policies and proof of all premium payments will be delivered to Owners. The parties acknowledge that Utility may cause the Leased Property to be so insured under policies of insurance which include other properties of Utility or its affiliated companies.

Section 7. Option to Purchase.

(a) **Grant of Option.** Owners hereby grant to Utility an option to purchase the Leased Property at any time during the term of this Lease by giving notice thereof to Owners at any time prior to the termination of this Lease. Such notice will state the date on which such purchase will be effectuated, which date will not be later than the seventh (7th) anniversary of the date of commencement of the term of this Lease. If Utility exercises this option, all easement rights with respect to the properties of Owners which are included in the Leased Property will be perpetual easement rights.

(b) Sale Price. If such option is exercised, the sale price will be as follows:

(i) If such purchase is to be effectuated prior to the seventh (7th) anniversary of the date of commencement of the term of this Lease, the sale price will be equal to the certified cost of the Project (as described in Section 5 of the Sewer Agreement), decreased by the total amount of depreciation of such cost which has been deducted on the federal income tax returns of the Owners prior to the date on which the sale is effectuated, as reasonably determined by Owners.

(ii) If such purchase is to be effectuated on the seventh (7th) anniversary of the date of commencement of the term of this Lease, the sale price will be \$5,000.00.

(c) Completion of Sale. On the date such sale is to be effectuated, Utility will pay the purchase price in full by certified funds and the parties will execute such documents and perform such acts as may be reasonably necessary to effectuate the transfers provided herein.

(d) Division of Purchase Price. The purchase price will be delivered 60% to Welsh, Inc., and 40% to Gilmol Enterprises, L.P., or otherwise as agreed by Owners or as otherwise provided in the Sewer Agreement. Utility will have no responsibility for the division or allocation of the purchase price.

Section 8. Maintenance Of Easements. Utility will perform all acts and pay all fees, costs, expenses, and assessments which may be necessary to comply with all terms of all easements described in Section 2(a)(ii) hereof and to otherwise maintain such easements in effect at all times during the term of this Lease and, if applicable, at all times after the purchase of the Leased Property by Utility.

Section 9. Sewer Agreement. All rights and obligations of the parties provided in this Agreement will be in addition to, and not in limitation of, all rights and obligations arising under the Sewer Agreement.

Section 10. Waiver Of Breach. No waiver of a breach of the terms, covenants and conditions of this Lease will be construed as a waiver of any succeeding breach of the same or any other term, covenant or condition.

Section 11. Mechanic's Liens. Nothing in this Lease and Option to Purchase will authorize Utility to do any act which will in any way encumber the title of Owners in and to the Leased Property, nor will the interest of Owners in the Leased Property be subject to any lien arising from any act or omission of Utility. If any mechanic's lien or liens is filed against the Leased Property for work done or materials

furnished to the Utility, Utility will within thirty (30) days after it has actual notice of such lien, at its own expense, cause such lien or liens to be discharged by payment of such claims or by filing of bond pursuant to statute. Should Utility fail to pay such lien or post bond therefor, Owners may, but will not be required to, discharge such mechanic's lien or liens by payment thereof, and the amount paid by Owners together with Owners' costs and expenses will be due and payable from Utility forthwith on demand.

Section 12. Cumulative Rights. It is agreed that the various rights, powers, options, elections, appointments and remedies of Owners and/or Utility contained in this Lease will be construed as cumulative and no one of them as exclusive of the other or exclusive of any rights or priorities allowed by law.

Section 13. Miscellaneous.

(a) The captions of this Lease are for convenience only and are not to be construed as part of this Lease and will not be construed as defining or limiting in any way the scope or intent of the provisions thereof.

(b) If any term or provision of this Lease is to any extent held invalid or unenforceable, the remaining terms and provisions of this lease will not be affected thereby, but each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

(c) This lease will be construed and enforced in accordance with the laws of the State of Indiana.

(d) Utility will pay all reasonable attorneys' fees and expenses of the Owners incurred in enforcing any of the rights of Owners and/or the obligations of Utility under this Lease or in any litigation, arbitration, or negotiation which Owners, without their fault, becomes involved through or on account of this Lease.

(e) The individuals executing this document on behalf of the corporate parties hereto each certify and warrant that such corporation exists and is in good standing, that the execution of this Lease by such corporation and by such individual on behalf of such corporation has been duly authorized by the board of directors of such corporation, and that the execution of this Lease will not violate the Articles of Incorporation, by-laws, or any other agreements of such corporation.

(f) The individuals executing this document on behalf of the partnership parties hereto each certify and warrant that such partnership exists and is in good standing, that the execution of this Lease by such partnership by such individual on behalf of such partnership has been duly authorized by all partners whose approval is necessary, and that the execution of this Lease will not violate the Certificate of

Partnership or partnership agreement, or any other agreements of such partnership.

(g) Owners will not be responsible or liable for any damage or injury to any merchandise, stock of goods, fixtures, furniture, decoration, or property of any kind, or to any person or persons, from steam, gas, or electricity, or water, rain, snow, or ice, nor will Owners be in any way responsible or liable in case of any accident or injury to Utility or any of Utility's servants, employees, agents, visitors, or licensees, or to any person or persons in or about the Leased Property, or sidewalks, or any portion of the building on the Leased Property, or about or contiguous to the same except when caused by Owners' negligence or willfulness.

(h) No rule of law or evidence construing a document against the preparer thereof will be invoked or applied in the event that the meaning of any of the terms or expressions contained in this Agreement become disputed.

(i) The covenants of this Lease will be obligatory upon and will extend to the successors and assigns of Owners, and to the successors and assigns of Utility.

This Document is the property of

(d) The non-prevailing party will pay all reasonable attorneys' fees and expenses of the prevailing party incurred in any litigation, arbitration, or negotiation related to enforcement of rights and/or obligations under this Lease. Utility will pay all reasonable attorneys' fees and expenses of the Owners incurred in any litigation, arbitration, or negotiations in which Owners, without their fault, becomes involved through or on account of this Lease (unless such claim is initiated by a remonstrator to the Sewer Extension within the six months following the execution of this Lease and is not covered by insurance hereunder). Utility agrees that Owners shall be listed as additional insured parties in all insurance policies specified in paragraph 6 of this Lease.



inserted per client request

*QER
RWA
J.L.O.*

IN WITNESS WHEREOF, the parties have executed this Lease and Option to

Purchase as of the day and year first above written.


Owners: WELSH, INC.

By: Robert J. Welsh Jr.
PRESIDENT/CEO

GILMOL ENTERPRISES, L.P.
Document is NOT OFFICIAL!
This Document is the property of
By: J. Opperman
the Lake County Recorder!

Utility: APPLE VALLEY UTILITIES, INC.

By: [Signature]



The seal of the Recorder's Office, Indiana, is circular with a blue border. Inside the border, the words "RECORDER'S OFFICE" are written at the top and "INDIANA" at the bottom. In the center, there is a blue shield with a white open book and the word "SEAL" below it.

**APPLE VALLEY UTILITIES, INC.
Hebron, Indiana**

Exhibit E

**WATER AND SEWER DIVISIONS
MODIFIED CUSTOMER RATES**

Monthly Customer Charges

Flat Water Customer Rate - Approved IURC Cause No. 39889	\$ 21.02
Flat Sewer Customer Rate - Approved IURC Cause No. 39889	\$ 48.58



COMMERCIAL CUSTOMERS

Metered Sewer Customer Monthly Base Charges

5/8 - 3/4 Inch	\$ 20.10
1 Inch	\$ 51.46
1 & 1/2 Inch	\$ 115.78
2 Inch	\$ 205.82
3 Inch	\$ 463.10
4 Inch	\$ 823.30

Metered Sewer Customer Rates

<u>Treated Sewage</u>	<u>Per Month</u>	<u>Rate Per 1,000 Gal</u>
First	2,000 Gallons	(1)
Next	4,000 Gallons	\$ 3.07
Next	6,000 Gallons	\$ 2.81
Over	12,000 Gallons	\$ 2.55

(1) The First 2,000 gallons are included in the Metered Sewer Customer Base Charges.

~~Walch Oil is anticipated to use 2" meter.~~
The Hotel and Restaurant are each anticipated to use 2" meters.

EXHIBIT
E

**Apple Valley Utilities, Inc.
Statement of Sewer Use Policy**

Division 1. Definitions

Section I. Definitions.

As used in this article:

(a) **AMMONIA (or NH3-N)** shall mean the same as Ammonia Nitrogen measured as Nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" as defined in this article.

(b) **BIOCHEMICAL OXYGEN DEMAND (or BOD)** of sewage, sewage effluent, polluted waters or industrial wastes shall mean the rate at which microorganisms use the oxygen in water or wastewater while stabilizing decomposable organic matter under aerobic conditions. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods" as defined in this article.

(c) **BOARD** shall mean the Board of Directors of Apple Valley Utilities, Inc. or duly authorized officials or Boards acting in its behalf.

(d) **Building (or House) DRAIN** means the lowest horizontal piping of building drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to a point approximately five (5) feet outside the foundation wall of the building or house.

1. **Building Drain [Sanitary]** - A building drain which conveys sanitary or industrial sewage only.

2. **Building Drain [Storm]** - A building drain which conveys storm water or other clean water drainage, but no wastewater.

(e) **BUILDING (or House) LATERAL SEWER** means the extension from the building drain to the sewage system or other place of disposal. (Also called house connections.)

1. **Building Sewer [Sanitary]** - A building sewer which conveys sanitary or industrial sewage only.

2. **Building Sewer [Storm]** - A building sewer which conveys storm water or other clean water drainage, but no wastewater.

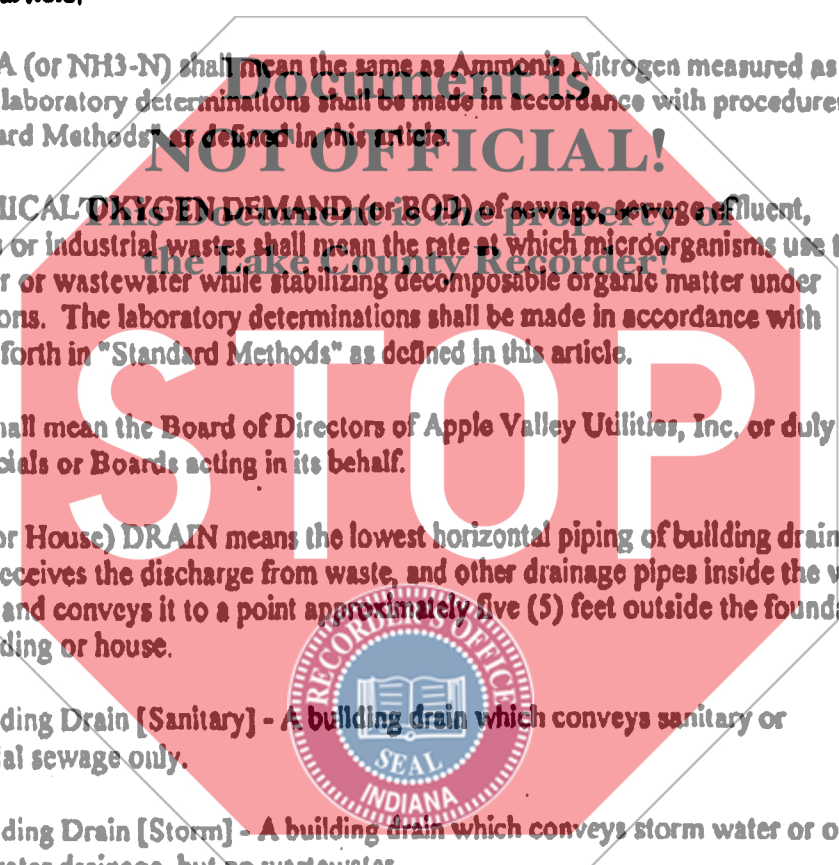


EXHIBIT
F