

Agreement, District No. 12 agrees to pay LCRA total Connection Fees of \$350,200; (ii) for the period ending April 1, 2010, District No. 12 agrees to pay LCRA total Connection Fees of \$350,200 and, (3) thereafter, for the calendar year 2011 and each subsequent calendar year through 2014, District No. 12 agrees to pay to LCRA total Connection Fees which, at a minimum, equal the required payment amount for that calendar year (the "Minimum Payment") indicated on the payment schedule attached as Exhibit C (the "Payment Schedule"). If, for any period indicated on the Payment Schedule, the total Connection Fees paid by District No. 12 for new retail connections to the District Systems are less than the Minimum Payment due for that period, District No. 12 will pay the difference (the "Deficiency Amount") to LCRA within 45 days of the last day of applicable period, and the Deficiency Amount will be credited against the Connection Fees payable by District No. 12 at the time the next new retail connections to the District Systems are made. If, for any period indicated on the Payment Schedule, the total Connection Fees paid by District No. 12 to LCRA for new retail connections exceed the Minimum Payment for that period as indicated on the Payment Schedule, then District No. 12 will receive a credit for the excess that will be applied against the Minimum Payment due for the subsequent annual period or periods.

- b. Within 45 days after the end of each calendar month, District No. 12 shall submit a monthly report to LCRA, reflecting the new customer(s), service address(es), meter size(s) and number of LUE(s) for which payment of a Connection Fee is being made and/or a credit being applied for the calendar month in question. If no new connections have been made, the monthly report will still be required, but will reflect that there have been no changes from the prior reporting period. If District No. 12 fails to submit any report within the time period required by this Agreement, LCRA may assess District No. 12 a \$50 late charge. Unless changed by written notice in accordance with Section 7.07, the Connection Fees and monthly reports required by subsection 4.01.a. and this subsection will be submitted to the following address:

c/o Mary Blincoe, Business and Financial Service  
P.O. Box 220, H-305  
Austin, Texas 78767-0220

- c. The Connection Fee has been designed to fund or recover all or a part of the Costs of the LCRA System for capital improvements or facility expansions intended to serve "new development" (as that term is defined in the Texas Impact Fee Law, Chapter 395 of the Texas Local Government Code) in the LCRA Service Area and, upon payment, District No. 12 will have a guaranteed reservation of capacity in the LCRA System for the number of LUEs for which a Connection Fee has been paid. The Connection Fee will be reasonable and just and established as required by law and in accordance with the provisions of this Agreement.
- d. District No. 12 also shall pay LCRA a monthly charge (the "Monthly Charge") for each full calendar month after the Effective Date. The Monthly Charge initially shall be \$9,430 per month; provided, however, that the Monthly Charge shall not go into effect until the Effective Date. The Monthly Charge has been designed primarily to recover District No. 12's allocable share of the capital-related Costs of the LCRA System not recovered in the Connection Fee. The Monthly Charge shall be just and reasonable and

established in accordance with the provisions of this Agreement and applicable legal requirements.

- e. District No. 12 also shall pay LCRA a volumetric rate (the "Volume Rate") for diversion, transportation, treatment and delivery of the actual amount of water delivered to District No. 12, as measured by the Master Meter at the Delivery Point, including all water used or lost due to leakage or for any other reason within the District Service Area. The Volume Rate initially will be \$2.40 per 1,000 gallons. The Volume Rate shall be designed primarily to recover the operation and maintenance related Costs of the LCRA System, together with any other Costs of the LCRA System not recovered through the Connection Fee or the Monthly Charge. The Volume Rate does not include, however, any charges for raw water and District No. 12 shall remain liable for such costs under the Raw Water Contract. The Volume Rate will be just and reasonable and established in accordance with the provisions of this Agreement and applicable legal requirements.
- f. At any time while this Agreement is in effect, LCRA, subject to applicable law, may modify the Connection Fee, the Monthly Charge and the Volume Rate consistently with the terms of this Agreement as appropriate to recover the Costs of the LCRA System in a just, reasonable and nondiscriminatory manner from District No. 12 and the other customers of the LCRA System. Anything herein to the contrary notwithstanding, it is the intent of the parties that no portion of the Costs of the LCRA System be recovered by LCRA more than one time and, therefore, if any amount is included in the Connection Fee, the Monthly Charge, the Volume Rate, that amount may not also be included in or recovered through any other rate or charge of LCRA to District No. 12 hereunder, it being the intent and agreement of the parties that all charges to District No. 12 under this Agreement will be fair and equitable, and will allow LCRA to recover, but not over-recover, District No. 12's proportionate share of the Costs of the LCRA System.

Section 4.02. Billing and Payment. LCRA shall bill District No. 12 one time each month for the amount owed for the Monthly Charge and the Volume Rate. The Volume Rate shall be multiplied by the actual amount of water delivered by LCRA to District No. 12 during the previous billing cycle as determined by LCRA's readings of the Master Meter. Each bill submitted to District No. 12 will be delivered within five days of the date of the invoice and shall be paid to LCRA by check or bank-wire on or before 30 days from the date of the invoice. Payments by check shall be mailed to the address indicated on the invoice, or hand-delivered to LCRA's headquarters in Austin, Travis County, Texas, upon prior arrangement. If payments will be made by bank-wire, District No. 12 shall verify wiring instructions with LCRA's Finance Department. Payment must be received at LCRA's headquarters or bank by the due date in order not to be considered past due or late. In the event District No. 12 fails to make payment of a bill within said 30-day period, District No. 12 shall pay in addition LCRA's then-current, Board-approved wholesale water contract late payment charges (which charges currently are a one-time late payment charge of five percent) on the unpaid balance of the invoice. If the bill has not been paid by the due date, District No. 12 further agrees to pay all costs of collection and related reasonable attorneys' fees incurred by LCRA, regardless of whether suit is filed, in accordance with Section 271.159, Texas Local Government Code.

Section 4.03. LCRA System to be Self-Sufficient. The LCRA System shall be comprised of the facilities described in Recital No. 1, together with such improvements, extensions, enlargements,

betterments, additions, and replacements thereto as are reasonable and necessary to provide water to the LCRA Service Area and Wholesale Water Services to District No. 12 on behalf of the Districts. The parties agree that the Costs of the LCRA System shall be allocated to and borne by all of the customers of the LCRA System, including District No. 12, in a fair and equitable manner and so that the LCRA System is self-sufficient. Without limiting the foregoing, the parties further agree that LCRA is authorized to issue such indebtedness as it may deem appropriate to pay for any Costs of the LCRA System or, in lieu of issuing indebtedness, to provide for the borrowing of internal LCRA funds from LCRA resources other than the LCRA System and, in such events, the Costs of the LCRA System borne by the customers, including District No. 12, shall include debt service, paying agent/registrar fees and reasonable coverage on any indebtedness issued by LCRA or the recovery (amortized over a reasonable period) of any internal LCRA funds utilized together with reasonable interest and coverage thereon to be established in accordance with LCRA policy as now or hereafter implemented.

Section 4.04. Additional Required Notices. In addition to the monthly reports required by Section 4.01.b. above, District No. 12 shall:

- a. Require that the Districts provide to LCRA, within 60 days of the date of approval, a copy of each final subdivision plat of property within the District Service Area approved by the City of Lakeway.
- b. Provide to LCRA by June 1 of every year during the term of this Agreement a report setting forth: (i) the total number of retail water service connections within the District Service Area as of April 1 of the same year; and, (ii) the total number of new retail water service connections to the District Systems during the prior annual period ending April 1 of the same year, which connections shall be set forth in LUES as determined by LCRA's Rate Schedule.
- c. Reports provided pursuant to this Section shall be provided substantially in the form attached as Exhibit D.

## ARTICLE V

### OTHER COMMITMENTS AND FUTURE SERVICE AREA

Section 5.01. Rates and Charges.

- a. District No. 12 shall be solely responsible for establishing, billing and collecting water or other rates, charges and fees from customers within the District Service Area in accordance with applicable law. Failure to collect from its customers will not affect District No. 12's obligation to make all payments due to LCRA.
- b. District No. 12 further agrees to include a provision in the District Shared Facility Agreement that states that all moneys required to be paid by District No. 12 under this Agreement shall constitute an operating expense of the District Systems, as authorized by the Constitution and laws of the State of Texas, including Chapters 49 and 54, Texas Water Code, as amended.

- c. District No. 12 covenants and agrees to compute, ascertain, fix, levy and collect rates and charges under the District Shared Facility Agreement that will be adequate to permit District No. 12 to make prompt and complete payments under this Agreement.

Section 5.02. Governmental Approvals. District No. 12 represents that the Districts have acquired or will acquire all necessary governmental approvals required to provide potable water service in the District Service Area.

Section 5.03. Easements. LCRA shall cooperate with District No. 12 in District No. 12's efforts to acquire any necessary easements provided, however, LCRA shall not be required to spend money or initiate eminent domain proceedings therefore absent approval from LCRA's Board of Directors.

**ARTICLE VI**  
**EMERGENCY OR SHORTAGE OF WATER SERVICE CAPABILITY; TERM;**  
**DEFAULT; REMEDIES**

Section 6.01. Curtailment of Service. Notwithstanding any other provision herein to the contrary, the obligation of LCRA to provide Wholesale Water Services to District No. 12 during the term of this Agreement is neither superior nor inferior to the obligation of LCRA to provide similarly situated customers with water or Wholesale Water Services within the LCRA Service Area and to provide service to its other presently committed customers or any future customers of the LCRA System. Accordingly, the parties agree that if, during the term of this Agreement, LCRA is unable to reasonably provide water or Wholesale Water Services to the LCRA Service Area or its existing committed customers because of an Emergency or shortage of water supply, production, treatment, storage or transportation capability in the LCRA System, or if LCRA needs to cause repairs to be made to the LCRA System to repair, replace or improve the level of Water Service to its customers, then LCRA shall have the right, after reasonable notice to District No. 12 and opportunity for consultation, to temporarily curtail or limit service to District No. 12 and all other customers of LCRA on a equitable, reasonable, and non-discriminatory basis so that all similarly situated customers are treated equally, fairly and uniformly. LCRA shall, however, at all times use diligent efforts to provide continuous and adequate Wholesale Water Services under this Agreement. Each of LCRA and District No. 12 further agrees, in times of Emergency or shortage or the need for repair, replacement or improvement of the LCRA System, to take appropriate action to curtail or limit all usage in its respective service area so that all users of water in both entities' service areas will be equally and uniformly restricted and protected. Any measures taken by District No. 12 will be at least as stringent as those adopted by LCRA for retail customers in the LCRA Service Area. The parties agree that domestic uses of water shall have priority in times of Emergency or shortage over uses of water for construction or commercial uses and that construction or commercial uses shall have priority over irrigation uses from the LCRA System. Further, both parties agree that use of water for irrigation of lawns shall have the lowest priority in times of Emergency or shortage. If it is ever determined by any governmental or regulatory authority other than LCRA that provision of Wholesale Water Services by LCRA under this Agreement or curtailment or limitation of water or Wholesale Water Services by LCRA to any of its customers is in violation of applicable law, regulation or order, then LCRA, after reasonable notice to District No. 12 and opportunity for consultation, may take such action as will best effectuate this Agreement and comply with applicable law.

Section 6.02. Conservation and Drought Planning. District No. 12, by signing below, certifies that each of the Districts has adopted a water conservation plan and a drought contingency plan in compliance with TCEQ rules, 30 Texas Administrative Code, Chapter 288, and the terms of the Raw Water Contract and that the provisions of such plans are consistent with the provisions of the LCRA Water Conservation and Drought Plan. District No. 12 further agrees that the Shared Facility Agreement requires or will require that each of the Districts incorporate a modified version of the LCRA's Conservation Landscape Best Management Practices as suggested guidelines for landscaping and irrigation system installations within the Districts, and that the Districts comply with all applicable LCRA rules related to landscape conservation measures and irrigation systems.

Section 6.03. Plumbing Regulations. To the extent LCRA and District No. 12 have the authority, both covenant and agree to adopt and enforce and District No. 12 agrees to require, in the District Shared Facility Agreement, that the Districts adopt and enforce, adequate plumbing regulations with provisions for the proper enforcement thereof, to ensure that neither cross-connection nor other undesirable plumbing practices are permitted, including an agreement with each of their respective water customers that allows it to inspect individual water facilities prior to providing service to ensure that no substandard materials are used and to prevent cross-connection and other undesirable plumbing practices.

Section 6.04. Default.

- a. In the event District No. 12 shall default in the payment of any amounts due to LCRA under this Agreement, or in the performance of any material obligation to be performed by District No. 12 under this Agreement, then LCRA shall give District No. 12 at least 30 days' written notice of such default and the opportunity to cure same. Thereafter, LCRA shall have the right to temporarily limit Wholesale Water Services to District No. 12 under this Agreement pending cure of such default by District No. 12 and also to pursue any remedy available at law or in equity, pending cure of such default by District No. 12. In the event such default remains uncured for a period of: (i) an additional 30 days in the event of a monetary default; or, (ii) an additional 180 days in the event of a non-monetary default, then LCRA shall have the right to permanently restrict service to District No. 12 under this Agreement or to require District No. 12 to stop making, or providing Wholesale Water Services to the Districts for, new retail connections to the District Systems upon giving District No. 12 written notice of its intent to do so. Subject to the written notices required by this Section, (a) if District No. 12 fails to pay the Minimum Payments required under this Agreement, and the total amount due is not paid following opportunity to cure as provided in this section or under the guarantee set forth in Section 7.15 of this Agreement after LCRA's delivery of notice in accordance with that Section, LCRA will have the right to provide 30 days' further written notice to District No. 12 that LCRA will limit service under this Agreement to the number of LUEs for which District No. 12 has paid Connection Fees previously to LCRA. Upon delivery of such written notice from LCRA to District No. 12, this Agreement shall be modified automatically so that the Wholesale Water Services are limited to the number of LUEs for which District No. 12 has paid Connection Fees previously to LCRA and further limited to portions of the District Service Area for which final plats have been approved by the City of Lakeway. Thereafter, Wholesale Water Services to any portions of the District Service Area for which a final plat has not been approved by the City of Lakeway as of the

effective date of LCRA's written notice shall require separate written approval from LCRA. LCRA also may pursue any remedy available at law or in equity, pending cure of such default by District No. 12. Anything herein to the contrary notwithstanding, any Connection Fees paid to LCRA under this Agreement after the effective date of LCRA's written notice which are accepted by LCRA or which are awarded as a remedy to LCRA shall increase the number of LUEs for which LCRA will provide Wholesale Water Services in accordance with this Agreement.

- b. In the event LCRA shall default in the performance of any material obligation to be performed by LCRA under this Agreement, then District No. 12 shall give LCRA at least 30 days' written notice of such default and the opportunity to cure same. Thereafter, in the event such default remains uncured, the District No. 12 shall have the right to pursue any remedy available at law or in equity, pending cure of such default by LCRA. In the event such default remains uncured for an additional 180 days, then District No. 12 shall, in addition to and not in lieu of any other remedies available to District No. 12, have the right to notify LCRA that District No. 12 intends to take a more limited amount of Wholesale Water Services from LCRA (which shall be at least the amount LCRA is then able to provide to District No. 12) and District No. 12 may then obtain other water or Wholesale Water Services from another provider or may take appropriate action to supply itself with additional water or Wholesale Water Services upon giving LCRA written notice of its intent to do so. Any obligation of District No. 12 to pay Connection Fees under Section 4.01.a will be suspended during any time within which LCRA is in default, and, if District No. 12 reduces the amount of Wholesale Water Services as provided in this subsection, its obligation to pay Connection Fees will also be reduced, prorata, based on the reduced amount of Wholesale Water Services to be provided. If District No. 12 has prepaid Connection Fees in excess of the Connection Fees payable for such reduced Wholesale Services, then LCRA will refund the excess amount, together with interest on the amount to be refunded from the date of payment by District No. 12 to the date of refund by LCRA at the rate of 10% per annum, within 30 days after the date District No. 12 notifies LCRA of its election to make the reduction. LCRA acknowledges that the replacement of the Wholesale Water Services which LCRA has agreed to provide under this Agreement would be difficult and expensive for District No. 12, and agrees to use diligent good faith efforts to perform its obligations under this Agreement.

Section 6.05. Additional Remedies Upon Default. It is not intended hereby to specify (and this Agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies existing at law or in equity may be availed of by any party and shall be cumulative of the remedies provided. Recognizing however, that LCRA's undertaking to provide and maintain the services of the LCRA System is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, LCRA agrees, in the event of any default on its part, that District No. 12 shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination of this Agreement) that may also be available. The parties acknowledge that LCRA may not have the remedy of terminating this Agreement in the event of District No. 12's default, whether a monetary default or otherwise, because the Districts may have an obligation to provide continuous and adequate potable water service to their retail customers existing at the time of the default and may lack alternative sources for potable water supply. In recognition of this, and that failure in the performance of District No. 12's obligations could not be adequately

compensated in money damages alone, District No. 12 agrees in the event of any default on its part that LCRA shall have available to it the equitable remedies of mandamus and specific performance in addition to any other legal or equitable remedies that may also be available to LCRA including the right to obtain a writ of mandamus or an injunction against District No. 12 (i) requiring the Board of Directors of District No. 12 to levy and collect rates and charges sufficient to pay the amounts owed to LCRA by District No. 12 under this Agreement and (ii) enjoining District No. 12 from making additional retail water connections to the District Systems or providing Wholesale Water Services to the Districts beyond the levels specified in Section 6.04.a. If either party institutes legal proceedings to seek adjudication of an alleged default under this Agreement, the prevailing party in the adjudication shall be entitled to its reasonable and necessary attorneys' fees in accordance with Section 271.159, Texas Local Government Code. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS SUBJECT TO SUBCHAPTER I, CHAPTER 271, TEXAS LOCAL GOVERNMENT CODE, IN EFFECT AS OF SEPTEMBER 1, 2007.

Section 6.06. Protests, Disputes or Appeals. Nothing in this Agreement is intended to limit, impair or prevent any right of District No. 12 to protest, dispute or appeal with respect to rate making, the establishment of fees and charges or any other related legal or administrative proceedings affecting services or charges to District No. 12 under this Agreement. If District No. 12 should dispute District No. 12's obligation to pay all or any part of the amount stated in any invoice or notice, District No. 12 may, in addition to all other rights that it may have under law, pay such amount under protest in which case such amount shall be deposited by LCRA in an interest bearing account mutually acceptable to both LCRA and District No. 12 pending final resolution of such dispute. If District No. 12 provides payment under protest, District No. 12 will have the right to continue to receive service, including the right to make new connections, during the pendency of any good faith dispute regarding any alleged default or payment alleged to be due under this Agreement.

## ARTICLE VII MISCELLANEOUS PROVISIONS

Section 7.01. Contracts. LCRA shall have the right to enter into other water supply or Wholesale Water Services contracts so long as LCRA's performance of its obligations under such contracts does not materially adversely affect or prevent LCRA's ability to perform its obligations hereunder. This section shall not be construed as limiting LCRA's rights to temporarily curtail service in times of shortage or Emergency as otherwise provided. District No. 12 agrees that it will not provide or sell water to any entity, private or public, other than the Districts and retail customers of the Districts within the District Service Area unless it obtains the prior written consent of LCRA, which consent shall be solely within LCRA's discretion and not subject to the provisions of section 7.09 of this Agreement.

Section 7.02. Records. LCRA and District No. 12 each agree to preserve, for a period of at least two years from their respective dates of origin, all books, records, test data, charts and other records pertaining to this Agreement. LCRA and District No. 12 shall each, respectively, have the right during reasonable business hours to inspect such records to the extent necessary to verify the accuracy of any statement, charge or computation made pursuant to any provisions of this Agreement.

Section 7.03. State Approval; Compliance with TCEQ Rules. Each party represents and warrants that the plans and specifications for its respective system have been or will be approved by the TCEQ or its successors. Anything herein to the contrary notwithstanding, it is the intention of the parties that this Agreement fully comply with the requirements of the TCEQ applicable to public drinking water systems which receive water through a sole-source water supply contract, including the requirements of 30 Texas Administrative Code, Section 290.45(f). The parties each agree to provide any information which may be requested by the other in order to respond to any inquiries or reports required by the TCEQ. If, at any time, it is determined that this Agreement does not comply with all applicable TCEQ requirements, the parties agree to cooperate to modify this Agreement in order to effect such compliance.

Section 7.04. Force Majeure. If any party is rendered unable, wholly or in part, by Force Majeure to carry out any of its obligations under this Agreement, other than an obligation to pay or provide money, then such obligations of that party to the extent affected by such Force Majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. Such cause, as far as possible, shall be remedied with all reasonable diligence. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the affected party, and that the above requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable to it in the judgment of the affected party.

Section 7.05. Severability. The provisions of this Agreement are severable and, if any provision or part of this Agreement or the application thereof to any person or circumstance shall ever be held by any agency or court of competent jurisdiction to be unenforceable, invalid or unlawful for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons or circumstances shall not be affected thereby; provided, however, that in such event the parties mutually covenant and agree to attempt to modify this Agreement by substituting a provision which is as similar as possible to the unenforceable, invalid or unlawful provision but which is enforceable, valid and lawful.

Section 7.06. No Oral Agreements; Modification. There are no oral agreements between the parties hereto with respect to the subject matter hereof. This Agreement shall be subject to change or modification only with the mutual written consent of LCRA and District No. 12.

Section 7.07. Addresses and Notices. Unless otherwise notified in writing by the other, the addresses of LCRA and District No. 12 are and shall remain as follows:

LCRA:  
Lower Colorado River Authority  
Attn: Executive Manager, Water Services  
3700 Lake Austin Boulevard  
Austin, Texas 78703



District No. 12:

Travis County Municipal Utility District No. 12  
c/o Armbrust & Brown, LLP  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Fax : (512) 435-2360

Section 7.08. Assignability. This Agreement shall be assignable by LCRA to any operating affiliate of LCRA without the necessity of obtaining the consent of District No. 12 if written notice is provided to District No. 12 and the assignee agrees in writing to be liable for all obligations of LCRA and is capable of carrying out LCRA's obligation under this Agreement in all respects. LCRA acknowledges, and expressly consents to, the transfer of certain rights and obligations under this Agreement to District No. 11 and District No. 13 through the District Shared Facility Agreement. District No. 12 further is authorized to expressly assign this Agreement to District No. 11 and/or District No. 13 without the necessity of obtaining the consent of LCRA, provided that District No. 12 provides at least 30 days' prior written notice to LCRA and there is no default of District No. 12's obligations under this Agreement on the date of such notice or during the period leading up to the date of the assignment, and no such assignment shall be effective until the assignee agrees in writing to assume District No. 12's duties and responsibilities under the Agreement and to be bound by the Agreement. Upon such an assignment, District No. 12 shall be released from any further obligations under this Agreement. Except as otherwise provided, this Agreement may not be assigned by either party to any other entity without the express written consent of either party, which consent shall not be unreasonably withheld or delayed.

Section 7.09. Good Faith. Each party agrees that, notwithstanding any provision herein to the contrary (i) it will not unreasonably withhold or condition or unduly delay any consent, approval, decision, determination or other action which is required or permitted under the terms of this Agreement, and (ii) it will act in good faith and shall at all times deal fairly with the other party. The agreements of the parties under this Section to act in good faith will extend to and expressly include all matters pertaining to rates and charges established by LCRA under this Agreement.

Section 7.10. Counterparts. This Agreement may be executed in as many counterparts as may be convenient or required. All counterparts shall collectively constitute a single instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart.

Section 7.11. Governing Law. The terms and provisions hereof shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America from time to time in effect. Travis County, Texas shall be a proper place of venue for suit hereon, and the parties hereby agree that any and all legal proceedings in respect of this Agreement shall be brought in district courts of Travis County, Texas, or the United States District Court for the Western District of Texas, Austin Division.

Section 7.12. Authority of Parties Executing Agreement, Validity. By their execution, each of the individuals executing this Agreement on behalf of a party represents and warrants to the other party that he or she has the authority to execute the document in the capacity shown on this

document. Each of the parties further represent and warrant that this Agreement constitutes a valid and binding contract, enforceable against it in accordance with its terms.

Section 7.13. Term and Termination. Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall be the same as the term for the Raw Water Contract. This Agreement shall terminate automatically in the event of the termination of the Raw Water Contract; provided, however, that no termination of this Agreement will affect or impair District No. 12's rights to its contractual capacity in the LCRA System described in Section 4.01 of this Agreement and such contractual capacity rights will survive any termination of this Agreement. Time is of the essence in the performance of this Agreement.

Section 7.14. Other Agreements. Nothing in this Agreement shall be construed as amending, modifying or limiting the rights and obligations of the parties under the Raw Water Contract.

Section 7.15. Guaranty by Developer. Rough Hollow Development, Ltd., a Texas limited partnership and the developer within the District Service Area, is executing this Agreement for the limited purpose of guaranteeing the Minimum Payments to be made by District No. 12 under Section 4.01 of this Agreement. If District No. 12 fails to make any Minimum Payment as and when due, LCRA may give written notice to Rough Hollow Development, Ltd. and, in such event, Rough Hollow Development, Ltd. will be required to make the payment in question within 15 days after delivery of such notice. If Rough Hollow Development, Ltd. fails to make any required payment within the specified 15-day period, LCRA may pursue all legal remedies to recover the guaranteed amounts from Rough Hollow Development, Ltd. Whether to provide notice to, or whether to institute legal proceedings to recover guaranteed amounts from, Rough Hollow Development, Ltd., shall be at LCRA's sole option, and LCRA may exercise other remedies under this Agreement instead. If, however, LCRA elects to pursue recovery from Rough Hollow Development, Ltd., then, anything herein to the contrary notwithstanding, LCRA will not seek to enforce any remedies under this Agreement against District No. 12 during the pendency of that action. Rough Hollow Development, Ltd. may assign its obligations under this Section to a subsequent owner of a majority of the land within the District Service Area; however, any such assignment must be in writing, include the name and mailing address of the assignee, and be assigned by Rough Hollow Development, Ltd. and assumed by the assignee.

Section 7.16. Exhibits. The following exhibits are attached to and incorporated into this Agreement for all purposes:

- Exhibit A - Delivery Point and District Service Area
- Exhibit B - LCRA Service Area
- Exhibit C - Payment Schedule
- Exhibit D - Form for Reports on Service Connections

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original and of equal force and effect, on the date or dates indicated below and to be effective as of the Effective Date.

*(The remainder of this page has been intentionally left blank, and the signature page or pages follow.)*

**LOWER COLORADO RIVER AUTHORITY**

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

Dennis B. Daniel


Manager, Customer and Business Strategy

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

10-19-2009



TRAVIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 12

By:   
Daniel Robertson  
President, Board of Directors

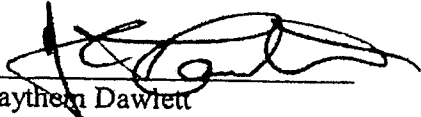
Date: 10/20/09

Rough Hollow Development, Ltd, is executing this Agreement for the sole purpose of confirming its guarantee of certain payments to be made by District No. 12 under this Agreement, as set forth in Section 7.15 of this Agreement.

**ROUGH HOLLOW DEVELOPMENT, LTD.,**  
a Texas limited partnership

By, JHVL, L.P., a Texas corporation, its General Partner

By:

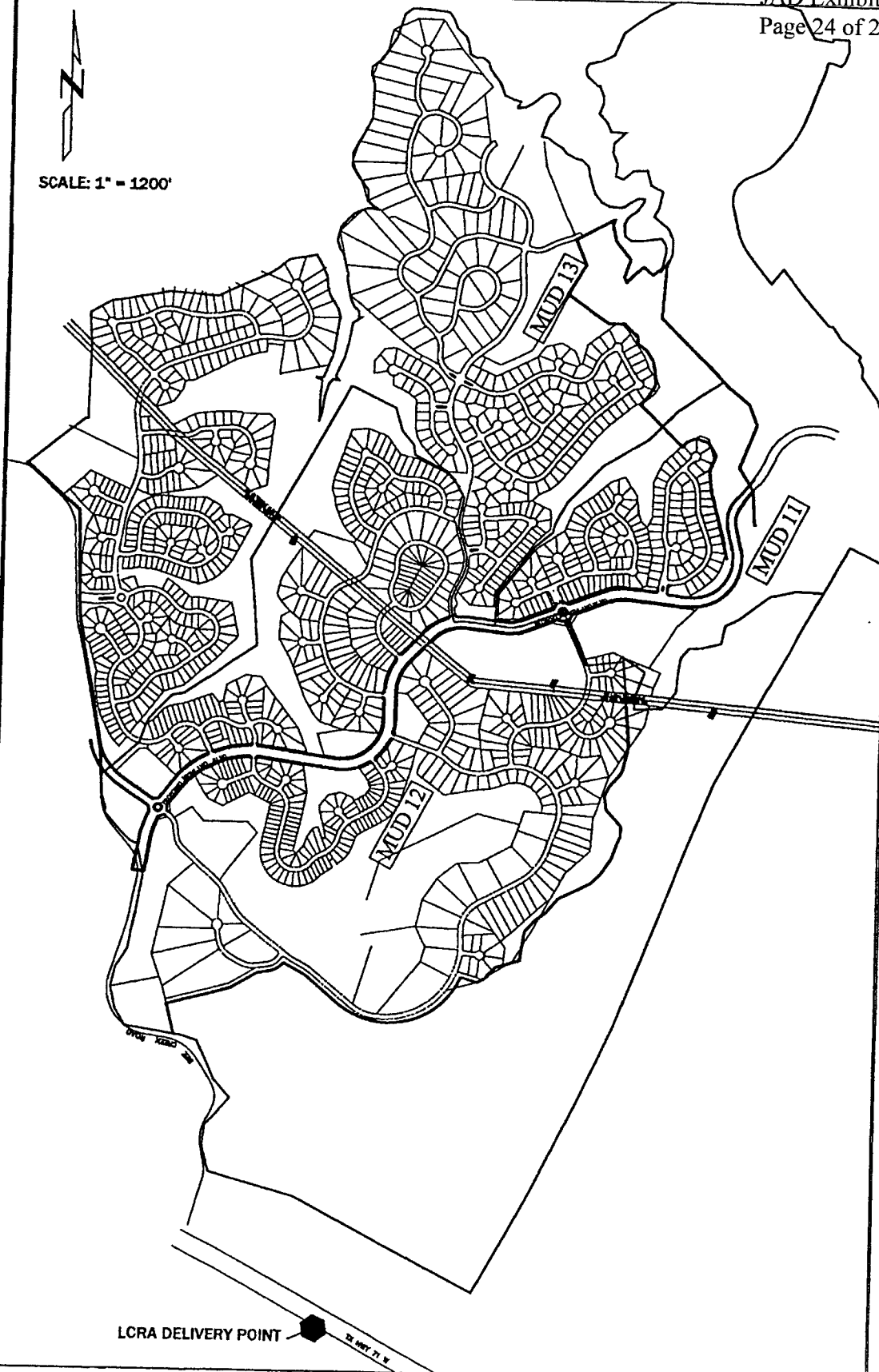
  
Haythem Dawlett  
Vice President

Date:

10/22/09



SCALE: 1" = 1200'

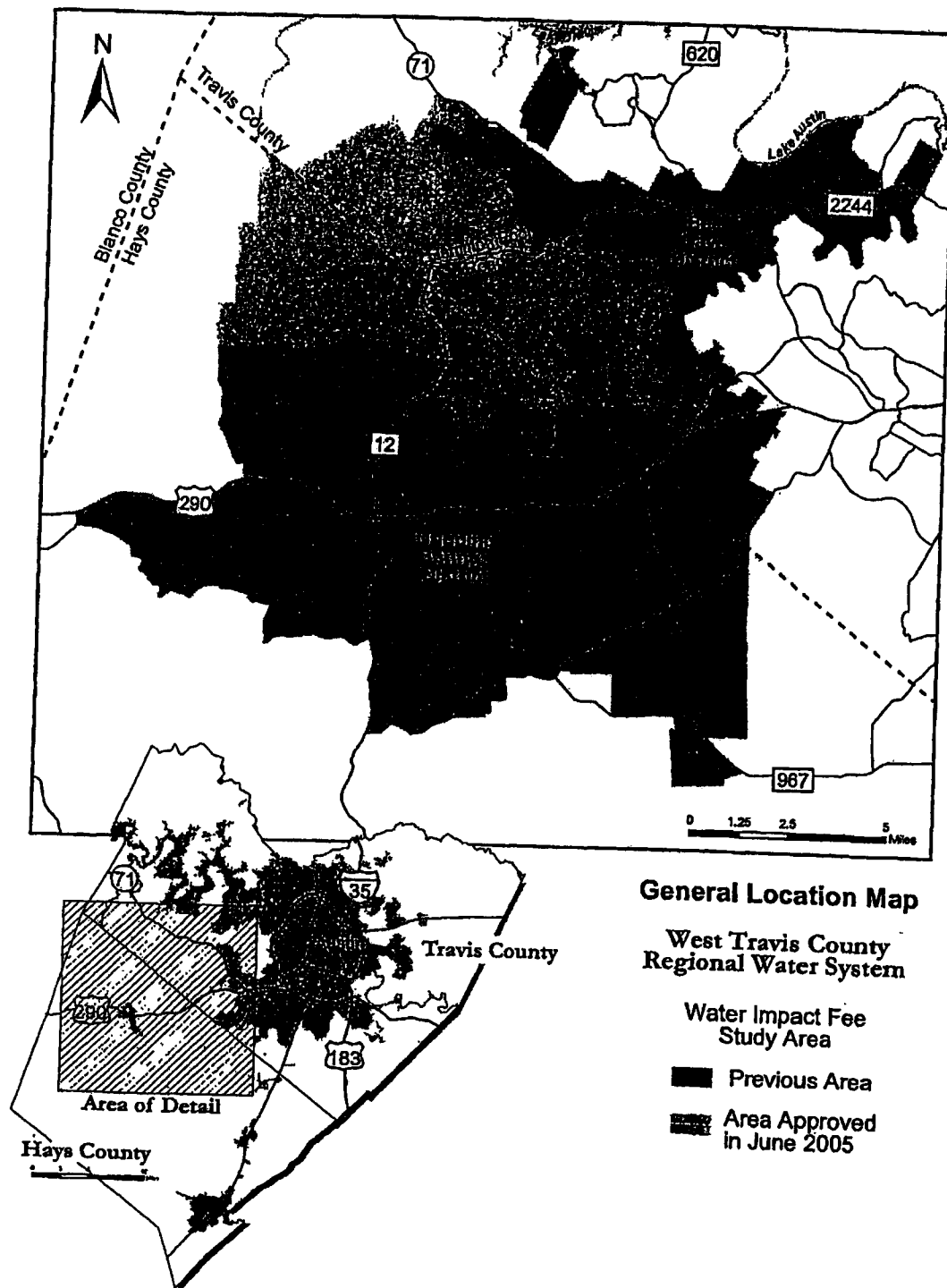


SERVICE AREA MAP AND DELIVERY POINT EXHIBIT  
FOR TRAVIS COUNTY MUNICIPAL UTILITY DISTRICTS 11, 12, & 13



Carlson, Brigrance & Doering, Inc.

Civil Engineering ♦ Surveying  
5501 West William Cannon ♦ Austin, Texas 78749  
Phone No. (512) 280-5160 ♦ Fax No. (512) 280-1168



**EXHIBIT C**  
**PAYMENT SCHEDULE**

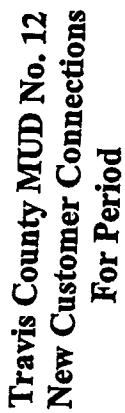
<b>APPLICABLE PERIOD:</b>	<b>MINIMUM PAYMENT:</b>
On Effective Date*	\$350,200
Effective Date through April 1, 2010**	\$350,200
2011***	\$199,900
2012***	\$199,900
2013***	\$199,900
2014***	\$199,900

\* Due and payable within 15 days of the Effective Date of this Agreement.

\*\*Due on or before April 1, 2010, and any shortfall due and payable on or before May 15, 2010, per Section 4.01.a. of this Agreement.

\*\*\*Due on or before May 15 of the year in question, and any shortfall due and payable on or before June 30 of the same year, per Section 4.01.a of this Agreement.





**EXHIBIT D**  
**FORM FOR REPORTS ON SERVICE CONNECTIONS**

**Submit form and applicable payment due monthly to:**  
**Mary Blincoe, Business and Financial Service**  
**LCRA**  
**P.O. Box 220, Mailstop H305**  
**Austin, TX 78767-0220**  
**(512) 473-3338 • [mary.blincoe@lcra.org](mailto:mary.blincoe@lcra.org)**

**IF NO CONNECTIONS WERE MADE AND/OR IF NO CONNECTION FEE PAYMENT IS DUE TO LCRA FOR THE REPORTING PERIOD, THIS FORM MUST STILL BE FILLED OUT (WITH PERIOD IDENTIFIED AT TOP) AND SUBMITTED TO LCRA.**

[illegible]

**AGREEMENT REGARDING TRANSFER OF OPERATIONS OF THE WEST TRAVIS  
COUNTY WATER SYSTEM FROM THE LOWER COLORADO RIVER AUTHORITY,  
TO THE WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY**

This Agreement Regarding Transfer of Operations of the West Travis County Water System from the Lower Colorado River Authority to the West Travis County Public Utility Agency (this "Agreement") is made by and between the Lower Colorado River Authority (the "LCRA"), Travis County Municipal Utility District No. 12 (the "District"), and the West Travis County Public Utility Agency (the "PUA"), to be effective as of March 19, 2012 ("Effective Date").

**RECITALS**

The LCRA is a conservation and reclamation district operating under Article XIV, Section 59 of the Texas Constitution.

The PUA is a public utility agency formed by the City of Bee Cave, Hays County, and West Travis County Municipal Utility District No. 5 for, among other purposes, the purpose of acquiring the West Travis County Water System (the "System") from the LCRA in order to maintain public ownership.

The District is a conservation and reclamation district created and operating pursuant to Chapters 49 and 54 of the Texas Water Code.

The District and the LCRA previously entered into that certain Wholesale Water Services Agreement Between Lower Colorado River Authority and Travis County Municipal Utility District No. 12 dated October 22, 2009 (the "Water Services Contract") governing the LCRA's provision of wholesale water services from the System to the District on behalf of the District, Travis County Municipal Utility District No. 11 ("District No. 11") and Travis County Municipal Utility District No. 13 ("District No. 13").

The LCRA and the PUA have entered into that certain Utilities Installment Purchase Agreement dated January 17, 2012 (the "Sale and Transfer Agreement") pursuant to which the LCRA has agreed to convey all of its rights, title and interests in the System to the PUA for ownership, operation and maintenance, subject to any outstanding obligations and responsibilities applicable to the LCRA with respect to the System, including the LCRA's obligations under the Water Services Contract.

The purchase price under the Sale and Transfer Agreement is to be paid in installments and the conveyance of the System from the LCRA to the PUA will not be complete until the date of the "Final 2019 Equity Payment" under and as such terms are defined in the Sale and Transfer Agreement (the "Closing"); however, the LCRA wishes to transfer, and the PUA wishes to assume, operations and maintenance responsibilities for the System prior to the Closing. The LCRA and the PUA have requested that the District consent to the LCRA's transfer and the

PUA's assumption of such operations and maintenance responsibilities under the Water Services Contract during the term of the Sale and Transfer Agreement in advance of the Closing. The District is willing to do so, on the terms and conditions of this Agreement.

### AGREEMENT

For good and valuable consideration, the parties agree as follows:

1. The LCRA hereby assigns to the PUA, and the PUA hereby assumes and agrees to perform, all responsibilities, obligations and duties of the LCRA under the Water Services Contract related to operation and maintenance of the System and the delivery of wholesale water service as provided therein effective as of March 19, 2012. Subject to the terms of this Agreement, the District consents to such assignment and assumption; provided, however, that if (a) the LCRA does not finally convey and transfer all legal title and capacity interests in the System to the PUA on the date of the Closing (the "Closing Date"), or (b) if (i) the Closing Date does not occur on or before June 1, 2019 or (ii) the Sale and Transfer Agreement terminates, for any reason (either, the "Termination Date"), then all of the District's consents under this Agreement and such assignment of responsibilities, duties and obligations under the Water Services Contract will immediately terminate as of the earlier to occur of the Closing Date or the Termination Date and all responsibilities, obligations and duties of the LCRA under the Water Services Contract will revert to and be and remain binding upon the LCRA as of that date. Nothing contained in this Agreement will be deemed or construed to amend, diminish or affect the District's rights, the obligations of the LCRA or the obligations of the PUA, as the LCRA's assignee, under the Water Services Contract.
2. The LCRA acknowledges and confirms that the Connection Fees (which term will mean the connection fees paid or to be paid by the District under Section 4.01.a. of the Water Services Contract) listed on Exhibit A, attached hereto and incorporated herein by reference, have been paid by or on behalf of the District under the terms of the Water Services Contract and have been received by the LCRA (the "Paid Connection Fees"). The LCRA and the PUA have requested that, in connection with the assignment and assumption described in Paragraph 1, the District consent to the transfer of the Paid Connection Fees to the PUA. The LCRA and the PUA each confirm and agree that the District is entitled to and will received full credit for the Paid Connection Fees under the terms of the Water Services Contract, and that neither the Sale and Transfer Agreement, the assignment and assumption described in Paragraph 1, the provisions of this Agreement or the transfer of the Paid Connection Fees to the PUA will affect or

diminish such credit or the District's rights under the Water Services Contract. Subject to the foregoing, the District consents to the LCRA's transfer of the Paid Connection Fees to the PUA.

3. The LCRA and the PUA have advised the District that, in connection with the assignment and assumption described in Paragraph 1, the LCRA desires, until the earlier to occur of the Closing Date or the Termination Date, to delegate to the PUA the authority to collect the Connection Fees payable under the Water Services Contract and the authority to set and collect the Monthly Charges and Volume Rates (which terms will mean the monthly charges payable by the District under Section 4.01.d. of the Water Services Contract and the volume rate payable by the District under Section 4.01.e. of the Water Services Contract, respectively and will be referred to in this Agreement collectively the "Water Services Contract Fees"). The LCRA and the PUA agree that the District is entitled to and will received full credit for all Connection Fees and/or Water Services Contract Fees paid to the PUA under the terms of this Agreement, as if the District had paid such Connection Fees and/or Water Service Contract Fees to the LCRA, and that neither the Sale and Transfer Agreement, the assignment and assumption described in Paragraph 1, the provisions of this Agreement or the payment of the Connection Fees and/or Water Services Contract Fees to the PUA will affect or diminish such credit or the District's rights under the Water Services Contract. Subject to the foregoing, and provided that all Connection Fees are collected and credited and all Water Services Contract Fees are set, collected, and credited in strict accordance with the terms of the Water Services Contract, the District agrees that the LCRA may delegate to the PUA authority to collect the Connection Fees and to set and collect the Water Services Contract Fees under the Water Services Contract until the earlier to occur of the Closing Date or the Termination Date. The PUA shall bill and collect payment from the District in strict accordance with the terms and conditions of the Water Services Contract.
4. The LCRA, the PUA and the District agree that the monthly and annual reports from the District for Connection Fees described in Section 4.01b. and Section 4.04b. and 4.04c. of the Water Services Contract and any Connection Fees or Deficiency Amounts (as defined in Section 4.01.a. of the Water Services Contract) shall be submitted to the PUA at the following address:

West Travis County Public Utility Agency  
Attn: Autumn Phillips  
Municipal Accounts & Consulting  
8834 N. Capital of Texas Highway Suite 150  
Austin, Texas 78759

5. The LCRA, the PUA and the District agree that the copies of final subdivision plats required to be provided to the LCRA under Section 4.04a. of the Water Services Contract shall be submitted to the PUA at the following address:

West Travis County Public Utility Agency  
Attn: George Murfee  
1101 South Capital of Texas Highway Suite #d110  
West Lake Hills, Texas 78746-6482

6. By execution of this Agreement, the District expressly consents to the LCRA's assignment of all of its rights, title, interest, obligations and responsibilities under the Water Services Contract to the PUA (the "Assigned Rights and Obligations") on the Closing Date subject to and conditioned upon the PUA's assumption and agreement to perform the Assigned Rights and Obligations and, effective as of and contingent upon the full performance of the obligations of both the LCRA and the PUA under the Sale and Transfer Agreement on the Closing Date, the District releases the LCRA from all Assigned Rights and Obligations arising on or after the Closing Date; provided, however, that such consent and release shall not be effective in the event the District has previously issued a written notice of default under the Water Services Contract to the PUA and/or the LCRA that has not been resolved as of the Closing Date.
7. All notices, requests and demands to be made hereunder to the parties hereto shall be in writing (at the addresses set forth below) and may be given by any of the following means: personal delivery, reputable overnight courier service, or certified, first class mail, return receipt requested. Any communication sent pursuant to this Agreement shall be deemed received upon the earlier of actual receipt or three (3) days after deposit to courier or the mail service. The addresses are as follows and may be changed by notice to the other parties in the manner provided in this Agreement:

To the District: Travis County Municipal Utility District No. 12  
c/o Armbrust & Brown, PLLC  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701

To the PUA: West Travis County Public Utility Agency  
Attn: General Manager  
12117 Bee Cave Road  
Building 3, Suite 120  
Bee Cave, Texas 78738

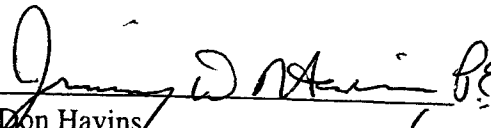
cc: Lauren Kalisek  
Lloyd Gosselink Rochelle & Townsend, P.C.  
816 Congress Avenue, Suite 1900  
Austin, Texas 78701

To the LCRA: Lower Colorado River Authority  
Attn: General Manager  
Cc: Madison Jechow, Associate General Counsel  
3700 Lake Austin Blvd.  
Austin, Texas 78703

8. This Agreement shall be binding upon and inure to the benefit of the LCRA, the District, and the PUA and their successors and permitted assigns. Nothing in this Agreement constitutes or will be deemed to be a consent by the District to any assignment of the Water Services Contract to any party other than the PUA.
9. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without giving effect to the provisions thereof relating to conflicts of laws.
10. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by all of the parties hereto. The provisions of this Agreement are severable and, if any term, covenant or condition of this Assignment is held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement will not be affected and, in lieu of the term, covenant or provision that has been deemed to be illegal, invalid or unenforceable, a provision that is as similar as possible, but is legal, valid and enforceable, will be deemed to be added to this Agreement in order to effect, to the maximum extent possible, the intent of the parties as expressed in this Agreement. This Agreement may be executed in any number of counterpart originals and each counterpart shall be deemed to be an original.
11. This Agreement shall be in effective from the Effective Date until the first to occur of the Closing Date or the Termination Date.


IN WITNESS WHEREOF, the LCRA, the District and the PUA have duly executed this Agreement on the date or dates indicated below, to be effective as of the Effective Date.

**LOWER COLORADO RIVER AUTHORITY**

By:   
Jimmy Don Havins  
Chief Operations Officer

Date: 6/4/12

**ATTEST:**

By:   
Name: Madison Tschow  
Title: Associate General Counsel

**WEST TRAVIS COUNTY PUBLIC UTILITY  
AGENCY**

By: Larry Fox  
Name: Larry Fox  
Title: President

Date: 12 July 2012

**ATTEST:**

By: Ray Whisenant Jr.  
Name: Ray Whisenant  
Title: Secretary/Treasurer



THE DISTRICT:

**TRAVIS COUNTY MUNICIPAL UTILITY  
DISTRICT NO. 12**, a political subdivision of the  
State of Texas

By: RR Griffith  
Robert R. Griffith  
Its: Vice President

Date: 6-19-12



**MUD Boundaries**

	MUD 11
	MUD 12
	MUD 13

Rough Hollow

Lakeway Highlands

PUA Point Of Delivery

175

**THE STATE OF TEXAS        §     AGREEMENT FOR WHOLESALE WATER AND  
                                        §     WASTEWATER SERVICE BETWEEN LAKEWAY  
**THE COUNTY OF TRAVIS §     MUNICIPAL UTILITY DISTRICT AND TRAVIS**  
                                        §     **COUNTY MUNICIPAL UTILITY DISTRICT NO. 11****

THIS AGREEMENT FOR WHOLESALE WATER AND WASTEWATER SERVICE ("Agreement") is between Lakeway Municipal Utility District ("Lakeway") and Travis County Municipal Utility District No. 11 ("District No. 11").

WHEREAS, District No. 11 anticipates the development of a portion of the property within its boundaries, known as Lakeway Rough Hollow and generally depicted on Exhibit "A", attached hereto and incorporated herein for all purposes; and

WHEREAS, Lakeway has existing excess water and wastewater capacity in its water transportation, treatment and distribution facilities and its wastewater collection and disposal facilities; and

WHEREAS, Lakeway and District No. 11 desire to enter into this Agreement to set forth the terms and conditions on which Lakeway will provide wholesale water and wastewater service to District No. 11;

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained in this Agreement, Lakeway and District No. 11 agree as follows:

## ARTICLE I

### DEFINITIONS

**1.01 Definition of Terms.** The following terms, when used in this Agreement, have the meanings set forth below, unless otherwise provided in this Agreement:

(a) Annual average daily volume: the arithmetic average of all daily flows during the preceding 365 days expressed in gpd. The daily flow determinations will be from the flow totalizer associated with the applicable Master Meter(s).

(b) Approved Development: the Development shown on the preliminary plan attached hereto as Exhibit "A" and incorporated herein by reference, and any other Development approved by the Lakeway General Manager in the future pursuant to the provisions of paragraph 2.01(d) of this Agreement.

(c) BOD or Biochemical Oxygen Demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter as determined by standard laboratory procedures for five days at 20° C. expressed as a concentration in milligrams per liter (mg/l).

(d) Connecting Facilities: the Water and Wastewater facilities necessary to connect the Lakeway System to District No. 11's System, including the Master Meter(s), as depicted and more fully described on Exhibit "B", attached hereto and incorporated herein by reference, as well as any future modifications or replacements of such facilities.

(e) Default: the failure of a Party to perform or comply with any of its contractual obligations under this Agreement.

(f) Development: the subdivision of land, the construction or alteration of any structure, or any use or extension of the use of land or of a structure that increases the number of service units for Water or Wastewater service.

(g) District No. 11: Travis County Municipal Utility District No. 11.

(h) District No. 11's System or District No. 11 System: the Water and Wastewater facilities of District No. 11 for distribution of Water from the Master Meter(s) to its customers, and for collection and transportation of Wastewater from its customers to the Master Meter(s) into the Lakeway System.

(i) Domestic Wastewater: water-borne human excreta and gray water of the kind typically received from residential structures and in which the concentration of neither BOD nor TSS exceeds 200 mg/L average over any 24 hour period.

(j) EPA: the United States Environmental Protection Agency.

(k) gpd: gallons per day.

(l) gpm: gallons per minute.

(m) Infiltration: water that enters a Wastewater collection system through defects such as cracks or breaks in the piping, manholes, or other appurtenances.

(n) Inflow: water that enters a Wastewater collection system through direct sources such as drain spouts, manholes, clean-outs, or other appurtenances.

(o) Lakeway: Lakeway Municipal Utility District.

(p) Lakeway General Manager: the General Manager of Lakeway or his authorized designee.

(q) Lakeway System: Lakeway's Water treatment, storage and transmission facilities used to supply Water to District No. 11 and Lakeway's Wastewater collection, treatment, effluent storage and disposal system, including any receiving stream in the event of a discharge of treated Wastewater, used to provide service to District No. 11 under this Agreement.

- (r) Lakeway System Improvements: the improvements to the Lakeway System required in order for Lakeway to provide service under this Agreement, as described on Exhibit "C".
- (s) LCRA: the Lower Colorado River Authority.
- (t) LUE: one residential living unit or its equivalent for planning purposes as determined based on the Equivalency Chart attached as Exhibit "E".
- (u) Master Meter(s): any water meter installed at a Point of Entry to measure the quantity of Water supplied by Lakeway to District No. 11 or any flow meter installed at a Point of Entry to measure the quantity of Wastewater delivered by District No. 11 to Lakeway, as determined by the context in which the term is used.
- (v) mg/L: milligrams per liter.
- (w) Monthly average daily volume: the arithmetic average of all daily flows during the preceding 30 days expressed in gpd. The daily flow determinations will be from the flow totalizer associated with the Master Meter.
- (x) Non-Domestic Wastewater: Wastewater that is not Domestic Wastewater.
- (y) Party: a party to this Agreement, i.e., Lakeway or District No. 11, as determined by the context. Parties means both Lakeway and District No. 11.
- (z) Points of Entry: connections to the Lakeway System approved by Lakeway where Water will pass to District No. 11's System from the Lakeway System, or where Wastewater will pass from District No. 11's System into the Lakeway System, as determined by the context in which the term is used. The initial Points of Entry, which have been approved by Lakeway, are set forth on the attached Exhibit "B".
- (aa) Rate Manual: the Lakeway Municipal Utility District Rate Manual, Fourth Edition, as it may be amended from time to time.
- (bb) Rough Hollow: Rough Hollow Development, Ltd., a Texas limited partnership.
- (cc) Service Area: the area described on Exhibit "A" that is to be provided with wholesale Water and Wastewater service from the Lakeway System under this Agreement.
- (dd) TCEQ: the Texas Commission on Environmental Quality, or its successor agency.

(ee) TSS or Total Suspended Solids means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid which is removable by laboratory filtering expressed in milligrams per liter.

(ff) Wastewater: liquid or water borne waste, including, without limitation, Domestic Wastewater, industrial waste or other wastes, whether separate or commingled.

(gg) Water: water suitable for use of domestic and municipal purposes that meets state regulatory requirements for public use and consumption.

## ARTICLE II PROVISION OF WHOLESALE SERVICE

### 2.01 Level of Wholesale Service.

(a) Provision of Wholesale Water and Wastewater Service to Service Area. Subject to the terms and conditions of this Agreement and the requirements of applicable law, Lakeway commits and agrees, at all times during the term of this Agreement, to provide a Water supply for Development within the Service Area and to accept and treat Wastewater from Development within the Service Area. Lakeway will operate, maintain, repair, and replace the Lakeway System in accordance with all applicable regulatory requirements and accepted good utility operating practices. Lakeway will promptly make any repairs to the Lakeway System required to enable Lakeway to provide continuous and adequate service under this Agreement, and will take all steps reasonably necessary to remedy any upsets, overflows or interruptions of operation of its Wastewater treatment facilities and to avoid or eliminate odors, nuisances and hazards to public health or Water quality. Lakeway will maintain the Lakeway System in good condition and working order and will operate it, or cause it to be operated, in an efficient and economical manner, at reasonable cost and in accordance with sound business principles.

(b) Limit on Service. The provision of Water by Lakeway under this Agreement shall be limited to a maximum peak day volume of 362,500 gallons. The provision of Wastewater service by Lakeway under this Agreement shall be limited to a maximum annual daily average volume of 78,000 gpd, a maximum monthly daily average volume of 94,800 gpd, and a maximum two-hour peak volume of 216 gpm.

(c) Control of Volume Limits. Lakeway will measure service to District No. 11 in LUEs. Initially, one LUE for Water is a maximum daily volume of 967 gpd and one LUE for Wastewater is an annual average daily volume of 208 gpd, a monthly average daily volume of 253 gpd and a maximum two-hour volume of .576 gpm. Attached as Exhibit "E" is an LUE equivalency chart showing the number LUEs assigned to various types of Development for planning purposes and the number of LUEs assigned to each meter size. The meter size equivalencies will be used to determine the actual LUE count. If a customer installs and utilizes a separate Water meter for irrigation, no Wastewater LUEs will be assigned to the irrigation meter and no Wastewater charges will be assessed based on Water usage through that meter.

(d) Development Approvals. Subject to the volume limits specified in paragraph 2.01(b) above, Lakeway confirms its approval of the Water and Wastewater requirements of the Approved Development set forth on Exhibit "A". Lakeway and District No. 11 acknowledge that the proposed 387 LUEs shown for the Approved Development set forth on Exhibit "A" exceed the 375 LUEs available to District No. 11 pursuant to paragraphs 2.01(b) and 2.01(c) of this Agreement. Accordingly, it will only be possible to serve all of the LUEs shown on Exhibit "A" if the redefinition of an LUE pursuant to paragraph 2.01(e)(iii) of this Agreement causes the number of LUEs that can be served within the limits prescribed in paragraph 2.01(b) to be sufficient for that purpose. In the event that the redefinition of an LUE is such that the service can be provided to Approved Development and to additional Development of land within the Service Area, then, before any additional Development of land within the Service Area which will be provided with Water or Wastewater service under this Agreement other than the Approved Development, District No. 11 will provide information on the proposed Development to the Lakeway General Manager, including a calculation of the number of Water and Wastewater LUEs that will be required for the project. The Lakeway General Manager will review the information within 21 days of receipt and, if he determines that the proposed Development will not cause the limits on service specified in paragraph 2.01 (b) above to be exceeded, he shall inform District No. 11 in writing within such 21-day period, and that Development will become Approved Development. If the Lakeway General Manager reasonably determines that the proposed Development will cause the limits specified in paragraph 2.01 (b) above to be exceeded, he shall inform District No. 11 in writing within such 21-day period and shall specifically identify the basis for his determination. District No. 11 may then either (i) appeal the decision of the Lakeway General Manager to the Lakeway Board of Directors by delivery of written notice, in which case the matter will be placed on the next Lakeway Board meeting agenda for consideration, (ii) deny permission to the developer to proceed, (iii) invite the developer to redesign the project, and resubmit it to the Lakeway General Manager pursuant to the foregoing provisions of this paragraph, or (iv) pursue an alternative source of Water supply and Wastewater treatment for the capacity requirements for the project which are in excess of the limits on service specified in 2.01(b). If the Lakeway General Manager does not approve or disapprove the proposed Development within the 21-day review period, the proposed Development will be deemed approved; if, however, any invoice from Lakeway to District No. 11 is more than 30 days past-due at the time the Development in question would otherwise be deemed approved, then, in that event, the review period will be extended and will not be deemed to have commenced until such past-due invoice is paid. District No. 11 will pay Lakeway's standard review fees for any reviews under this subparagraph, as established in Lakeway's rate order.

(e) Monitoring of Capacity. When any builder applies for approval of a connection to the District No. 11 System, District No. 11 will allocate a number of LUEs to that connection, based on the LUE meter equivalency chart attached as Exhibit "E".

(i) District No. 11 will submit a monthly report to Lakeway setting forth the number of active and inactive connections; the types of connections, including the meter

size; and the use of the structure to which the connection has been made. For example, the type of connection may be single-family residential, multi-family residential, restaurant, office, school or any other use.

(ii) Lakeway will make an annual report to the District No. 11 on the number of LUEs used by District No. 11, based on existing connections and projected new connections included in Approved Development, and the total number of LUEs served by the Lakeway System as of the date of the report.

(iii) When existing connections within District No. 11 generate 50% of the volume limits set forth in paragraph 2.01(b) above, Lakeway will redefine an LUE and the LUE equivalency chart attached as Exhibit "E" will be revised based on historical usage within District No. 11 and reasonable engineering judgment, and will give written notice to District No. 11 of the results of this process. Thereafter, Lakeway will repeat this process annually. Lakeway will continue to allow new connections until, in Lakeway's reasonable judgment, the volume limits set forth in paragraph 2.01(b) above have been reached.

(iv) If Lakeway reasonably determines that a volume limit set forth in paragraph 2.01(b) has been reached, or will be reached at build-out of Approved Development, it will give written notice to District No. 11. Following receipt of such notice, District No. 11 will not accept applications for new Development that will be served through the Lakeway System; provided, however, that District No. 11 shall have the right to obtain an alternative source of Water supply and Wastewater treatment for any capacity requirements which are in excess of the limits on service specified in 2.01(b).

(f) Approval of Concept Plans. If, for planning purposes, District No. 11 desires to quantify the future Development that can be approved without exceeding the Water or Wastewater flow limits set forth in paragraph 2.01(b), District No. 11 may submit a concept plan showing Approved Development and proposed new Development to Lakeway and request such a determination. In such case, Lakeway will review the submittal within 21 days of receipt and notify District No. 11 whether it agrees that the proposed new development shown on the concept plan will not cause the Water and Wastewater flows to exceed the limits specified in paragraph 2.01(b). The concept plan shall include a projected LUE count for Approved Development and proposed new Development. District No. 11 will pay Lakeway's standard review fees for any reviews under this subparagraph, as established in Lakeway's rate order.

2.02 District No. 11's Retail Responsibilities. District No. 11 will be responsible for providing retail Water and Wastewater service to its customers. District No. 11 will be responsible for ensuring compliance by its retail customers with the applicable terms of this Agreement and for the application of its own policies and regulations governing connections to the District No. 11 System.

2.03 Water Conservation and Water Rationing. District No. 11 has been required to adopt a water conservation and drought contingency plan under the terms of its raw water contract with



the LCRA. District No. 11 agrees to adopt voluntary and mandatory water conservation and water rationing measures and use restrictions at least as restrictive as those imposed by Lakeway on its own retail customers and will provide Lakeway with a copy of the order or resolution adopting its water conservation and drought contingency plan within 30 days after the date of this Agreement. Lakeway will give written notice to District No. 11 of the implementation and termination of any conservation or rationing measures, and District No. 11 will notify its individual customers of the measures then in effect.

2.04 Curtailment of Service. District No. 11 agrees that, if Water or Wastewater service is curtailed within Lakeway or to other wholesale customers of Lakeway System, Lakeway may impose a corresponding curtailment on wholesale service delivered to District No. 11. This Agreement will not be construed to prohibit Lakeway from curtailing service to District No. 11 completely, if necessary for the completion of a maintenance operation or capital replacement, or if required due to an emergency, provided that the curtailment is only for the reasonable period necessary to complete the maintenance operation or capital replacement or repair or to respond to the emergency. Water and Wastewater service to District No. 11, and any curtailment of such service, will be nondiscriminatory and consistent with Lakeway's policies and regulations applicable to other customers of the Lakeway System.

2.05 Cooperation During Maintenance or Emergency. District No. 11 will cooperate with Lakeway during periods of emergency, replacement of facilities, or required maintenance. If necessary, upon prior notice from Lakeway sufficient to allow District No. 11 to notify its customers, District No. 11 will discontinue use of, cycle, test, inspect or otherwise operate and maintain its lift stations or other Water and Wastewater equipment in a manner reasonably determined by the Lakeway General Manager to be necessary to the safe and efficient completion of repairs or the replacement of facilities, the restoration of service, and the protection of the public health, safety, and welfare.

2.06 Fire Flow. In the event any regulatory authority having jurisdiction requires improvements to the Lakeway System or the District No. 11 System specifically relating to fire flow within the Service Area, such fire flow improvements will be designed and constructed by District No. 11, at its sole cost. The design of any such fire flow improvements will subject to approval by Lakeway in conformance with the procedures set forth in Section 4.04.

### ARTICLE III EXCEEDANCE OF SERVICE LIMITS

3.01 Water Limits. (a) If, at any time, the volume of Water supplied to District No. 11 exceeds any of the limits on service set forth in paragraph 2.01(b), Lakeway shall provide written notice to District No. 11. District No. 11 shall have 90 days from receipt of such notice to develop a plan to address the cause of the excess and to commence the implementation of the plan. If, following one year from the date of the notice, District No. 11 remains in violation of the applicable service limits set forth in paragraph 2.01(b) and Lakeway reasonably determines that District No. 11 has not addressed the cause of the excess, then, unless District No. 11 obtains

an alternative source of Water supply to meet its capacity requirements which are in excess of the limits on service specified in 2.01(b), District No. 11 shall purchase additional capacity in the Lakeway System for a purchase price equal to the cost of providing that additional capacity in the Water components of the Lakeway System, as reasonably determined by Lakeway, to provide the increased Water supply required to serve District No. 11. Lakeway shall provide six months' written notice to District No. 11 of the proposed improvements required to provide the additional capacity and their estimated cost, Lakeway's calculation of District No. 11's prorata share, and Lakeway's proposed method of financing the cost of the improvements. Unless District No. 11 obtains an alternative source of Water supply for its requirements which are in excess of the limits on service specified in 2.01(b), District No. 11 will pay its share of such costs on or before the expiration of such six-month period.

(b) If, after the adjustment described in the foregoing subparagraph occurs, the volume of Water delivered to District No. 11 exceeds any of the limits on service set forth in paragraph 2.01(b), plus any excess capacity for which payment was made pursuant to the preceding subparagraph, the parties shall again proceed in the manner described in the foregoing subparagraph.

3.02 Wastewater Limits. (a) District No. 11 will undertake reasonable measures to prevent entrance of Infiltration and Inflow into District No. 11's System. If Wastewater delivered by District No. 11 to the Master Meters exceeds 344 gpd per LUE (which is twice the current dry weather daily average flow) in any 24-hour period, District No. 11 will promptly present to Lakeway, for review and approval, an action plan to reduce Infiltration and Inflow. Upon receipt of Lakeway's approval of the action plan, District No. 11 will promptly proceed to implement that plan.

(b) If, at any time, the volume of Wastewater delivered by District No. 11 to the Lakeway System exceeds any of the limits on service set forth in paragraph 2.01(b), Lakeway shall provide written notice to District No. 11. District No. 11 shall have 90 days from receipt of such notice to develop a plan to address the cause of the excess and to commence the implementation of the plan. If, following one year from the date of the notice, District No. 11 remains in violation of the applicable service limits set forth in paragraph 2.01(b) and Lakeway reasonably determines that District No. 11 has not addressed the cause of the excess, then, unless District No. 11 obtains an alternative source of Wastewater treatment to meet its capacity requirements which are in excess of the limits on service specified in 2.01(b), District No. 11 shall purchase additional capacity in the Lakeway System for a purchase price equal to the cost of providing such additional capacity in the Wastewater components of the Lakeway System, as reasonably determined by Lakeway, to accommodate the increased flows being delivered by District No. 11. Lakeway shall provide six months' written notice to District No. 11 of the proposed improvements required to provide the additional capacity and their estimated cost, Lakeway's calculation of District No. 11's prorata share, and Lakeway's proposed method of financing the cost of the improvements. Unless District No. 11 obtains an alternative source of Wastewater treatment to meet its capacity requirements which are in excess of the limits on

service specified in 2.01(b), District No. 11 will pay its share of such costs on or before the expiration of such six-month period.

(c) If, after the adjustment described in the foregoing subparagraph occurs, the volume of Wastewater from District No. 11 exceeds any of the limits on service set forth in paragraph 2.01(b), plus any excess capacity for which payment was made pursuant to the preceding subparagraph, the parties shall again proceed in the manner described in the foregoing subparagraph.

3.03 Determination of Cost. The cost of any improvements made under this Article III shall include all reasonable and necessary costs of planning, design, construction, permitting, legal, engineering and other costs and fees which are reasonably incurred and related to the construction of the improvements.

#### ARTICLE IV

#### DESIGN AND CONSTRUCTION OF WATER AND WASTEWATER FACILITIES

4.01 Lakeway System Improvements. (a) The Lakeway System Improvements, which Lakeway has determined are necessary to the existing Lakeway System in order for Lakeway to provide the service required under this Agreement, are described on Exhibit "C". Lakeway will be responsible for the design, engineering, construction and installation of the Lakeway System Improvements in accordance with this Article. ~~The cost of the Lakeway System Improvements will be paid by District No. 11.~~ Phase 1 of the Lakeway System Improvements will consist of the water booster pump upgrade, the wastewater lift station pump upgrade, and the coatings described on Exhibit "D". Design of Phase 1 will be commenced within 30 days and completed within 120 days of the Effective Date, and construction will be commenced within eight weeks of District No. 11's approval of the plans for Phase 1 and diligently pursued to completion. Phase 2 of the Lakeway System Improvements will consist of the force main replacement and relocations described on Exhibit "C". Design of Phase 2 will be commenced within 60 days and completed within 120 days after Lakeway determines that such improvements are required, and construction will be commenced within eight weeks of District No. 11's approval of the plans for Phase 2 and diligently pursued to completion.

(b) Upon completion of the plans for each phase of the Lakeway System Improvements, Lakeway will submit a set of the plans to District No. 11 for review and approval. District No. 11's approval of any plans for the Lakeway System Improvements will not be unreasonably withheld. District No. 11 agrees to review the plans in question and either approve them or provide written comments specifically identifying any requested changes within 21 days of receipt. If District No. 11 fails to either approve the plans or provide written comments within this 21-day period, the plans in question will be deemed approved. No changes to the approved plans which would adversely affect Lakeway's ability to serve District No. 11 as provided in this Agreement or the cost of the Lakeway System Improvements may be made to any approved plans unless the changes are submitted to District No. 11, which will have the same review and approval rights as provided above.

(c) The contract for construction of each phase of the Lakeway System Improvements will be advertised for bid by Lakeway in accordance with all applicable legal requirements, including Section 49.273, *Texas Water Code*. Lakeway will give District No. 11 notice of the bid opening, and District No. 11 will have the right to attend the bid opening, and to review the bid tabulation and the bids received. The contract for construction of each phase will be awarded by Lakeway to the lowest responsible bidder.

(d) At such time as Lakeway awards a contract for the construction each phase, Lakeway will give written notice to District No. 11, accompanied by a copy of the accepted bid, and District No. 11 will obtain and deliver to Lakeway, within 30 days thereafter, a cash fiscal deposit in an amount equal to 110% of the contract price, together with the engineering, testing and inspection fees relating to the phase in question, currently estimated to be 20% of the contract price. This fiscal deposit will be held by Lakeway in an interest-bearing account, and all accrued interest will be added to the principal amount of the fiscal deposit. The fiscal deposit will be used solely to pay costs of the Lakeway System Improvements as contemplated by this Section.

(e) The Lakeway System Improvements will be constructed in a good, workmanlike and cost-effective manner, and all material used in such construction will be substantially free from defects and fit for its intended purpose. District No. 11 may, at its own expense, inspect the construction.

(f) During construction, Lakeway will provide District No. 11 with monthly status reports, which will include all pay estimates and change orders received.

(g) Lakeway will use the fiscal deposit provided by District No. 11 to fund the cost of each phase of the Lakeway System Improvements. If, at any time, the cost of a phase of the Lakeway System Improvements exceeds the cash fiscal deposit described in Paragraph 4.01(d), Lakeway will give written notice to District No. 11 and District No. 11 will provide additional funds to Lakeway in an amount sufficient to pay the excess costs as they become due. Upon completion of each phase, Lakeway will provide an accounting of the amounts expended from the fiscal deposit to District No. 11, and will refund any remaining balance of the fiscal deposit to District No. 11.

(h) Lakeway acknowledges that the sums required to finance the Lakeway System Improvements will be advanced by Rough Hollow, subject to its right to be reimbursed for such sums in accordance with its reimbursement agreement with District No. 11, and agrees to provide any documents or information reasonably required by District No. 11 related to such reimbursement.

4.02 Connecting Facilities, Master Meters and Points of Entry. Lakeway agrees to deliver and provide Water to District No. 11 at the Master Meters to be installed at the initial Points of Entry indicated on Exhibit "B", and to such other Master Meters at other Points of Entry as may be requested by District No. 11 and approved in writing by the Lakeway General Manager.

Lakeway agrees to accept and treat Wastewater delivered from District No. 11 to the Wastewater Master Meter at the Point of Entry indicated on Exhibit "B", and to such other Master Meters as may be requested by District No. 11 and approved in writing by the Lakeway General Manager. Lakeway's General Manager will not unreasonably withhold or delay its approval of any proposed Points of Entry. District No. 11 will be responsible for the design, engineering, construction and installation of the Connecting Facilities in accordance with this Article; provided, however, that Lakeway will contract with TG Electric Engineering for the electrical work required for the Connecting Facilities identified on Exhibit D-1 at a cost of \$98,870, which will be paid by District No. 11 in addition to the costs of design, engineering, construction and inspection and other related costs.

4.03 Standards for Plan Approval. The plans and specifications for all facilities constructed to serve the Service Area, including the Connecting Facilities, the internal facilities comprising the District No. 11 System, and the Lakeway System Improvements, will conform to all applicable federal, state and local laws, ordinances, and regulations in effect at the time of submission, including those of the City of Lakeway, and will meet or exceed the standards of Lakeway. Lakeway acknowledges and agrees that District No. 11 has utilized the standards of the City of Austin as the basis for design of the facilities constructed to date, that Lakeway has approved the plans and specifications for the facilities comprising the District No. 11 System described on Exhibit "D", and the plans for the Connecting Facilities described on Exhibit "D".

4.04 Approval of Plans. All plans and specifications for the Lakeway System Improvements, any future additions to the District No. 11 System, and any future modifications or replacements of the Connecting Facilities to be constructed by District No. 11 will be subject to review and approval of Lakeway or its designee prior to commencement of construction, which approval will not be unreasonable withheld or delayed. District No. 11 agrees that it will pay Lakeway's standard fees for such review. Any plans and specifications submitted under this Section will be reviewed by Lakeway within 21 days of submittal. If any plans are not approved, Lakeway will provide written comments to District No. 11 within the 21-day review period, specifying all changes that will be required for approval of the plans and specifications. Within 21 days of the date the changes specified in Lakeway's written comments are made and the plans resubmitted, Lakeway will approve the plans and no additional unrelated changes to the plans will be required. If Lakeway fails to provide written comments within the 21-day review period, the plans in question will be deemed approved; if, however, any invoice from Lakeway to District No. 11 is more than 30 days past-due at the time the plans in question would otherwise be deemed approved, then, in that event, the review period will be extended and will not be deemed to have commenced until such past-due invoice is paid.

4.05 Easements and Rights-of-Way. The acquisition of all easements and rights-of-way necessary for construction of the Connecting Facilities will be the responsibility of District No. 11; however, Lakeway agrees to grant, at no cost to District No. 11, any easements for the Connecting Facilities required on land owned or controlled by Lakeway. The form and content of easements for any Connecting Facilities to be dedicated to Lakeway under this Agreement will

be subject to review and approval by Lakeway's attorney, which approval will not be unreasonably withheld or delayed. Lakeway further agrees to provide District No. 11 and its contractors with access to its existing facilities as necessary for the purpose of construction of the Lakeway System Improvements and the Connecting Facilities.

4.06 Notice of Construction. District No. 11 will deliver written notice to the Lakeway General Manager at least 30 days prior to commencing the construction of any future Connecting Facilities. This notice will describe the facility to be constructed, the location of the construction, the proposed date for commencement of construction, the timetable for construction and any other material aspect of the proposed construction.

4.07 Costs for Extension of Water and Wastewater Service. District No. 11 will be responsible for the items listed, except for work to be done by TG Electric, for which Lakeway will contract.

4.08 As-Built or Record Drawings Required. District No. 11 will provide as-built or record drawings of all Connecting Facilities and facilities comprising the District No. 11 System to the Lakeway General Manager. District No. 11 will exercise reasonable diligence to secure the required as-built or record drawings within a reasonable time following the completion of the facilities for which the drawings are to be produced, which will not exceed 90 days from the date of completion and acceptance of the facility.

4.09 Ownership, Operation and Maintenance. Upon completion of construction by District No. 11, the Lakeway System Improvements and the Connecting Facilities will be accepted by Lakeway for ownership, operation and maintenance and title thereto shall immediately vest in Lakeway, without further action, and without the necessity of any conveyance documents.

## ARTICLE V METERING OF FLOWS

5.01 Metering. Lakeway shall operate and maintain all Master Meters and shall read them on a daily basis, except on weekends and state and federal holidays. District No. 11 shall have access to the Master Meters at all times. Lakeway shall keep accurate records of all measurements of Water and Wastewater passing through the Master Meters and the records shall be open to inspection by District No. 11 during business hours. Upon written request of District No. 11, Lakeway will give District No. 11 copies of such records or permit District No. 11 to have access to the same in the office of Lakeway during business hours.

5.02 Calibrations. (a) Lakeway will calibrate all Master Meters annually, or more frequently at District No. 11's request. If District No. 11 requests calibration of a Master Meter more frequently than once every 12 months and, upon calibration, the Master Meter in question proves to be accurate, then the cost of the calibration will be borne by District No. 11. Any Master Meter registering within 4% accuracy will be deemed to be accurate.

(b) If any Master Meter tests to be inaccurate by more than 4%, all testing and calibration costs will be borne by Lakeway, the Master Meter will be recalibrated or replaced, and a billing adjustment will be made based on the degree of the Master Meter's inaccuracy, as determined by the test. If Lakeway can reasonably estimate the time at which the Master Meter became inaccurate, Lakeway will make a billing adjustment based on that time period. If Lakeway cannot reasonably estimate the time at which the Master Meter became inaccurate, then Lakeway will make a billing adjustment to no more than the previous six months' billings. If a Master Meter is out of service or under repair so that the amount of Water delivered or Wastewater collected cannot be ascertained or computed from the reading thereof, the Water delivered or Wastewater collected during the period such Master Meter was out of service or repair shall be estimated and agreed upon by the Parties hereto upon the basis of the best data available.

## ARTICLE VI RATES AND CHARGES

### 6.01 Wholesale Water and Wastewater Rates.

(a) Water Charges. On the Effective Date of this Agreement, District No. 11 shall pay Lakeway the total sum of \$86,250 for the commitment of Water service under this Agreement from March 1, 2005 through April 30, 2006. Beginning on May 10, 2006, and continuing on the 10<sup>th</sup> day of each month thereafter, District No. 11 shall pay \$7,500 to Lakeway or the "volume charge", whichever is greater, for the wholesale Water service provided pursuant to this Agreement. The Water volume charge will be determined by dividing the number of gallons of Water delivered to District No. 11 by 1,000 and multiplying the resulting number by the Water rate described in the following paragraph 6.01(c).

(b) Wastewater Charges. On the Effective Date of this Agreement, District No. 11 shall pay Lakeway the total sum of \$172,500 for the commitment of Wastewater service under this Agreement from March 1, 2005 through April 30, 2006. Beginning on May 10, 2006, and continuing on the 10th day of each month thereafter, District No. 11 shall pay to Lakeway \$15,000 or the Debt Service Component Charge, whichever is greater, plus the "Wastewater volume charge". The Wastewater volume charge will be determined by dividing the number of gallons of Wastewater received by Lakeway from District No. 11 by 1,000 and multiplying the result by the Wastewater rate described in the following paragraph 6.01(c). The Debt Service Component Charge is a charge in lieu of ad valorem taxes that is intended to be substantially equivalent to the portion of Lakeway's ad valorem tax rate which is allocable to debt service, and maintenance tax other than that used for inflow and infiltration, on the Wastewater components of the Lakeway System and which is paid by Wastewater customers living within Lakeway. The Debt Service Component Charge will be calculated by Lakeway annually on a prorata basis using the Travis Central Appraisal District assessed value of all properties within District No. 11 that are served or may in the future be served by District No. 11 through this Agreement and all properties outside District No. 11 that are served by District No. 11 through this Agreement,

related to the total Travis Central Appraisal District assessed value of all properties within Lakeway, plus the assessed value of all properties provided with out-of-district retail service by Lakeway and any wholesale customers which pay a similar charge to Lakeway, with each change becoming effective on the first day of Lakeway's fiscal year. Lakeway will give written notice to District No. 11 of the Debt Service Component Charge within 15 days of the date the Lakeway Board of Directors sets the ad valorem tax rate each year.

(c) Rates.

(i) For the fiscal year ended September 30, 2005, the rate for Water was \$4.86 per 1,000 gallons, and the rate for Wastewater was \$6.42 per 1,000 gallons. The rates for the fiscal year beginning October 1, 2005 and ending September 30, 2006 have been calculated in accordance with the methodology described below, and, as so calculated for the 2005-2006 fiscal year, the rate for Water is \$5.24 per 1,000 gallons, and the rate for Wastewater is \$6.77 per 1,000 gallons.

(ii) Each year, Lakeway will determine its budget for Water and its budget for Wastewater, using the methods set forth in Lakeway's Rate Manual. The sum of the budgets will be Lakeway's budgeted costs, other than taxes and Debt Service Component Charges. Lakeway will deduct from its budget for Water its customer billing and collections costs, and the revenue budgeted to be received from the volume charges to District No. 11. Lakeway will divide the resulting costs for Water by the total volume of Water sold by Lakeway in the preceding test year. The rate for Water effective on October 1 of each year will be increased or decreased from the rate for the previous year by the percentage change in the number derived under the preceding sentence compared to the corresponding number in the prior year. The rate for Wastewater will be changed in like manner. An example of the application of the foregoing methodology is set forth on Exhibit "F". On October 1, 2006 and on each October 1 thereafter, the rates charged by Lakeway for Water and Wastewater under this subparagraph may be increased or decreased in accordance with the methodology described above. Lakeway will give written notice to District No. 11 of any change in the rates on or before September 1 of each year commencing in 2006, for any change to become effective on the following October 1.

(iii) District No. 11 has previously entered into a raw water contract with the LCRA, which will be the source of the raw water treated and delivered by Lakeway under this Agreement. As District No. 11 will pay all costs of raw water to be treated and delivered by Lakeway under this Agreement, the cost of raw water per 1,000 gallons which is charged by the LCRA for water delivered under its raw water contracts for municipal purposes (currently, \$0.35 per 1,000) will be deducted from the rate per 1,000 gallons established by Lakeway in (i) and (ii), above.

(d) Corrosion and Odor Control and Other Costs. Any extraordinary operations and maintenance costs incurred by Lakeway after commencement of service under this Agreement that are directly attributable to Wastewater received from District No. 11 which are not included in Lakeway's costs used to compute the Wastewater rates as set forth herein,



shall be surcharged to District No.11 in the next month's bill. Any extraordinary operations and maintenance costs incurred by Lakeway that are directly attributable to Water delivered to District No. 11 that are not costs included in Lakeway's costs used to compute the Water rate as set forth herein shall also be surcharged to District No.11 in the next month's bill. Lakeway will include documentation supporting any such surcharge, including a detail of the costs incurred and the basis for attributing the costs to District No. 11. The parties acknowledge that certain facilities identified by Lakeway will be coated in order to inhibit corrosion, as more fully described in Exhibit "D". If, in the future, Lakeway's General Manager determines, in his sole discretion, that Wastewater delivered by District No. 11 requires treatment for odor, Lakeway may require District No. 11 to install biofilter systems, chemical feed systems and other reasonably required systems to neutralize odors. District No. 11, at its sole cost, will be responsible for the design, engineering and construction, according to plans approved by Lakeway, of such system.

6.02 District No. 11 Water and Wastewater Rates and Charges and Taxes.

(a) District No. 11 shall be solely responsible for establishing its tax rates and Water and Wastewater rates, charges and fees, and for billing and collecting the same in accordance with applicable law. Any failure to collect from its customers will not affect District No. 11's obligation to make all payments due to Lakeway under this Agreement.

(b) District No. 11 represents and has determined that the Water and Wastewater services to be obtained pursuant to this Agreement are necessary and essential to the present and future operation of the District No. 11 System and, accordingly, all payments required by this Agreement to be made by District No. 11 shall constitute reasonable and necessary operating expenses of District No. 11's System with the effect that the obligation to make such payments from revenue of that system shall have priority over any obligation to make any payments from such revenues, whether of principal, interest, or otherwise, with respect to all bonds heretofore or hereafter issued by District No. 11.

(c) District No. 11 agrees throughout the term of this Agreement to continuously operate and maintain District No. 11's System, and to fix and collect such rates and charges for Water and Wastewater services, which, together with any lawfully available tax or other revenue, will produce revenues in an amount sufficient to make all payments under this Agreement, all other amounts as required by provisions of the orders or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, and all costs of the operation and maintenance of District No. 11's System.

6.03 Billing. Lakeway shall bill District No. 11 one time each month for the amounts owed for Water and Wastewater service. Each bill shall be paid to Lakeway, at its office address specified below, on or before twenty (20) days from the date of mailing of the bill to District No. 11 (the "Due Date").

6.04 Late Charges. Any amount billed to District No. 11 that is not paid by the Due Date shall accrue an immediate 10% penalty. District No. 11 further agrees to pay all costs of collection, including reasonable attorney fees.

6.05 Effect of Nonpayment. If Lakeway has not received payment from District No. 11 within 30 days from the Due Date of the monthly bill, or other bill, the bill will be considered delinquent. In the event of any delinquency by District No. 11 in the payment of its bill, Lakeway will give written notice to District No. 11 of such delinquency and, if District No. 11 fails to make payment of the delinquency amount within 30 calendar days from the date of receipt of the written notice, then Lakeway may, at its discretion, restrict service to District No. 11 to volumes sufficient to service existing connections until payment is made. District No. 11 agrees that it will not allow or make any new Water or Wastewater connections to District No. 11's System after it receives the foregoing written notice until the delinquency is cured.

6.06 Billing Disputes. If District No. 11 disputes a bill, it shall nevertheless pay the bill, in full, pending such refund as may be determined as a result of appeal of the disputed bill. The dispute may be resolved by agreement, or by appropriate administrative agency or court decision. District No. 11 reserves all rights, at law or in equity, which it has to appeal or challenge any disputed bill.

6.07 Guaranty of Payment by Rough Hollow or its Successor. Rough Hollow agrees to guarantee all payments to be made by District No. 11 under this Agreement until such time as 166 single family living units or their equivalent based on the equivalency chart attached hereto as Exhibit "E" are connected to District No. 11's System and receiving utility services. If, prior to the time this customer level is reached, District No. 11 fails to make any payment required hereunder as and when due, then Lakeway will give written notice to Rough Hollow and Rough Hollow will make the payment in question within 15 days thereafter. If Rough Hollow fails to make any required payment, Lakeway may pursue all legal remedies for such failure, in addition to all remedies provided under this Agreement. At such time as District No. 11 has 166 single-family living units or their equivalent connected to District No. 11's System, Lakeway will look solely to District No. 11 for all future payments coming due under this Agreement and Rough Hollow will have no further liability hereunder. Rough Hollow may assign its obligations under this Section to a subsequent owner of a majority of the land within the Service Area. Any such assignment must be in writing, include the name and mailing address of the assignee, be signed by Rough Hollow and the assignee, and include an express assumption by the assignee of Rough Hollow's obligations under this Section, and will be effective upon delivery of a copy of the written assignment to Lakeway.

## ARTICLE VII WASTEWATER QUALITY

7.01 Condition of Wastewater Delivered. District No. 11 agrees to use good faith, diligent efforts to operate and maintain the District No. 11 System so as to ensure that Wastewater

delivered to the Lakeway System will be in a condition that is non-corrosive, not unacceptably odorous and otherwise non-injurious to the Lakeway System.

7.02 Non-Domestic Wastes.

(a) District No. 11 acknowledges that Lakeway may establish and amend from time to time reasonable rules and regulations applicable to the entire Lakeway System and its customers which specify:

(i) types and quantities of discharges that are prohibited from entry into the Lakeway System;

(ii) discharge prohibitions for certain substances;

(iii) pretreatment, permitting, monitoring, and other requirements for persons who discharge prohibited substances; and

(iv) measures to protect the Lakeway System.

(b) District No. 11 will require all persons discharging Wastewater containing Non-Domestic Waste to the District No. 11 System to comply with Lakeway's rules and regulations regarding pretreatment. Persons discharging Non-Domestic Waste must abate prohibited substances from their waste stream and conform their discharges to Lakeway's requirements and District No. 11's regulations respecting the discharge of Non-Domestic Waste and pretreatment, which regulations include, but will not be limited to, a requirement for grease interceptors for restaurants and commercial kitchens.

(c) District No. 11 will submit all plans for projects involving Non-Domestic Waste to Lakeway for approval, before the connection is made. Lakeway will determine whether District No. 11's wastewater plumbing code, which shall be the same as Lakeway's wastewater plumbing code, will adequately provide for the proposed Non-Domestic Waste. If not, Lakeway will prescribe reasonable pretreatment requirements, which will be incorporated into the permit for the project.

(d) Upon Lakeway's request, District No. 11 will seek injunctive or other appropriate relief to prohibit Wastewater discharges that will damage Lakeway's System, pass through Lakeway's System without adequate pretreatment, interfere with Lakeway's treatment system, interfere with Lakeway's compliance with its TCEQ waste discharge permit or otherwise pose an imminent danger to public health, or if a specific customer is not making sufficient progress toward implementing an approved pretreatment system.

(e) District No. 11 will reimburse Lakeway for any reasonable legal, engineering or other consultant expense that Lakeway incurs in addressing Non-Domestic Waste that it receives from District No. 11.

7.03 Sampling and Testing.

(a) District No. 11 agrees that Lakeway will have the right, at its option and expense, to sample Wastewater discharges within the District No. 11 System.

(b) District No. 11 will make necessary arrangements for and provide assistance to Lakeway in obtaining lawful access to sampling points within District No. 11. District No. 11 agrees that its rules will provide that any of its individual customers found to be in violation of District No. 11's rules regarding allowable discharges or who refuse access for the purpose of sampling may be disconnected from District No. 11's System, subject to compliance with applicable legal requirements and the rules of the TCEQ.

(c) Unless otherwise determined by Lakeway, all samples will be collected and analyzed in accordance with the methods approved by EPA as set forth in Title 40, Code of Federal Regulations, Part 136, as amended.

ARTICLE VIII  
STANDARDS FOR CONNECTIONS TO DISTRICT NO. 11'S SYSTEM

8.01 Construction and Testing Criteria for Wastewater Connections.

(a) The physical connection of each service line to the District No. 11 System will be the responsibility of District No. 11 and will not be left to the discretion of the plumber or contractor, unless the plumber or contractor is under the direct supervision of, or the work is inspected by, District No. 11's authorized representative.

(b) District No. 11 will maintain strict supervision and maintenance of its Wastewater facilities to prevent connections such as roof drains, air conditioning condensate, or any other connections that allow surface drainage to enter the District No. 11 System and then discharge to the Lakeway System.

(c) District No. 11 will adopt the same Wastewater plumbing code that is adopted by Lakeway. If Lakeway thereafter amends its plumbing code, it will give written notice of the amendment to District No. 11, which will then adopt conforming amendments to its own code. Connections made to the District No. 11 System will only be made using materials permitted by the code. District No. 11 will inspect all connections to the District No. 11 System.

ARTICLE IX  
LIABILITY FOR DAMAGES AND RESPONSIBILITY FOR TREATMENT AND DISPOSAL  
OF WASTEWATER

9.01 Liability for Wastewater. Liability for damages to third persons arising from the reception, transportation, delivery, and disposal of Wastewater under this Agreement will remain with District No. 11 on its side of and at the Points of Entry. With the exception of Wastewater

that is corrosive, unacceptably odorous or otherwise injurious to the Lakeway System, liability for damages to third persons arising from and responsibility for the reception, transportation, treatment and disposal of Wastewater will pass to Lakeway upon passing through the Point of Entry. District No. 11 shall remain liable for all Wastewater that it delivers to Lakeway that is corrosive, unacceptably odorous or otherwise injurious to the Lakeway System.

9.02 Liability for Water. Lakeway will be responsible for the proper treatment of Water and for the delivery of Water meeting the applicable standards of the TCEQ to the Points of Entry. Liability for damages to third persons arising from the delivery of Water under this Agreement will remain with Lakeway on its side of and at the Points of Entry. Upon passing through the Points of Entry, liability for damages to third persons arising from delivery of Water will pass to District No. 11.

#### ARTICLE X FORCE MAJEURE

10.01 Effect of Force Majeure. Neither Lakeway nor District No. 11 shall be liable for delays or defaults in its performance of any agreement or covenant hereunder due to "Force Majeure." The term "Force Majeure" as employed herein shall mean: any act of God including but not limited to storms, floods, washouts, droughts, landslides, and lightning; acts of a public enemy, wars, blockades, insurrections, or riots; strikes or lockouts; epidemics or quarantine regulations; laws, acts, orders, or requests of federal, state, municipal, or other governments or governmental officers or agents under color of authority; freight embargos or failures; exhaustion or unavailability or delays in delivery of any product, labor, service or material. In the event of an occurrence of Force Majeure, the Party whose performance is so affected must give notice and the full particulars of such Force Majeure to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure, will be suspended during the continuance of the inability then claimed but for no longer period and such party will endeavor to remove or overcome such inability with all reasonable dispatch.. The settlement of strikes, lockouts and other industrial or labor disturbances will be entirely within the discretion of the Party having the difficulty and the requirement that any Force Majeure be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the Party having the difficulty.

#### ARTICLE XI REGULATORY COMPLIANCE

11.01 Agreement Subject to Applicable Law. This Agreement will be subject to all valid rules, regulations, and applicable laws of the United States of America, the State of Texas, or any other governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

11.02 Cooperation to Assure Regulatory Compliance. Since both parties must comply with all federal, state, and local requirements to obtain permits, grants, and assistance for system construction and studies, and other purposes related to their utility systems, District No. 11 and Lakeway will cooperate in good faith at all times to assure compliance with any applicable governmental requirements where noncompliance or non-cooperation may subject a Party to penalties, loss of grants or other funds, or other adverse regulatory action.

11.03 Preservation of Tax Exemption of Bonds. Notwithstanding anything to the contrary in this Agreement, neither Lakeway nor District No. 11 will be required to do anything that might jeopardize the tax exempt status of its bonds.

## ARTICLE XII TERM OF AGREEMENT; DEFAULT

12.01 Term of Agreement. This Agreement will become effective on the date of due execution by the authorized representatives of Lakeway and District No. 11 and continue for a period of 30 years thereafter, unless earlier terminated in accordance with the provisions hereof or extended by agreement of the Parties.

12.02 Default Process. The following provisions will apply in the event of a Default:

(a) Default Proceedings for Non-Payment of Delinquent Bill. The default procedure for non-payment of the bills shall be as set forth in Article VI of this Agreement, and, to the extent not remedied by that procedure, shall be as set forth in the following paragraph 12.02(b).

(b) Process for Defaults Other Than Non-Payment of Delinquent Bill. If one Party believes that the other Party is in Default of any provision of this Agreement, the non-defaulting Party will give written notice to the other Party, specifying the event of Default and extending the defaulting Party 90 days to cure the Default or, if the curative action cannot reasonably be completed within 90 days, 90 days to commence the curative action and thereafter to diligently pursue the curative action to completion. This 90 day period for notice and opportunity to cure must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting Party due to an alleged Default. The non-defaulting Party must mitigate any direct or consequential damages arising from any Default to the extent reasonably possible under the circumstances. The Parties agree that they will use good faith, reasonable efforts to resolve any dispute by agreement, including engaging in non-binding arbitration, mediation or other alternative dispute resolution methods as recommended by the laws of the State of Texas, before initiating any lawsuit to enforce their respective rights under this Agreement. If the default is not cured within the 90 day period, or if curative action is not commenced or diligently pursued in the case of curative action that cannot reasonably be completed in 90 days, the non-defaulting party may pursue all remedies, at law or in equity, that it deems appropriate to redress such default. Except as stated in the following sentence, nothing in this Agreement will be construed to limit either Party's right to recover damages or to seek other appropriate curative

remedies if a non-defaulting Party files a breach of contract action relating to this Agreement. Neither Party shall be liable to the other Party for special, consequential, incidental, punitive or indirect damages or lost profits.

12.03 Specific Performance. The Parties recognize that discontinuance of Water and Wastewater service, or even the drastic curtailment of service is often an unattainable remedy and that continuation and adequate Water and Wastewater service is essential because of the potential threat to the health, safety, and welfare and property of residents and property owners. The Parties will therefore have recourse to all rights and remedies in law and equity available to enforce the terms of this Agreement including, without limitation, the rights of specific performance and mandamus actions to enforce the terms of this Agreement.

#### ARTICLE XIII ASSIGNMENT

13.01 Assignment. Except for the assignment permitted in paragraph 6.07, this Agreement shall not be assignable by either Party without the prior written approval of the other Party, which approval shall not be unreasonably withheld.

#### ARTICLE XIV GENERAL PROVISIONS

14.01 Covenant of Good Faith and Fair Dealings. Lakeway and District No. 11 agree to cooperate and to deal with one another fairly and in good faith at all times to effectuate the purposes and intent of this Agreement. They also agree to execute and deliver such further legal documents or instruments and to perform such further acts as are reasonably necessary to effectuate the purposes and intent of this Agreement.

14.02 Notices. Any notice to be given hereunder by either party to the other party shall be in writing and may be effected by personal delivery, by confirmed facsimile, or by sending said notices by registered or certified mail, return receipt requested, to the address set forth below. Notice shall be deemed given when received by facsimile or by personal delivery, or three days after deposited with the United States Postal Service with sufficient postage affixed. Any notice mailed to Lakeway shall be addressed:

Lakeway Municipal Utility District  
1097 Lohmans Crossing Road  
Lakeway, Texas 78734  
Attn: General Manager  
Ph (512) 261-6222  
Fax (512) 261-6681

Any such notice mailed to District No. 11 shall be addressed:

Travis County Municipal Utility District No. 11  
c/o Armbrust & Brown, L.L.P  
100 Congress Avenue, Suite 1300  
Austin, Texas 78701  
Attn: Sue Brooks Littlefield  
Ph (512) 435-2300  
Fax (512) 435-2360

Either Party may change the address or facsimile number for notice to it by giving notice of such change in accordance with the provisions of this paragraph.

14.03 Waiver. The failure on the part of either Party to require performance by the other of any portion of this Agreement shall not be deemed a waiver of, or in any way affect that Party's rights to enforce such provision. Any waiver by either Party or any provision of this Agreement shall not be a waiver of any other provision hereof.

14.04 Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement. If any provision of this Agreement or the application thereof to any person or circumstances is ever held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of that provision to other persons or circumstances will not be affected and this Agreement will be construed as if the invalid or unconstitutional portion had never been contained herein.

14.05 Attorney's Fees. In the event either Party shall become a party to any litigation against the other to enforce or protect any rights or interest under this Agreement and shall prevail, the losing Party shall reimburse the prevailing party for all reasonable court costs and attorney's fees incurred in such litigation.

14.06 Governing Law. This Agreement shall be governed by the laws of the State of Texas and venue shall lie in Travis County, Texas.

14.07 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

14.08 Time. Time is of the essence in the performance of this Agreement. Unless otherwise specified, all references to "days" means calendar days. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

14.09 No Partnership, Agency or Third Party Beneficiaries Intended. Nothing in this Agreement will be construed as creating any form of partnership or joint venture relationship



between the Parties, nor shall either Party be authorized to act as an agent for the other Party. Nothing in this Agreement shall be construed to confer any right, privilege or benefit on, or to otherwise create any vested right or third-party beneficiary relationship with any person or entity not a party to the Agreement.

14.10 Authority. Each of the persons signing on behalf of District No. 11 and Lakeway hereby confirm that they have the authority to execute this Agreement on behalf of the Party indicated by their signature and have the authority to bind such Party hereto.

14.11 Headings. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and will have no bearing upon its interpretation.

14.12 Compliance with All Laws. District No. 11 and Lakeway agree that each of them will comply with all applicable federal, state, and local laws and any applicable ordinances, rules, orders, and regulations of any of the authorities having jurisdiction in carrying out their duties and obligations hereunder. However, nothing contained in this Agreement shall be construed as a waiver of any right to question or contest any law, ordinance, order, rule, or regulation in any forum having jurisdiction.

14.13 Entire Agreement. This Agreement contains all agreements between the parties hereto with regard to the subject matter of this Agreement, and any agreement not contained herein shall not be recognized by the parties. The captions used herein are for convenience only and shall not be used to construe this Agreement. Words of gender shall be construed to include any other gender, and words in the singular shall include the plural and vice versa unless the context requires otherwise.

14.14 Counterparts. This Agreement may be executed by the Parties in any number of counterparts, each of which when so executed and delivered shall be deemed an original instrument, but all such counterparts together shall constitute but one and the same instrument.

14.15 Cost of Contract Preparation. District No. 11 will pay for legal and engineering expenses associated with development of this Agreement. Lakeway has received an advance of \$30,000 for these expenses. Upon execution of this Agreement, Lakeway will invoice and District No. 11 will pay for any expenses in excess of \$30,000, or, if the total expenses are less than \$30,000, Lakeway will return any excess funds to District No. 11.

14.16 Effective Date. This Agreement will become effective on the date of execution by the authorized representatives of both Lakeway and District No. 11.

14.17 Exhibits. The following exhibit is attached to this Agreement and incorporated herein by reference.

Exhibit "A":	Rough Hollow Service Area and Approved Development
Exhibit "B":	Lakeway Connecting Facilities; including Points of Entry

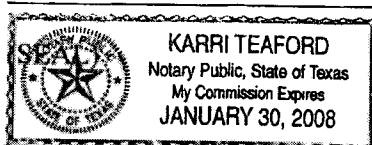
Exhibit "C": Lakeway System Improvements  
Exhibit "C-1": Water Model Letter from Third Coast Engineering (Alan Phillips)  
dated June 6, 2005  
Exhibit "C-2": Map depicting lines to be abandoned, embankment slope easement  
and line relocation  
Exhibit "D": Approved plans for Connecting Facilities and District No. 11  
System  
Exhibit "D-1": TG Electrical Engineering letter dated July 15, 2005  
Exhibit "D-2": Rough Hollow Meter Vault Installations dated May 2005  
Exhibit "E": LUE Equivalency Chart  
Exhibit "F": Example of Volume Rate Change Calculation

LAKEWAY MUNICIPAL UTILITY DISTRICT

By: Thomas J Rogers Jr  
Name: Thomas J ROGERS JR  
Title: Resident  
Date: April 6, 2006

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

THIS INSTRUMENT was acknowledged before me on this the 6<sup>th</sup> day of  
April, 2006, by Thomas J Rogers,  
of Lakeway Municipal Utility District, on behalf of the District.



Karri Teaford  
Notary Public Signature