

AGREEMENT FOR SEWER SERVICE

THIS AGREEMENT made and entered into this ____ day of _____, 2008, by and between **HOUSE SPRINGS SEWER COMPANY, INC.**, 4089 Country Club Drive, Imperial, Missouri 63052 (hereinafter referred to as "**Sewer Company**") and **MCMM. LLC., Pogolino's Restaurant**, 30 Walters Place, House Springs, Missouri 63051. (hereinafter referred to as "**Owner**").

WITNESSETH, that

WHEREAS, the Owner is the legal owner of a parcel of land being part of a larger tract of land, being all of Lot "G" of House Springs Plaza Plat Five recorded in Plat Book 246, Page 12 in part of U. S. Survey 666 and 3059 Township 42 North, Range 4 East, House Springs, Jefferson County, Missouri, and hereinafter referred to as the property; and

WHEREAS, the Owner intends to construct sanitary sewers within the said property to serve the future restaurant thereon; and

WHEREAS, the Sewer Company has received certification from the Missouri Public Service Commission to serve the watershed, including the above described tract of land, and has obtained the right to erect and maintain sewer lines and treatment facilities for the watershed and for the disposal of sanitary sewage therefrom.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations herein, the parties agree as follows:

Reso - Exhibit No. 12
Date 1-30-09 Case No. SC-2008-0109
Reporter KF

A. The Sewer Company shall:

1. Provide for the operation, repair, and maintenance of the entire sewage conveyance and disposal system, including the facilities constructed by the Owner and conveyed to the Sewer Company, provided, however, that the Sewer Company shall not be obligated to maintain any laterals or individual home pumping systems serving any single connection at any time, or the facilities constructed by the Owner until such time as the Sewer Company and all governing authorities shall have approved such facilities and an "**Acceptance and Dedication Agreement**" is signed by both parties, and provided further, that the Owner shall have properly conveyed all facilities to the Sewer Company. The responsibility to repair the facilities shall not operate to relieve the Owner's warranty of construction in any manner whatsoever.

2. Provide treatment sufficient for the building units covered hereby and comply with the rules and regulations of the Department of Natural Resources and all other agencies governing such facilities and provide further that such service shall be rendered to each connection under the tariff, rules and regulations of the Sewer Company in effect and approved by the Missouri Public Service Commission.

B. The Owner shall:

1. Construct all sanitary sewers located within the property heretofore described to provide the said property with proper sewer service, at Owner's expense, in accordance with the plans and specifications which shall have been approved by the Sewer Company and the Missouri Department of Natural Resources. Said construction shall be inspected and supervised by such agencies, departments, and the Sewer Company and notice of progress of such construction is to be given to the Sewer Company to maintain adequate inspection. In the event that the Owner shall fail to give proper notice, or shall fail to construct said facilities, or any portion thereof, in accordance with such standards and plans, the Sewer Company shall, and is hereby granted the right and authority to order said construction to stop, and order any deficiency corrected to meet with the approval of such governing authorities and the Sewer Company.

2. Furnish at its expense easements to the Sewer Company, 5.0 feet on either side of the centerline of any sanitary sewer lines conveyed by the Owner, plus an easement for any sewer appurtenances, together with the right of ingress and egress to construct, operate, and maintain said facilities.

3. Convey title to all sewer collection lines and sewer appurtenances presently in use and all sewers constructed within the property to the Sewer Company and warrant all transfers to be free and clear of encumbrances or mechanic's liens and any defects.

4. Furnish at its expense a letter report as evidence of ownership of the property, and if the property is encumbered, furnish subordination to this Agreement from all secured parties.

5. Insure that no roof drains, foundation drains, or stormwater from any source be permitted to enter any of the sewer lines or appurtenances thereto. Insure that no material such as inorganic chemical, gasoline, oil, lint, or other objectionable material deleterious to the sewage system be permitted to enter the sewage system. In the event that any of the foregoing is introduced into the system, the Sewer Company shall have the right to enter the premises of the offending party and to discontinue sewer service.

6. Comply with and agree to all terms and conditions of the Sewer Company's tariff rules and regulations as approved by the Missouri Public Service Commission.

7. Furnish reproducible "*as-built*" engineering drawings from all new sewer utility trunks, laterals, mains, and other appurtenances and plants constructed pursuant to this Agreement, within ninety (90) days of completion of construction. If such plans are not furnished, the Sewer Company shall have the right to terminate service.

8. In accordance with 4CSR 240-60 of the Missouri Public Service Commission, the Owner warrants unconditionally all materials and workmanship of all facilities transferred to the Sewer Company to be free from any and all defects, and that such construction shall meet the Sewer Company's specifications, for a period of one (1) year from the date of **COMPLETION AND ACCEPTANCE** by the Sewer Company.

9. Pay to the Sewer Company fees for contributions-in-aid of construction in the amount of \$10,880.00. (128 seat restaurant times \$85.00 per seat)

10. Pay to the Sewer Company all review charges and inspection fees per Rule 12 of the Company's tariff as follows: Service Sewer Inspections \$35.00 per inspection.

C. The parties mutually agree:

1. That no septic tanks or other means of treatment of disposing of sewage shall be permitted within the property without written consent of the Sewer Company.

2. Maintenance charges shall accrue to each user at the rate as approved by the Missouri Public Service Commission. Maintenance charges for each unit shall commence upon the date that such unit shall be connected to the sewer system, and put in service. Service charges shall continue to run with the land until service is terminated by physical disconnection. If not paid within thirty (30) days of due date, charges shall bear

a delinquent charge of ten percent (10%) on the unpaid balance. All unpaid charges of whatever nature including, but not limited to, connection maintenance, and late fee charges shall become a first lien on the property upon which payment is delinquent. The delinquent owner shall pay all costs of filing, recording, attorney's fees, and late charges in addition to the cost of releasing the lien. Filing a lien shall not preclude service disconnection.

3. That any and all rights and duties created under this Agreement shall run with the land and the Owner's grantees, successors, and assigns shall be bound by the provisions of this Agreement. A copy of this contract as executed shall be recorded in the Recorder of Deeds Office of Jefferson County to file public notice of this Agreement to all purchasers. Upon transfer of title of any portion of the property, the Owner shall be given written notice of the date of closing, description of the property, and names of the purchasers to the Sewer Company at least ten (10) days prior to closing.

4. The term "**Sewer Company**" contemplates not only **HOUSE SPRINGS SEWER COMPANY, INC.**, but also its successors and assigns and any person, engineering firm, corporation, municipality, or other governmental agency taking over the performance of the obligations for which this instrument provides; and the term "**Owner**" refers to all Owners of said tract of land whether one or more, corporate or individual, and contemplates not only the present Owner or Owners of the property, but also his, its or their successors, heirs or assigns, who or which may take over the performance of the undertakings and the obligations for which this Agreement provides.

5. That the Sewer Company's agents are hereby granted the right to enter the property at all reasonable times for the purpose of inspecting the sewer facilities.

6. That the Owner shall have no rights, and the Sewer Company is under no obligation, unless and until the Owner shall have fully complied with each and every term of this Agreement, and each and every term of the Sewer Company's tariff. The right to connect to the Sewer Company's facilities, or to have the Sewer Company take ownership of sewers and treatment facilities constructed by the Owner, shall exist only upon full and complete performance by the Owner as specified herein.

7. That the Sewer Company shall not assume any maintenance responsibility for the subdivision sewer system until the Owner has completed all of the homes in the subdivision and the "**Acceptance and Dedication Agreement**" is signed. Accordingly, it is the Owner's responsibility to protect the integrity of the sanitary sewer system in its entirety not only during the construction of said sewer system but also during the period after sewer construction is complete and up to the time the final house is occupied. Any

backups, blockage, leaks, buried manholes, missing covers or other deficiencies that require remedial work or maintenance during this time shall be the responsibility of the Owner, and any cost for work performed by the Sewer Company during this period will be paid for by the Owner.

8. In the event any controversy or dispute arises with respect to any term, provision, or condition of this Agreement resulting in a deadlock which cannot be resolved by the parties within ten (10) days of either party declaring such a deadlock or disagreement shall be settled by arbitration in accordance with the rules of the American Arbitration Association in the Metropolitan St. Louis area/Jefferson County, and the parties hereby agree to be bound by the results thereof. Each party shall promptly choose one arbitrator, each of whom will, in turn, nominate a third arbitrator who shall be chosen by the other two arbitrators, all of whom shall then hear the case. In judgment upon any award rendered by a majority opinion of the arbitrators so chosen may be entered in any court having jurisdiction thereof. In the event arbitration is initiated, the prevailing party in any such proceeding shall be entitled to recover from the other party all reasonable costs and expenses of enforcement in collection of any and all remedies and damages, or the enforcement of any obligation, for all reasonable costs and expenses of defense, as the case may be. Costs and expenses shall include reasonable attorney's fees.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on this Agreement in the County of Jefferson, State of Missouri, the date and year above set forth.

HOUSE SPRINGS SEWER COMPANY, INC.

By: _____

Print Name: _____

Title: _____

MCMM, LLC
Christy Scrivner

By: _____

Print Name: _____

STATE OF MISSOURI)
) SS.
COUNTY OF JEFFERSON)

On this ____ day of _____, 2008, before me appeared _____, for and on behalf of **HOUSE SPRINGS SEWER COMPANY, INC.**, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

Print Name: _____

My Term Expires: _____

STATE OF MISSOURI)
) SS.
COUNTY OF JEFFERSON)

On this ____ day of _____, 2008, before me appeared _____, for and on behalf of **Christy Scrivner**, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

Print Name: _____

My Term Expires: _____