

1. ... to  
K...  
+ ...

**RECOVERY AGREEMENT FOR OFF-SITE SEWER AND WATER IMPROVEMENTS**

THIS AGREEMENT is entered into by and between the City of Franklin, Tennessee ("City") and Battle Ground Academy, a Tennessee not-for-profit corporation ("BGA") subject to the following premises, terms and conditions:

**WHEREAS**, on February 14, 1995, the Board of Mayor and Aldermen of the City granted BGA the right to recover and be reimbursed for certain costs of off-site sewer improvements related to the development of the new campus of BGA on Mack Hatcher Parkway, as follows:

100% recovery for construction of a 12 inch sewer line approximately 1,950 feet in length and bore under Mack Hatcher Boulevard less reimbursement of the cost difference between an 8 inch and 12 inch off-site sewer line (Hereinafter "the improvements");

**WHEREAS**, BGA incurred costs of \$333,690 in the construction of said improvements and in engineering and legal costs related thereto, which costs the City Engineer has determined are reasonable; and

**WHEREAS**, the City imposes access fees for connecting onto sanitary sewer lines; and

**WHEREAS**, the City has agreed that BGA may recover \$307,596.46 of the costs incurred in connection with the construction of the improvements, a certain portion payable up front in cash and the remainder over time out of funds the City collects as sewer access fees associated with an area of land known as the "recovery area"; and

**WHEREAS**, the recovery area is designated as the immediate drainage area that can be served by the improvements, as shown more fully on the map attached to this Recovery Agreement as EXHIBIT 1, outlined in yellow, and consisting of the parcels listed

on EXHIBIT 2 hereto ; and

**WHEREAS**, the parties agree that BGA, within thirty (30) days of approval of this agreement, shall be paid the sum of \$87,396.46 in cash (\$47,596.46 as reimbursement for upsizing costs and \$39,800 for recovery of access fees previously paid within the recovery area); BGA shall be entitled to all monies recovered by virtue of the sewer access fees within the recovery area, up to the amount of \$260,000.00, less the \$39,800 already paid; and

**PREMISES CONSIDERED**, the parties do hereby agree as follows:

1. The foregoing premises are acknowledged by the parties to be accurate and are incorporated herein by reference as the basis of this agreement.
2. The City of Franklin agrees that, upon execution of this agreement, it will set up an accounting system to keep a separate record of all sanitary sewer line access fees charged and collected in the recovery area. These records shall be kept in the office of the City Administrator/Recorder, or at such other place as may be designated by the Franklin Board of Mayor and Aldermen and shall be open to inspection by the public and by BGA during business hours and with reasonable prior notice. The City shall make annual payments to BGA of all monies due and owing under the terms of this Recovery Agreement. These payments shall be made within 90 days of the close of the City's fiscal year.
3. If and when BGA shall have recovered the total of \$260,000.00 from the City as a result of this Agreement, BGA shall promptly notify the City, and from that point forward the City shall no longer be required by this Agreement to maintain a separate

accounting of sanitary sewer line access fees collected from the recovery area.

4. The parties agree that the terms and conditions contained herein shall be binding on their heirs, representatives, successors, successors and assigns and that there are no understandings or agreements between them except as contained in this instrument.

5. The parties agree that except as recited in this Agreement, BGA has no further right of recovery with respect to the improvements and they expressly release the City from any further claim therefor.

**BATTLE GROUND ACADEMY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

**CITY OF FRANKLIN, TENNESSEE:**

By: \_\_\_\_\_  
**JAMES R. JOHNSON**  
City Administrator

\_\_\_\_\_  
**THOMAS R. MILLER**  
Mayor

**AS APPROVED BY THE FRANKLIN BOARD OF MAYOR AND ALDERMEN ON  
DECEMBER 14, 2004.**

**STATE OF TENNESSEE                    )**  
  **)ss:**  
**COUNTY OF WILLIAMSON                )**

Personally appeared before me, \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged,

under oath, that he/she is the \_\_\_\_\_ of **BATTLE GROUND ACADEMY**, and that as such \_\_\_\_\_, being authorized so to do, executed the foregoing document for the purposes therein contained.

**WITNESS**, my hand and seal, on this the December day of 2004.

Notary Public \_\_\_\_\_

My Commission expires: \_\_\_\_\_

**STATE OF TENNESSEE**

)

)ss:

**COUNTY OF WILLIAMSON**

)

Personally appeared before me, **James R. Johnson** and **Thomas R. Miller**, with whom I am personally acquainted, (or proved to me on the basis of satisfactory evidence), and who, after being first duly sworn, acknowledged themselves to be the City Administrator and Mayor, of the City of Franklin, Tennessee respectively, and that as such City Administrator and Mayor, being authorized so to do, executed the foregoing instrument for the purposes therein contained.

Notary Public \_\_\_\_\_

My Commission expires: \_\_\_\_\_