EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 3/14/2005

Contract/Lease Control #: C05-1185-WSI-161

Bid #:

N/A

Contract/Lease Type: AGREEMENT

Award To/Lessee: DUGGAN POND DEVELOPMENT GROUP

Lessor:

Effective Date: 2/15/2005 \$10.00

Term: INDEFINITE

Description of Contract/Lease: WTR & SEWER INFRASTRUCTURE CONVEYANCE AND

SERVICE AGREEMENT

Department Manager: WATER & SEWER

Department Monitor: J. LITTRELL

Monitor's Telephone #: 651-7172

Monitor's FAX #: 651-7193

Date Closed:

WATER AND SEWER UTILITY INFRASTRUCTURE

CONVEYANCE AND SERVICE AGREEMENT

THIS AGREEMENT made and entered into this 15th day of February, 2005, by and between OKALOOSA COUNTY, FLORIDA, a political subdivision of the State of Florida (hereafter, the "County"), and Duggan Pond Development Group, LLC, its successors and assigns (hereafter, the "Developer").

RECITALS

WHEREAS, Developer solely owns certain property in Okaloosa County, Florida, as shown and described in EXHIBIT "A" attached hereto and made a part hereof (hereafter, the "Property");

WHEREAS, Developer has presently pending before the County a rezoning request for 86.49 acres of the Property, as set forth in Application 267832-RZL-2004, whereby rezoning is requested on 14.85 acres from Agriculture (AA) district to Business General (BG)(hereafter, the "Commercial Parcel"), and whereby rezoning is requested on 71.46 acres from Agriculture (AA) district to Residential Urban Single (RUS)(hereafter, the "Phase I Residential Parcel");

WHEREAS, the County has agreed to provide the necessary infrastructure to the Property which will allow it to connect to the County's water and sewer system;

WHEREAS, Developer has requested the County to accept for ownership, operation and maintenance the water and sewer facilities to be constructed by Developer on the Property, in order to provide potable water and sewage collection services to the Property; and

WHEREAS, the County has agreed to accept such facilities upon completion of same to the standards and requirements of the County as outlined in all the County's water and sewer policies and procedures, including the Utility Water and Sewer Service Extension Policy, as may be amended;

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration exchanged amongst the parties, the sufficiency of which is acknowledged by all the parties, the parties hereto covenant and agree that the above recitals are true and correct and further covenant and agree, each with the other as follows:

ARTICLE I

The Developer and the County, as parties to this Agreement, hereby covenant and agree as follows:

1. The County will construct all pipelines to the boundary of the Property and will construct a lift station to convey wastewater from the boundaries of the Property to the County's sewer system within one year of the recording of this Agreement. It shall be the Developer's responsibility to design the water distribution system and the wastewater collection system. The

determination as to the number of lift stations that are required to be constructed on the Property and their location shall be determined through the County's Technical Review Committee process.

- 2. The Developer will construct in accordance with all the County's water and sewer policies all the other necessary water distribution and sewage collection facilities within the Property necessary to provide potable water and sewage collection services to the Property.
- 3. The Developer will grant the County's representatives free access to the materials and Property at all times for the purpose of constructing lift stations as required under paragraph 1 above and inspecting Developer's materials and works for the facilities required by the Developer under paragraph 2 above.
- 4. Each party will notify the other before any construction required under paragraphs 1 and 2 is begun on the Property and at the time when inspections will be required. Said notification shall be made in writing and shall be received by the other party at least forty-eight (48) hours in advance of the time construction will begin or inspections required.
- 5. At the time when periodic inspections are required, the County's authorized representative, together with Developer's engineer, will be present to observe and jointly witness tests for determination of conformance to approved plans and specifications.
- 6. Developer, during the warranty period on the collection and distribution systems on the Property, shall promptly correct defective work upon notification by the County. Should Developer fail to do so within seven (7) days after written notice, the County may correct and remedy any such deficiency. All direct and indirect costs of the County shall be charged against Developer.
- 7. Each party's obligation to perform and complete its work in accordance with this Agreement shall be absolute. Neither any act of acceptance by the County nor any failure to do so will constitute a release nor waiver of Developer's obligation to comply with all requirements set forth in this Agreement.
- 8. The County shall not be required to provide water or wastewater service, except for construction water, to any area encompassed under this Agreement unless utility installation in that area has been completed, tested, certified, approved and accepted by the County, and Developer has provided as-built drawings and related documentation. Should construction water be required, Developer shall pay at the current rate charged to commercial customers in the service area. All construction water shall be metered.
- 9. The Developer will indemnify and hold harmless the County from any and all liabilities incurred by the construction of the water distribution and sewage collection facilities constructed pursuant to paragraph 2 to service the Project, including any claims of contractors and subcontractors.

ARTICLE II

Upon completion, approval and acceptance of the work required to be done, Developer shall without cost to the County:

- 1. Convey to the County and its successors and assigns by good and sufficient easement deed, in a form satisfactory to the County, a perpetual right, easement and privilege to own, operate, maintain, repair and replace water mains, connections, pumps and meters within granted easements and secure from each mortgagee and lienor a release or subordination of mortgagee's and lienor's interest in the easement and fixtures thereon for so long as the easement is used for the ownership, operation, maintenance, repair or replacement of water mains, pipes, connections, pumps and meters within the easements.
- 2. Transfer in fee simple to the County by Bill of Sale all Developer's right, title and interest in and to all of the water and sewer facilities, mains, pumps, connection, pipes, valves, meters and equipment installed within granted easements and rights-of-way as provided for in the plans and specifications to be prepared pursuant to Paragraph (1) above for the purpose of supplying water and sewer service within the Property.
- 3. Furnish the County with an affidavit that all persons, firms or corporation who furnished labor or material used directly or indirectly in the prosecution of the work required to be performed by this Agreement have been paid in full.
- 4. Furnish the County with Releases of Lien from all contractors and suppliers of materials and/or labor who might have acquired an interest in the installations by the supplying of materials and/or labor or otherwise.
- 5. Furnish the County with a Final Release of Lien releasing all liens which Developer might have on the works/installations.
- 6. Furnish the County with all manufacturers' warranties which Developer might have received or is due to receive on any part of the installations.
- 7. Furnish the County with a satisfactory warranty, letter of credit or security bond guaranteeing installation pursuant to this Agreement against defects in material, equipment or construction for a period of not less than one (1) year from date of acceptance of same by the County.
- 8. Furnish the County, upon sale of the Capacity Expansion Charges (CECs)(sometimes also referred to as "Tap Fees"), a written letter agreeing to indemnify and hold harmless the County from any and all damage to the County maintained water and sewer systems caused by installations or repairs of other utilities or infrastructure, for a minimum period of twelve (12) months, commencing from the date such agreement is signed and provided to the County. During this twelve (12) month period, it shall be the sole responsibility of the Developer to make all such repairs and pay all associated costs required to correct any damage done to the County maintained water and sewer systems.

9. All documents defined in this Article shall be in such form as approved by the County.

ARTICLE III

The County and Developer hereby covenant and agree as follows:

- 1. The provisions of this Agreement shall be binding upon and inure to the benefit of successors and assigns in title to the Property.
- 2. Developer, its successors and assigns, and the owners and occupants of buildings on the Property are hereby prohibited from installing or maintaining any water supply wells or septic systems, except for irrigation purposes where reclaimed water is not available.
- 3. The County shall not be liable or responsible for maintenance or operation of any pipes, pipelines, valves fixtures or equipment on any of the properties of the customers, consumers or users on the Property other than the water service lines and wastewater collection system within easements granted to the County in accordance with the County's policies and procedures.
- 4. The approval and acceptance by the County of all work required to be done under this Agreement shall not relieve the Developer, its successor and assigns, and the owners and occupants of buildings on the Property, from the responsibility of all labor, material and equipment costs necessary to relocate, lengthen or shorten any water and/or sewer service in direct conflict with a proposed driveway or sidewalk. The County will not install a water meter or release a backflow approval until the service conflict is resolved.
- 5. Any temporary cessation or interruption of the furnishing of water and wastewater service to the Property at any time caused by an act of God, fires, strikes, casualties, accidents, power failures, necessary maintenance work, breakdowns, damage to equipment or mains, civil or military authority, riots or other cause beyond the control of the County shall not constitute a breach of the provisions contained herein or impose liability upon the County by Developer, its successors and assigns.
- 6. The Developer agrees that within thirty (30) days of the approval of the rezoning request for an 86.49 acre parcel, as contained in application 267832-RZL-2004, the Developer shall transfer its fee interest in a portion of the Property sufficient for construction and operation of roadway infrastructure necessary to realign the point of intersection of Live Oak Church Road and SR 85 to an alignment with the current intersection of SR 85 and Antioch Road on the western ROW of SR 85 (the "Donated Parcel"). The legal description of the Donated Parcel is attached hereto as Exhibit B. The parties agree that the fee interest donation area will include all real property within the Property boundaries owned by Developer that is within the ROW corridor shown in the site plan attached hereto as Exhibit C for the intersection alignment plan (the "Intersection Plan").
- 7. The County and the Developer agree that the specific access management plan specifying the Phase I Residential Parcel's entrances onto Live Oak Church Road utilizing the newly aligned roadway corridor plan as shown on the Intersection Plan is approved. The access

The 2/15/05

plan is based on a maximum single family residential density of up to 155 units within the Phase I Residential Parcel.

- 8. The County and the Developer agree that there is sufficient traffic capacity from SR 85 and/or Live Oak Church Road and hereby create a transportation capacity reservation agreement which credits the Developer with sufficient traffic capacity from SR 85 and/or Live Oak Church Road to facilitate the permitting of development on the Phase I Residential Parcel up to the maximum density of 155 single family residential units in advance of the issuance of any specific development orders for the Property, specifying that said "bank" will be drawn down and used only for the construction of up to 155 single family residential units within the Phase I Residential Parcel of the Property by the Developer or its successors over a period of no more than five years from the execution of this Agreement. The County and the Developer agree that the County does not presently have transportation impact fees. In the event that such impact fees are adopted, the Developer will be given a credit against any future transportation impact fee assessments within the Phase I Residential Parcel in an amount equal to the value of the Donated Parcel as of the date of donation. The Developer shall submit an appraisal of the value of the Donated Parcel prior to seeking this credit. The County shall either accept this value or have the option of seeking another appraisal at its sole expense. Under this latter circumstance, the value of the credit shall be the average of the two appraisals. The parties agree that the Phase I Residential Parcel development may require additional traffic impact mitigation by the Developer through the provision of additional infrastructure improvements on Live Oak Church Road within or adjacent to the boundaries of the Property. The need for this mitigation would be documented by specific traffic impact analysis provided by the Developer as a part of its application for specific development approvals for the Phase I Residential Parcel and be determined at the time of submittal of site plan.
- 9. The County and the Developer agree that any existing scrivenor's errors on both the County FLUM and Zoning Map as to the location of the eastern boundary of that land use district containing the portion of the Property between the eastern ROW of SR 85 and the western boundary of the FDEP jurisdictional area shown on the survey sketch attached hereto as a part of Exhibit A will be corrected. Further, to the extent there is property between the eastern ROW of SR 85 and the western boundary of the FDEP jurisdictional area shown on the survey sketch attached hereto as a part of Exhibit A which is not currently pending rezoning as the Commercial Parcel, the County will support the Developer's efforts to obtain plan amendments to the County's Comprehensive Plan for that property.
- 10. This Agreement shall be considered binding on both parties and shall be recorded by the County in the public records of Okaloosa County, Florida, upon the approval of the current rezoning request for an 86.49 acre portion of the Property as specified in Application 267832-RZL-2004. Such approval is the sole decision of the Board of County Commissioners and such approval is not a term of this Agreement. In the event that such zoning request is not approved, then this Agreement shall be null and void.
- 11. When so recorded, owners and occupants of the Property connected to or to be connected to said water and wastewater systems of the County shall be on notice of each and every one of the provisions of this Agreement, which shall have the same force and effect as if said owners and occupants had joined with the parties to the Agreement in the execution hereof; and the acquisition or occupancy of any part of the Property connected to or to be connected to said

water and wastewater systems of the County shall be deemed conclusive evidence of the fact that the owners and occupants have consented to and accepted the Agreement herein contained and have become bound hereby.

ARTICLE IV

- 1. After recording the Agreement, the parties agree to continue to cooperate in the completion of the following items related to the development of the Property and the related impacts of the development on infrastructure operated and maintained by the County:
 - a. An access management plan and a development plan for the remainder of the Property currently designated as AA on the County Future Land Use Map and AA on the County Zoning Map (the approximate 41 acre parcel south of Live Oak Church Road, hereafter, the "South Parcel") for residential development of that parcel which will allow that, to the extent that this development plan does not utilize all of the density available on that parcel, the remainder of available density derived from the gross acreage of that parcel owned by Developer, will be transferable out of the jurisdictional wetlands either to the remaining portion of the South Parcel, to the extent consistent with its current land use designation, or to the Phase I Residential Parcel. The Developer will provide the County with a jurisdictional survey to assist the County in making its determination of the remaining amount of density available for transfer. Further, Developer agrees to donate to the County for public use that portion of the South Parcel consisting of wetlands and adjacent to County park property, except that the Developer may retain only that portion of the parcel necessary to allow for continued private access to the river flowing through the property.
 - b. An access management agreement for the portion of the Property adjoining the eastern ROW of SR 85 labeled as "Commercial Phase" on the survey sketch included in Exhibit A which includes specific negotiated access points from SR 85 and Live Oak Church Road and, if possible, a service road system within the Property boundaries designed to mitigate potential traffic impacts to SR 85.
- 2. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail with return receipt requested, or other mail courier service (Federal Express or United Parcel Service), addressed to the party for whom it is intended, at the place specified as the place for giving of notice; the place for giving of notice shall remain in such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for the giving of notice, to wit:

FOR THE COUNTY:

Richard Brannon, Purchasing Director Okaloosa County 602C N. Pearl St. Crestview, FL 32536

FOR THE DEVELOPER:

Tim Clark
Duggan Pond Development Group, LLC
PO Box 758
Crestview, FL 32536

Notice so addressed and sent by certified mail with return receipt requested or other mail service shall be deemed given when it is deposited with the mailing service unless otherwise provided herein.

- 3. The parties hereto agree that an executed copy of this Agreement and Exhibits attached hereto shall be recorded in the Public Records of Okaloosa County, Florida, with all recordation expenses to be paid by Developer.
- 4. The execution of this Agreement by the County shall not be construed as a precedent for the acceptance by the County of other water and/or sewer facilities constructed or to be constructed by Developer or others, on other properties.
- 5. This Agreement is intended to supplement the policies and procedures of the County. This Agreement is not intended to replace any provisions of, or relieve Developer of the obligation to comply fully with, all policies and procedures of the County. The parties to this Agreement are not currently aware of any conflicts between the terms of this Agreement and the term of any County ordinance, resolution or other County policies and procedures. However, to the extent that any direct conflict arises between the terms of this Agreement and the term of any County ordinance, resolution or other County policies and procedures, the other County ordinances, resolutions or policies and procedures shall control over the terms of this Agreement.
- 6. Developer's obligations identified in this Agreement shall continue to bind Developer after the conveyance by Developer of utility facilities to the County, payment by Developer of Capacity Impact Fees, physical connection charges and all other utility fees and charges, and initiation of service by the County pursuant to the terms of this Agreement.
- 7. In consideration for the benefits conveyed herein by the County, the sufficiency of which is acknowledged by all parties, the Developer agrees that it shall not execute any documents which would operate as a request or consent for the annexation of the Property into the boundaries of any municipality. This condition shall be recorded and shall be binding on all future owners of the Property unless expressly released, in writing, by the County. When so recorded, the owners and occupants of the Property shall specifically be on notice as to this provision which shall have

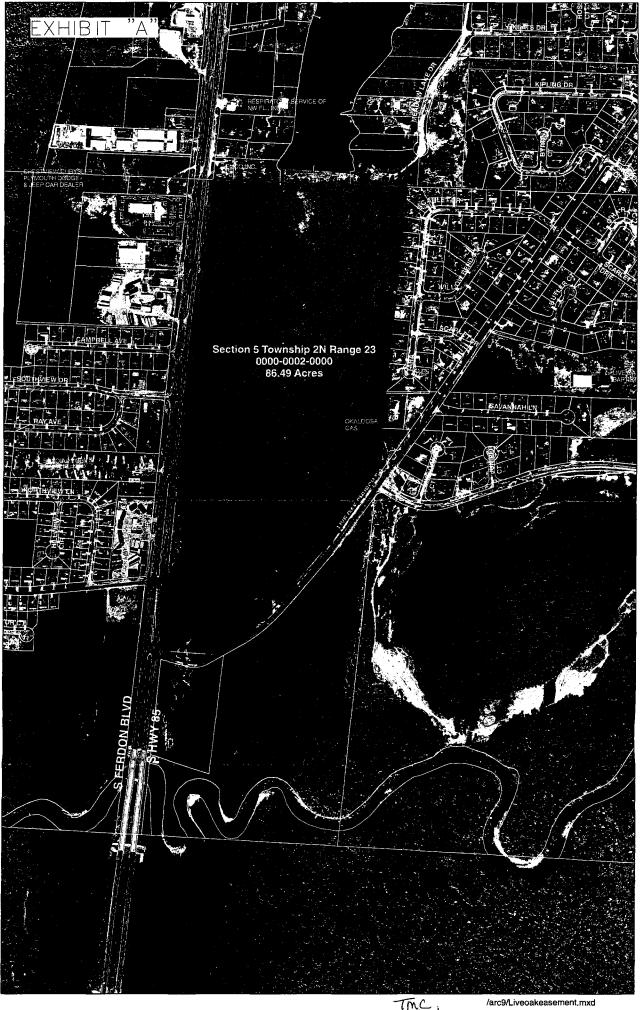
the same force and effect as if each owner and occupant had joined with the parties in the execution of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year first hereinabove written.

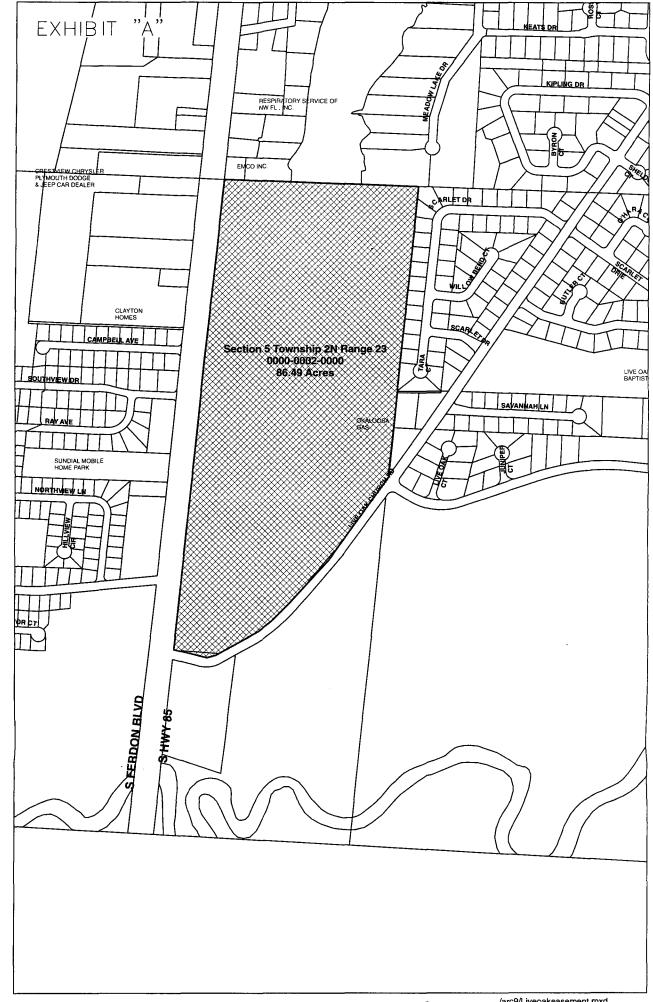
OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST: Sary J. Stanford, Deput	BY:	William J. Roberts, M. Chairman Date: 2 16
APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY: COUNTY ATTORNEY		
Signed, sealed and delivered in the presence of:	DEVEL	OPER: Duggan Pond Development Group, LLC
Brenda Ray Rovery Witness Witness	BY	Thothy Clark TIMOTHY M. CLARK, MANAGER Name and Title Date: 2/15/2005

STATE OF FLORIDA)	00.		
COUNTY OF Okaloosa)	SS:		
The foregoing instrument was 2005, by mother Our lot He/she is personally known to me take an oath.		corporation, on behalf	of the corporation.
Notary Pub Commissio	da Ray Roney lic, State of Florida on No. DD 280702 on Expires 1/12/2008	Notary Public, State of Printed Name: BREN My Commission Expire Commission No.: PD	DA RAY RONEY S: 1/12/2008



TMC ZIS / Zeis



/arc9/Liveoakeasement.mxd

Proposed 80 foot Right of Way - Realignment of Live Oak Church Road

A 80 foot Right of Way lying in Section 5, Township 2 North, Range 23 West, Okaloosa County, Florida lying 40.00 feet each side of the following described centerline:

Commencing at a concrete monument marking the Southwest a corner of Plantation Oaks, as recorded in Plat Book 11, Page 48, Public Records of Okaloosa County, Florida, proceed South 04 degrees 45 minutes 55 seconds West 663.32 feet along the extension of the West boundary of said Plantation Oaks to a point on the centerline of Live Oak Church Road, an existing 66 foot county right of way; thence South 34 degrees 32 minutes 50 seconds West 398.51 feet along said centerline to the beginning of a curve to the right having a radius of 3437.75 feet and a central angle of 04 degrees 53 minutes 17 seconds; thence Southwesterly along said curve and centerline an arc distance of 293.28 feet (chord bearing and distance = South 36 degrees 59 minutes 29 seconds West 293.19 feet) to the end of curve; thence South 39 degrees 26 minutes 07 seconds West 27.07 feet to the beginning of a curve to the right having a radius of 409.26 feet and a central angle of 55 degrees 16 minutes 37 seconds and the Point of Beginning; thence Southwesterly along said curve and centerline an arc distance of 394.84 (chord bearing and distance = South 67 degrees 04 minutes 25 seconds West 379.70 feet) to the end of curve; thence North 85 degrees 17 minutes 16 seconds West 612.77 feet to the intersection with the Easterly right of way line of State Road No. 85 and the end of centerline description.

Proposed 66 foot Right of Way – Realignment of Wayside Park Entrance

A 66 foot Right of Way lying in Section 5, Township 2 North, Range 23 West, Okaloosa County, Florida lying 33.00 feet each side of the following described centerline:

Commencing at a concrete monument marking the Southwest corner of Plantation Oaks, as recorded in Plat Book 11, Page 48, Public Records of Okaloosa County, Florida, proceed South 04 degrees 45 minutes 55 seconds West 663.32 feet along the extension of the West boundary of said Plantation Oaks to a point on the centerline of Live Oak Church Road, an existing 66 foot county right of way; thence South 34 degrees 32 minutes 50 seconds West 398.51 feet along said centerline to the beginning of a curve to the right having a radius of 3437.75 feet and a central angle of 04 degrees 53 minutes 17 seconds; thence Southwesterly along said curve and centerline an arc distance of 293.28 feet (chord bearing and distance = South 36 degrees 59 minutes 29 seconds West 293.19 feet) to the end of curve; thence South 39 degrees 26 minutes 07 seconds West 306.21 feet to the beginning of a curve to the right having a radius of 1292.39 feet and a central angle of 19 degrees 40 minutes 41 seconds; thence Southwesterly along said curve and centerline an arc distance of 443.87 feet (chord bearing and distance = South 49 degrees 16 minutes 28 seconds West 441.69 feet) to the end of curve and Point of Beginning; thence Northeasterly along a curve to the left having a radius of 381.97 feet and a central angle of 55 degrees 16 minutes 37 seconds an arc distance of 368.51 feet (chord bearing and distance = North 31 degrees 28 minutes 30 seconds East 354.39 feet) to the end of curve; thence North 03 degrees 50 minutes11 seconds East 52.41 feet to a point on the proposed centerline of Live Oak Church Road and the end of centerline description.

Exhibit "B"

Inc 2/15/05

