functionally a part of the Plant as the same may exist from time to time (for example, and not by way of limitation, police, fire and emergency medical service facilities and other facilities of a public nature). Such additional facilities shall not constitute any part of the Plant or the Project for purposes hereof, and the City shall be permitted from time to time to redefine the Site to exclude therefrom the real property on which such additional facilities may from time to time be located and such real property adjacent thereto as in the opinion of the City should appropriately be apportioned to such additional facilities, provided that such adjacent real property is not needed to remain a part of the Project for the proper operation of the Plant. The City shall also be entitled (a) to sell, assign or release from time to time portions of the Site that, in the opinion of the City, are not required for the proper operation of the Plant and to redefine the Site to exclude therefrom such portions as may be so sold, and (b) to acquire from time to time additional property (whether by fee, leasehold, easement or otherwise) that, in the opinion of the City, is necessary or appropriate for the proper operation of the Plant and to redefine the Site to include therein such additional property. Following any such redefinition of the Site pursuant to either of the two preceding sentences, the

City shall provide to LCRA a then-current metes and bounds description of the Site as so redefined, which description shall be set forth in a revised Exhibit "B." In addition, in connection with the erection, operation and maintenance of any such additional facilities and any such redefinition of the Site, the City shall be entitled to establish such easements and rights-of-way over, upon and under the Site in favor of such additional facilities as the City may deem appropriate, provided that they do not prevent the proper operation of the Plant. The provisions of this Subsection 2.1(b) shall continue to apply after LCRA has become a Participant (as hereafter defined) and shall be incorporated in the Participation Agreement contemplated in Section 2.8 below.

(c) In the event LCRA becomes a Participant, the City, as Plant Manager, shall establish such easements and rights-of-way as may be necessary or appropriate over, upon and under the Site in favor of the City and LCRA for their respective pipelines and appurtenant facilities used by each of them to convey treated water from the point of delivery of the Plant.

Section 2.2 LCRA Permit and Commencement of Construction. LCRA hereby issues to the City the permit concerning

the Lake Travis intake facility attached hereto as Exhibit "C." Acceptance of such permit by the City shall not in any way be construed as an agreement or admission by the City that such permit is required prior to the City's construction, operation, maintenance, expansion or modification of the Plant. LCRA agrees that no further authorizations are required to be obtained by the City from LCRA prior to the City's construction, operation and maintenance of the Plant as contemplated herein, or prior to any expansion or modification of the Plant that does not disturb the bed of Lake Travis.

The City agrees to commence construction of the initial phase of Water Treatment Plant 4 with a Lake Travis intake facility within a reasonable time after the date that Articles II, III, IV and V of this Agreement take effect pursuant to Section 1.3, above; provided, however, that if Articles II, III, IV and V of this Agreement do not take effect within one year after the date of this Agreement, then the City shall have no obligation to commence construction of any portion of Water Treatment Plant 4 or the Lake Travis intake facility within any particular time, or at all.

Section 2.3 Notification of Initial Completion Date. If a Lake Travis intake facility is constructed for Water Treatment Plant 4, then, within 180 days after the date on which the construction of the initial phase of such intake facility and all other components of the Plant is determined by the City to be complete (the "Initial Completion Date"), the City shall deliver to LCRA written notice of the Initial Completion Date, a complete set of as-built plans and specifications of the Plant as then constructed, a metes and bounds description of the Site, a statement of the Plant Capacity as then constructed, and a detailed statement of the Initial Project Cost (as defined in Section 2.15 below). LCRA shall have the right, for a period of not to exceed 180 days after its receipt of the notice setting forth the Initial Completion Date unless the City agrees to an extension of time, to inspect and audit, at LCRA's own cost and expense and at times which are mutually convenient, so much of the City's books and records as may be necessary to verify the Initial Project Cost. The City shall have no obligation to construct the initial phase of Water Treatment Plant 4 to any particular nominal rated treatment capacity or, except as otherwise provided in Section 2.2, above, to commence or complete construction of the initial phase of the Plant or any part thereof by any particular date or

dates, or at all. The Initial Completion Date cannot occur unless the City constructs a Lake Travis intake facility for Water Treatment Plant 4. Except as otherwise provided in Section 2.2, above, the City shall have no obligation to construct a Lake Travis intake facility for Water Treatment Plant 4, and it may obtain raw water for Water Treatment Plant 4 by diversions from Lake Austin and from other sources, instead of or in addition to diversions from Lake Travis.

Section 2.4 Additional Information. The City shall provide to LCRA at the meetings of the Joint Water Oversight Committee established pursuant to Article IV hereof, and at such other times as may be mutually convenient, information in such detail as LCRA may reasonably request regarding the status of the Project with respect to construction of the initial phase and with respect to any expansion or modification thereof, including, for example, technical information regarding the composition and capabilities of the Plant, data regarding the cost of construction and the schedule and performance of work by the various contractors and subcontractors. The City also shall provide information in such detail as LCRA may reasonably request regarding startup and the day-to-day operations of the Plant, including, for

example, the cost to operate and the nature and extent of operations and forecasts of the level of future daily operations. By and through its representatives on the Joint Water Oversight Committee, LCRA shall be granted reasonable access to all information regarding the City's operation of the Plant, including the cost to operate and maintain the Plant, and shall have reasonable access to the Plant for purposes of monitoring the operations thereof and familiarizing LCRA personnel with such operations, provided that such access does not interfere with the City's construction, operation and maintenance of the Plant. In addition, by and through their respective representatives on the Joint Water Oversight Committee, the City and LCRA shall consult with each other regarding the current and projected operations and forecasted capacity needs of each party with respect to the Plant in order to encourage, where appropriate, joint planning for the expansion and modification of the Plant.

Section 2.5 Modifications Prior to LCRA's Initial Acquisition. Prior to LCRA's initial acquisition of an Ownership Interest (as defined in Section 2.7 below), the City may at any time and from time to time modify the Project as desired by the City, including, without limitation, expansions or modifications to the treatment

facilities, the Lake Travis intake facility, and appurtenances thereto (each such expansion or modification being herein called a "Modification"). Any expansion or modification to the Lake Travis intake facility may include, without limitation, construction or installation of additional vertical pump wells, pump suction chambers, pumps, and/or other facilities. Within 180 days after the date on which any such Modification is determined by the City to be complete (the "Modification Completion Date"), the City shall deliver to LCRA written notice of the Modification Completion Date, a complete set of as-built plans and specifications of the Modification and the Plant as then constructed, a metes and bounds description of the Site as it then exists, a statement of the additional nominal rated treatment capacity ("Additional Capacity"), if any, of the Plant after the Modification above the Plant Capacity as it existed before the Modification, and a detailed statement of the Modification Cost (as defined in Section 2.15 below). The City shall have no obligation to construct any Modification which is commenced prior to the time LCRA becomes a Participant to any particular Plant Capacity, or to commence or complete construction of any such Modification or any part thereof by any particular date or dates, or at all. LCRA shall have the right, for a period of not to exceed 180

days after receipt of the notice setting forth the Modification Completion Date unless the City agrees to an extention of time, to inspect and audit, at LCRA's own cost and expense and at times which are mutually convenient, so much of the City's books and records as may be necessary to verify the Modification Cost.

Section 2.6 Option to Purchase Initial Ownership Interest in Project. LCRA desires that it be given a reasonable opportunity to acquire an initial ownership interest in the Plant, and a reasonable opportunity from time to time thereafter to increase such ownership interest. LCRA desires to utilize its share of the Plant capacity at any time to expand the area to be served by the Plant so as to make the Plant a regional water supply facility, by supplying treated water wholesale to cities and towns other than the City and to unincorporated areas that fall beyond the City's extraterritorial jurisdiction. LCRA does not desire to become a retail supplier of treated water, nor does it desire to supply treated water wholesale to areas within the City's extraterritorial jurisdiction.

This Section 2.6 and the subsequent provisions of Article II of this Agreement are intended to satisfy LCRA's desires set forth above. The City and LCRA have agreed to

such provisions pursuant to Section 5 of the Interlocal Cooperation Act, Art. 4413(32c), V.T.C.S. They have agreed to certain provisions, including those contained within Subsections 2.6(c), 2.6(h) and 2.14(c), pursuant to the policy of the State of Texas allowing entities such as LCRA and the City to enter into agreements relating to water supply facilities, including agreements to provide for the reasonable planning and development of such facilities by each, and to define areas to be served by such facilities, which policy is clearly expressed in Section 5 of the Interlocal Cooperation Act, the Municipal Annexation Act, Art. 970a, V.T.C.S., and other laws of the State of Texas. Except as provided otherwise with respect to LCRA in Subsections 2.6(c), 2.6(h) and 2.14(c), nothing herein shall be construed as limiting in any way either party's right to supply water to any area.

(a) The City hereby grants to LCRA an option ("Option"), which may be exercised at the time and in the manner provided in this Section 2.6, subject to the terms and conditions set forth in this Section 2.6, to purchase from the City an initial undivided ownership interest in the Project. The size of such initial undivided ownership interest shall be based upon and consistent with LCRA's request for capacity and shall be determined in accordance

with the provisions of this Section 2.6, and the pertinent Subsections of Section 2.15 hereof; provided, however, that unless LCRA requests an initial undivided ownership interest of 50% of the Project, any such request must be an amount that will provide for LCRA an initial Capacity (as defined in Section 2.12 below) of 5 Mgd, 10 Mgd or some whole number multiple of 10 Mgd, but shall in no event be greater than 50% of Plant Capacity as such capacity exists at the time LCRA acquires such initial undivided ownership interest.

(b) It is recognized by the parties that certain changes may be made with respect to the Project and certain costs may be incurred on the Project that may not be fully reflected in the information otherwise provided by the City to LCRA in accordance with this Agreement. For this reason, and prior to the exercise of the Option, LCRA shall have the right to request (but not more than once annually) that the City provide to LCRA and, if so requested, the City shall provide, a summary report of the Project as it is then comprised, together with a cost recapitulation, so that LCRA shall have available to it information sufficient to estimate, with reasonable accuracy, the cost to LCRA of purchasing from the City an initial undivided ownership interest from the City. To the extent that information earlier provided by the City following the Initial Completion Date

and any Modification Completion Date accurately reflects the Project as it is currently comprised and the costs associated therewith, the report provided for herein shall so state. Such update also shall provide information respecting any repair or replacement of Plant components, the removal of any portion of the real property from the Site, and other such information which affects the amount to be paid by LCRA to the City in such purchase. All costs and expenses incurred by the City in preparing any such update report shall be paid by LCRA as such costs and expenses are incurred. To the extent that any such cost information previously has not been made available for audit by LCRA, LCRA shall have the right, for a period of not to exceed 180 days after its receipt of such update report unless the City agrees to an extension, to inspect and audit, at LCRA's own cost and expense and at times which are mutually convenient, so much of the City's books and records as may be necessary to verify such costs.

(c) LCRA may at any time request in writing that the City deliver to it a detailed description of the boundaries of the extraterritorial jurisdiction of the City at such time. The City shall deliver to LCRA such a description ("Description of Extraterritorial Jurisdiction") within 60 days after its receipt of such request, or within 60 days

after the conclusion of any annexation initiated by the City prior to its receipt of such request. To exercise the Option, LCRA shall deliver to the City, within 30 days after LCRA's receipt of a Description of Extraterritorial Jurisdiction, a written notice of exercise (a "Notice of Exercise"). The Notice of Exercise shall state that LCRA desires to exercise its Option hereunder, shall set forth the date on which LCRA desires to close its acquisition pursuant to the Option ("LCRA's Desired Closing Date"), shall set forth the Capacity that LCRA desires to acquire from the City as a result of its exercise of the Option (the "Desired Capacity"), and shall, if LCRA proposes that such Desired Capacity be used to supply water to one or more Extraterritorial Areas (hereinafter defined), state such proposal, which proposal shall include a detailed description of all such Extraterritorial Areas. An "Extraterritorial Area" is any area described in a notice given by LCRA, that lies within the boundaries of the City's extraterritorial jurisdiction, as such boundaries are described in the Description of Extraterritorial Jurisdiction delivered to LCRA by the City immediately prior to LCRA giving such notice. If the Notice of Exercise does not state that LCRA proposes that such Desired Capacity be used to supply water to one or more Extraterritorial Areas, then such

Notice of Exercise shall be effective upon its receipt by the City. If the Notice of Exercise does state that LCRA proposes that such Desired Capacity be used to supply water to one or more Extraterritorial Areas, then the City, if it plans to supply water to all or any part of any such Extra-territorial Area, shall have the right to reject such Notice of Exercise by delivering to LCRA a written notice of rejection ("Notice of Rejection") at any time within 30 days after its receipt of the Notice of Exercise. If the City delivers such a Notice of Rejection to LCRA within 30 days after the City's receipt of the Notice of Exercise, then the Notice of Exercise shall thereafter be of no further force and effect. If the City plans to supply water to only a portion of any Extraterritorial Area proposed in LCRA's Notice of Exercise, the Notice of Rejection shall so state, and it shall contain a detailed description of the portion of each such Extraterritorial Area to which the City does not plan to supply water. LCRA may deliver another Notice of Exercise at any time after its receipt of a Notice of Rejection and prior to January 1, 2000. Any such subsequent Notice of Exercise must comply with the requirements of an original Notice of Exercise hereunder. If the City fails to deliver to LCRA a Notice of Rejection within 30 days following the City's receipt of a Notice of Exercise which

states that LCRA proposes that its Desired Capacity be used to supply water to one or more Extraterritorial Areas, then such Notice of Exercise shall become effective upon the expiration of such 30-day period. LCRA's Desired Closing Date set forth within a Notice of Exercise shall be not less than 180 days nor more than 270 days after the date on which such Notice of Exercise becomes effective. Once a Notice of Exercise becomes effective, it may not be amended, modified, withdrawn or rescinded except as provided in Subsection 2.6(e) or unless the parties otherwise agree. Once a Notice of Exercise becomes effective, LCRA may not deliver to the City any further Notices of Exercise. The Option may not be exercised prior to the Initial Completion Date, and the Option shall lapse and be of no further force or effect on January 1, 2000 if the Initial Completion Date does not occur prior to such date. The Option also shall lapse and be of no further force and effect on January 1, 2000 if the Initial Completion Date does occur prior to such date, and LCRA subsequently fails to deliver a Notice of Exercise to the City prior to January 1, 2000, or, if LCRA does deliver one or more Notices of Exercise prior to such date, no Notice of Exercise becomes effective prior to such date.

(d) If a Notice of Exercise becomes effective, the City shall have 90 days thereafter to decide whether (i) to

sell LCRA an undivided ownership interest in the Existing Project (hereinafter defined) on the effective date of such Notice of Exercise, in which event LCRA shall pay the City for such undivided ownership interest in the Existing Project the Initial Acquisition Purchase Price at Closing or (ii) to undertake a Modification of the Plant to add as Additional Capacity some or all of the Desired Capacity and then to convey to LCRA an undivided ownership interest in the Project as so modified, in which event LCRA shall be required to pay 100% of the Modification Cost (hereinafter defined) for such Modification. It is understood and agreed, however, that if the Desired Capacity is 5 Mgd, the City shall be obligated to sell LCRA the appropriate initial undivided ownership interest in the Existing Project (determined as of the date of receipt by the City of LCRA's Notice of Exercise commensurate with the Capacity requested by LCRA without first requiring a Modification to add Additional Capacity. The "Existing Project" at any given time shall be the Project as it exists at such time or, if the City has entered into any contractual commitment in respect of or made substantial expenditures for a Modification prior to such time and such Modification is not yet complete, the Project as it will exist on the Modification Completion Date for such Modification. As noted above, in no event and at

no time shall the City be required under this Agreement to sell to LCRA any interest in the Project which would result in LCRA's aggregate undivided ownership interest in the Project exceeding 50% of total Project ownership or would result in LCRA's Capacity exceeding 50% of the total Plant Capacity.

(e) Within 90 days after a Notice of Exercise becomes effective, the City shall give written notice to LCRA (the "Determination of Ownership Interest") which shall set forth the City's election under the preceding Subsection 2.6(d) and shall further specify the undivided percentage ownership interest in the Project to be sold to LCRA. Subject to the limitations set forth in the preceding Subsection 2.6(d), the undivided percentage ownership interest to be sold to LCRA shall be determined as follows:

(1) if the City elects to sell to LCRA an undivided ownership interest in the Existing Project, the undivided ownership interest to be sold (expressed as a percentage) shall be equal to the ratio (expressed as a percentage) that the Desired Capacity bears to the total Plant Capacity of the Existing Project.

(2) if the City elects to provide the Desired Capacity in whole or in part by first

undertaking a Modification of the Project, the undivided ownership interest to be sold (expressed as a percentage) shall be equal to the ratio (expressed as a percentage) that the Desired Capacity bears to the aggregate Plant Capacity that will exist after the completion of the Modification.

In the event that the City elects to provide the Desired Capacity in whole or in part by first undertaking a Modification of the Project, the Determination of Ownership Interest shall include a description of the construction which shall be necessary to effect the proposed Modification, together with the City's best estimate of the cost thereof, in sufficient detail for LCRA to evaluate whether, from a cost and financial standpoint, it desires to proceed with the proposed acquisition and to provide all funds necessary to complete such Modification, as hereinafter provided. LCRA retains the right, for 45 days following its receipt of the above-referenced information, and notwithstanding the effectiveness of its Notice of Exercise, to rescind said Notice of Exercise by delivering to the City a written notice of rescission ("Notice of Rescission") if, because of the proposed cost or because of concerns regarding financing, LCRA does not desire to acquire its initial

interest by way of the proposed Modification. If LCRA fails, for any reason, to provide to the City a Notice of Rescission of its prior Notice of Exercise within 45 days following its receipt of the above-referenced information, LCRA shall be deemed to have reaffirmed its Notice of Exercise and may not thereafter amend, modify, withdraw or rescind said Notice of Exercise unless the parties otherwise agree. The City's estimate of such proposed cost shall not constitute any representation or warranty regarding the actual cost thereof, and should LCRA elect to proceed with its acquisition of its initial undivided ownership interest in the Project, the price therefor shall be the Initial Acquisition Purchase Price (as reduced by all amounts previously paid for the Modification) as determined in accordance with this Section 2.6 and Section 2.15 hereof, whether or not the actual cost of the Modification differs from the City's estimate of such cost.

(f) If the City elects to undertake a Modification to add as Additional Capacity some or all of LCRA's Desired Capacity, the City shall plan, design, construct and complete the Modification (or shall cause it to be planned, designed, constructed and completed) as soon as reasonably practicable, taking into account good utility practices and subject in all respects to all events beyond the reasonable

control of the City including, without limitation, acts of God, weather and climatic conditions, availability of materials, supplies, laborers and contractors, any acts or omissions of third parties, failure or threat of failure of facilities or fuel supply, flood, earthquake, storm, fire, lightning, epidemic, war, acts of the public enemy, riot, civil disturbance or disobedience, strike, lock-out, work stoppages, other industrial disturbance or dispute, sabotage, restraint by court order or other public authority and action or non-action by, or failure to obtain the necessary authorization or approvals from, any governmental agency or authority which by the exercise of due diligence any person relying on the existence of such circumstance to excuse its performance of any obligation (the "Affected Party") could not reasonably have been expected to avoid and which by the exercise of due diligence the Affected Party shall be unable to overcome (all of such events, circumstances and matters being herein called "Force Majeure"). Nothing contained herein shall be construed so as to require any person to settle any strike, lock-out, work stoppage or other industrial disturbance or dispute, nor shall any such event cease to be an event of Force Majeure because any party involved in any such event fails to settle the same. Any such Modification may include, without limitation, expansions or

modifications to the treatment facilities, the Lake Travis intake facility, and appurtenances to both. The entire Modification Cost shall be paid by LCRA, as needed, and prior to commencing construction of the Modification, the City shall be entitled to demand and receive assurances satisfactory to it that the entire Modification Cost will in fact be paid as needed. If the City also desires Additional Capacity, the Modification shall be planned, designed and constructed to include the Additional Capacity desired by the City as well as LCRA's Desired Capacity. In that case, the Modification Cost shall be paid, as needed, by both LCRA and the City in proportion to their respective Additional Capacity included in the Modification, and the City shall be entitled to demand and receive, prior to commencing construction of the Modification, assurances satisfactory to it that each party shall pay its respective share of the entire Modification Cost, as needed. The "Modification Completion Date" for purposes of this Section 2.6 shall be the date on which such Modification is determined by the City to be complete. Within 180 days after the Modification Completion Date, the City shall deliver to LCRA written notice containing the information that would be required if the Modification were undertaken by the City pursuant to Section 2.5 of this Agreement. LCRA shall have the right, for a period of

not to exceed 180 days after receipt of the notice setting forth the Modification Completion Date unless the City agrees to an extension of time, to inspect and audit, at LCRA's own cost and expense and at times which are mutually convenient, so much of the City's books and records as may be necessary to verify the Modification Costs.

(g) The closing (the "Closing") of LCRA's acquisition of its initial undivided ownership interest in the Project shall be held at the offices of the City at 10:00 a.m. on LCRA's Desired Closing Date (or if such Desired Closing Date is not a regular business day for the City, then on the City's first regular business day thereafter) or at such other place, time and date as the parties may mutually agree; provided, however, that if the City has elected to undertake a Modification of the Plant to add as Additional Capacity some or all of LCRA's Desired Capacity, or if the City has elected to sell LCRA an undivided interest in the Existing Plant and to define the Existing Plant as it exists on the Modification Completion date for a Modification for which any contractual commitment or substantial expenditures have been made by the City, then the City shall have the right to postpone the Closing until up to 180 days after the Modification Completion Date for such Modification. At the Closing, the City shall sell and convey to LCRA, and LCRA

shall purchase from the City, the percentage undivided ownership interest in the Project determined in accordance with Subsection 2.6(e) in light of the Desired Capacity specified in the Notice of Exercise. Such conveyance shall be by general warranty deed, by assignment, or both, as appropriate, duly executed and acknowledged by the City wherein the City shall convey to LCRA the specified percentage undivided ownership interest in the Project (including good title in fee to those portions of the Site which the City owns in fee) free and clear of any and all liens, claims and encumbrances then outstanding against the Project, excepting only any such encumbrances as are necessary or appropriate for the operation, management and maintenance of the Project, such encumbrances as are contemplated in Subsections 2.1(b) and (c) above, liens, claims and encumbrances set forth on Exhibit "D" hereto (the "Specified Encumbrances"), and any such other liens, claims or encumbrances that (i) do not materially interfere with the operation of the Project and do not materially detract from the value of the Project, (ii) the City is contesting in good faith and for which the City has provided reasonable financial assurance to the satisfaction of LCRA, or (iii) result from or relate to any failure or default by LCRA with respect to the payment by LCRA of any other

amounts required to be paid by LCRA hereunder; provided, however, that the rights of lessors or other owners (and their respective mortgagees) in and to those portions of the Site that the City does not own in fee (e.g., those portions held by it under leasehold estate or easements or otherwise) shall specifically be permitted (whether or not specified in the preceding list of permitted encumbrances) and shall not constitute liens, claims or encumbrances prohibited hereby. In all other respects the conveyance of the undivided ownership interest in the Project shall be "AS IS" and "WHERE IS." SUCH CONVEYANCE SHALL BE MADE EXPRESSLY WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO THE VALUE, QUANTITY, CONDITION, SALEABILITY, OBSOLESCENCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR SUITABILITY FOR USE OR WORKING ORDER OF THE PROJECT OR ANY PART THEREOF, OR ANY OTHER WARRANTY OR REPRESENTATION WHATSOEVER, ALL OF WHICH ARE DISCLAIMED BY THE CITY AND WAIVED BY LCRA. The preceding language in this Subsection 2.6(g) has been typed in all capitalized letters to satisfy any requirement of law, statute or otherwise that the substance of such language be written in a conspicuous manner. The capitalization of such language does not signify, and shall not be

construed to signify, that provisions of this Agreement which are not presented in all capitalized letters have any less significance or importance. At the Closing LCRA will pay the Initial Acquisition Purchase Price (as hereinafter defined) in cash or such other form as may be acceptable to the City. If the Initial Acquisition Purchase Price cannot be determined definitively as of the date of the Closing, then the Initial Acquisition Purchase Price as estimated in good faith by the City shall be paid by LCRA at the Closing, with any remaining balance to be paid by LCRA or any overpayment to be refunded by the City promptly following the determination of the actual Initial Acquisition Purchase Price, which determination shall be made as soon as practicable.

(h) LCRA's Capacity at any time shall not be used to supply water to any area within the City's Extraterritorial Jurisdiction (hereinafter defined) at such time, other than to Planned Extraterritorial Areas (hereinafter defined) at such time, unless the City so consents in writing. The City's "Extraterritorial Jurisdiction" at any given time is that area within the boundaries of the City's extraterritorial jurisdiction, as such boundaries are described in the Description of Extraterritorial Jurisdiction delivered to LCRA pursuant to which LCRA last acquired any Additional

Capacity under Section 2.14 hereof or, if LCRA had not acquired any Additional Capacity under Section 2.14, pursuant to which LCRA initially acquired Capacity under this Section 2.6. "Planned Extraterritorial Areas" at any time are those Extraterritorial Areas, if any, described within the Request for Additional Capacity delivered to the City by LCRA pursuant to which LCRA last acquired any Additional Capacity under Section 2.14 hereof. If LCRA had not acquired any Additional Capacity under Section 2.14, then "Planned Extraterritorial Areas" at that time are those Extraterritorial Areas, if any, described in the Notice of Exercise delivered to the City by LCRA pursuant to which LCRA initially acquired Capacity under this Section 2.6. Nothing herein shall in any way affect the City's right to annex any lands at any time, including areas that may at that time be supplied water from LCRA's Capacity ("Annexed Areas"). The City may elect, by written notice to LCRA, at any time after annexation of any such Annexed Area, to have LCRA cease supplying water to such Annexed Area, in which case the City shall assume all water supply obligations of LCRA within such Annexed Area and the City shall purchase, and LCRA shall sell, all of LCRA's treated water pipelines and other facilities within such Annexed Area for use by the City in supplying water to such Annexed Area. Within 45

days after receiving the City's notice to have LCRA cease supplying water to such Annexed Area, LCRA shall provide to the City a written statement of the purchase price for such pipelines and facilities (together with such supporting material as the City may reasonably request) and a written summary, in such detail as the City may reasonably request, of the nature and extent of such water supply obligations. In addition, upon any such election, LCRA may elect (by delivering to the City written notice thereof within 45 days after receipt of the City's notice to have LCRA cease supplying water to such Annexed Area) to require the City (i) to purchase all or any part of its Ownership Interest (as hereafter defined) in the Project at such time, and such other LCRA facilities outside such Annexed Area that are used to supply water from LCRA's Capacity and (ii) to assume the related water supply obligations of LCRA from such Capacity. LCRA's written notice of the election prescribed for in the immediately preceding sentence shall also be accompanied by a written statement of the purchase price for the Ownership Interest and the facilities being so purchased and sold and a written summary of such related water supply obligations, in each case in such detail and with such supporting material as the City may reasonably request. The purchase price to be paid for LCRA's Ownership Interest or

any portion thereof shall be the Additional Interest Purchase Price as determined pursuant to Subsection 2.14(d) hereof. The purchase price to be paid for all other LCRA facilities shall be the then-present fair market value of such facilities or LCRA's depreciated book value plus the sum of all interest expense and cost of funds with respect to such facilities, whichever is greater. The City shall have 45 days after the purchase price for LCRA's Ownership Interest and all other LCRA facilities to be purchased and sold pursuant to this Subsection 2.6(h) and the nature and extent of all water supply obligations to be assumed by the City pursuant to this Subsection 2.6(h) have all been determined in which to rescind its election to have LCRA cease supplying water to the Area in question. If the City fails to give written notice of its rescission of such election prior to the expiration of such 45-day period, then the City's election to have LCRA cease supplying water to such Area shall be final and irrevocable, and the closing of the purchase and sale contemplated by this Subsection 2.6(h) shall be held as soon thereafter as is reasonably practicable. It is expressly understood and agreed, however, that the City's acquisition of all or a portion of LCRA's Ownership Interest in the Project, the acquisition of all or a portion of LCRA's other facilities, or the City's assumption

of the obligation to provide treated water to any area previously served by LCRA, as aforesaid, does not create, directly or inferentially, any right in the City to divert any additional raw water from Lake Travis beyond the amount of water otherwise made available to the City under this Agreement.

Section 2.7 Nature of Ownership. Upon the initial Closing and thereafter, each party shall be a participant in the Project ("Participant") and shall own its respective undivided ownership interest in the Project ("Ownership Interest") as a tenant in common with the other Participant, without any right of partition. Each Participant's Ownership Interest shall be expressed as a percentage of a 100% undivided ownership interest in the Project. No partnership or joint venture shall be created hereby or by the Participation Agreement contemplated hereby and except as may be expressly provided herein or in such Participation Agreement, neither party shall have the power to bind the other.

Section 2.8 Participation Agreement. As rapidly as practicable after the date hereof, and in any event prior to LCRA's exercise of the Option, LCRA and the City, through the Joint Water Oversight Committee established pursuant to Article IV hereof, shall develop in good faith, execute and

deliver to each other a Water Treatment Plant 4 Participation Agreement (the "Participation Agreement") which shall govern their joint ownership and operation of the Project following such Closing and throughout the duration of their joint ownership of the Project. The effective date of the Participation Agreement shall be as of the date on which the Closing under Section 2.6, if any, takes place; provided, however, that if the form of the Participation Agreement shall not have been finalized by the date of such Closing, such Closing shall nevertheless proceed, the parties shall continue thereafter diligently and in good faith to finalize the form of, and to execute and deliver, the Participation Agreement, and pending such finalization, execution and delivery the parties shall conduct themselves in accordance with the provisions of this Agreement. If the Participation Agreement takes effect, then it shall remain in full force and effect, subject to prior termination by agreement of the City and LCRA, until the abandonment, sale or other disposition of the Project or until the acquisition by either party of the entire Ownership Interest of the other in the Project. The Participation Agreement shall incorporate the terms and conditions of this Agreement, and it shall contain such other terms and conditions which are necessary to fulfill the intent of the parties hereto, which are fair and

equitable to each party, and which are generally customary in agreements regarding major water treatment plants entered into by and between parties similar to the City and LCRA under facts and circumstances similar to those existing in this matter at this time. The parties agree to attempt in good faith to define in the Participation Agreement a method or procedure which may be used to resolve disputes between them.

Section 2.9 Joint Management Committee. In the event that LCRA exercises the Option, there shall be established, following the Closing under Section 2.6, a Joint Management Committee to generally perform with respect to the Project the function of the "Management Committee" established under the Fayette Power Participation Agreement between the parties dated September 19, 1974, as amended (the "Fayette Agreement"). The Joint Management Committee shall consist of a total of four (4) members. Two (2) representatives each shall be appointed by the City and LCRA by written notice to the other party. In addition, LCRA and the City shall appoint one (1) alternate for each of its designated representatives. Either party may change its designated representative(s) or alternate(s) by written notice to the other party. Each member of the Joint Management Committee

shall be afforded one (1) vote, such vote to reflect from time to time one-half (½) of the then-current Ownership Interest of the party which appointed said member, and the combined votes of members totaling fifty-one percent (51%) of the total Ownership Interests in the Project shall determine the decision of the Joint Management Committee as to all matters within its jurisdiction and brought before it.

Section 2.10 Project Manager. The City shall have the sole right and responsibility to plan, design, construct, operate and maintain the Project, and any Modifications thereof, including Modifications which do, and those which do not, result in any increase in Plant Capacity, notwithstanding any Ownership Interest that LCRA may have in the Project at any time. Such right includes the right to define the facilities and work needed for the initial phase of the Project within the parameters set forth in Section 2.1 hereof, and for any Modification of the Project, it being understood that certain facilities or portions thereof for the initial phase of the Project will be larger than the minimum size or capacity needed to provide the initial Plant Capacity, and that certain facilities or portions thereof for any given Modification may be larger than the minimum

size needed to provide the Additional Capacity, if any, attributable to any such Modification. If LCRA should acquire any Ownership Interest, then, unless the parties otherwise agree, the City shall be the project manager of the Project ("Project Manager") for all purposes, and the Participation Agreement shall so provide. The Project Manager shall have the rights and responsibilities contemplated in the first two sentences of this Section 2.10 and such other rights and responsibilities (consistent with the nature of the Project as a water treatment facility) as are provided for the "Project Manager" under the Fayette Agreement.

Section 2.11 Allocation of Plant Capacity. At any time, each Participant shall be entitled to that portion of the Plant Capacity (and the output of treated water attributable to that portion of the Plant Capacity) equal to the Ownership Interest then owned by such Participant multiplied by the total Plant Capacity at that time. The portion of the Plant Capacity and the related output of treated water to which a Participant is entitled at any time, determined as set forth in the preceding sentence and expressed in terms of Mgd of nominal rated treatment capacity, shall be herein called that Participant's "Capacity." Unless the

parties agree otherwise, neither Participant shall be entitled at any time to treated water from the Project in excess of such Participant's Capacity at that time.

Section 2.12 LCRA's Water Supply and Point of Delivery. LCRA shall be solely responsible for providing all raw water to be diverted from Lake Travis through the Lake Travis intake facility for the Project for the benefit of LCRA or its customers, and all such water shall be treated at the Plant and used for municipal use only. Any raw water that LCRA provides for the benefit of LCRA or its customers shall be in addition to the amounts of water which LCRA commits to supply the City pursuant to Article III hereof. The point of delivery to the Participants of all treated water shall be at the clearwell of the Plant. Neither LCRA nor the City shall have the right to use any of the other's treated water pipelines and appurtenant facilities, it being the intent that each shall rely upon its own treated water pipelines and appurtenant facilities to convey its share of the treated water from the point of delivery.

Section 2.13 Other Expenses. All expenses relating to the operation, maintenance and repair of the Project, the Modification Costs for all Modifications which do not result in an increase in the Plant Capacity, and all expenses

relating to such Modifications, shall be apportioned between the Participants in a fair and equitable manner. Fixed costs generally shall be apportioned between the Participants in proportion to their respective Ownership Interests from time to time, and variable costs generally shall be apportioned between them in proportion to the output of treated water actually taken by them from the Project from time to time.

Section 2.14 Modifications and Acquisitions Subsequent to LCRA's Initial Acquisition.

(a) The City and LCRA recognize that at any time and from time to time after LCRA's initial acquisition of an Ownership Interest in the Plant, either or both of the Participants may wish to increase their Capacities in the Plant by an increase in Ownership Interest in the Plant, by an increase in Plant Capacity, or both. The respective rights and obligations of the parties with respect to these matters and the procedures for giving effect to such rights and obligations are set forth in this Section 2.14 and the pertinent provisions of Section 2.15 hereof.

(b) It is recognized by the Participants that certain changes may be made with respect to the Project and certain costs may be incurred on the Project that may not be fully

reflected in the information otherwise provided by the Project Manager to the Participants in accordance with this Agreement. For this reason, and prior to the giving by any Participant of any notice to the other Participant of its desire to increase its Capacity, such Participant shall have the right to request (but not more than once annually) that the Project Manager provide to both Participants and, if so requested, the Project Manager shall provide, a summary report of the Project as it is then comprised, together with a cost recapitulation, so that the Participants shall have available to them information sufficient to estimate, with reasonable accuracy, the cost to the requesting Participant of purchasing from the other Participant an undivided ownership interest from such other Participant. To the extent that information earlier provided by the Project Manager following the Initial Completion Date and any Modification Completion Date accurately reflects the Project as it is currently comprised and the costs associated therewith, the report provided for herein shall so state. Such update also shall provide information respecting any repair or replacement of Plant components, the removal of any real property from the Site, and other such information which affects the amount to be paid by the Participant desiring to increase its interest. All costs and expenses

incurred by the Project Manager in preparing such update report shall be paid by the requesting Participant as such costs and expenses are incurred. To the extent that any such cost information previously has not been made available for audit by LCRA, LCRA shall have the right, for a period not to exceed 180 days after its receipt of such update report unless the City agrees to an extension, to inspect and audit, at its own cost and expense and at times which are mutually convenient, so much of the Project Manager's books and records as may be necessary to verify such costs.

(c) The Participant desiring to increase its Capacity in the Plant (the "Expanding Participant") shall give written notice thereof to the other Participant (the "Other Participant") setting forth the amount of additional Capacity in the Plant that the Expanding Participant wishes to acquire (the "Desired Additional Capacity"). Unless LCRA desires to have its Ownership Interest increased to 50% of the Project or unless the Participants otherwise agree, the Desired Additional Capacity must be 10 Mgd or some whole number multiple thereof. Such notice shall be called a "Request for Additional Capacity." If LCRA desires to give the City a Request for Additional Capacity, such Request must be delivered to the City within 30 days after LCRA's receipt of a Description of Extraterritorial Jurisdiction.

If LCRA proposes that its Capacity after the addition of such Desired Additional Capacity ("LCRA's Proposed Capacity") be used to supply water to one or more Extraterritorial Areas as defined at such time, then such Request for Additional Capacity shall state such proposal, which proposal shall include a detailed description of all such Extraterritorial Areas. Each Request for Additional Capacity by either Participant shall be effective upon its receipt by the Other Participant, unless such Request is given by LCRA and such Request states that LCRA proposes that its Proposed Capacity be used to supply water to one or more Extraterritorial Areas. The City, if it plans to supply water to all or any part of any such Extraterritorial Area, shall have the right to reject such Request for Additional Capacity by delivering to LCRA a Notice of Rejection at any time within 30 days after its receipt of such Request for Additional Capacity. If the City delivers such a Notice of Rejection to LCRA within 30 days after the City's receipt of such Request for Additional Capacity, then such Request for Additional Capacity shall thereafter be of no further force and effect. If the City plans to supply water to only a portion of any such Extraterritorial Area, the Notice of Rejection shall so state, and it shall contain a detailed description of the portion of any such

Extraterritorial Area to which the City does not plan to supply water. LCRA may deliver another Request for Additional Capacity at any time after its receipt of a Notice of Rejection.

(d) Within 60 days after a Request for Additional Capacity becomes effective, the Other Participant shall give written notice to the Expanding Participant (the "Response to Request for Additional Capacity") in which the Other Participant shall advise the Expanding Participant whether the Other Participant desires to sell to the Expanding Participant all or a portion of the Other Participant's then-current Ownership Interest, and, if so, the amount (expressed in terms of the Other Participant's Capacity) that the Other Participant desires to sell (which, unless the Participants are adjusting their Ownership Interests to a 50%, 50% basis, shall be 10 Mgd or some whole number multiple thereof, and which shall not exceed the Expanding Participant's Desired Additional Capacity). The amount of its Ownership Interest that the Other Participant desires to sell, if any, shall be sold to and purchased by the Expanding Participant in accordance with the procedures and provisions set forth in Subsection 2.6(g) for the sale of the initial Ownership Interest by the City to LCRA (including the conveyances and conveyancing documents contemplated

thereby), and the purchase price for such sale (the "Additional Interest Purchase Price") shall be determined and shall be payable as provided in this Subsection 2.14(d) and Subsection 2.15(e) below. Upon the consummation of such purchase and sale as contemplated in Subsection 2.15(e), below, the Ownership Interest of the Expanding Participant shall be increased by adding thereto and the Ownership Interest of the Other Participant shall be decreased by subtracting therefrom the amount of the Ownership Interest so purchased and sold (expressed as a percentage of 100% of all Ownership Interests in the Plant). Except as provided in the next-succeeding Subsection 2.14(e), each Request for Additional Capacity and each Response to Request for Additional Capacity, once received, may not be amended, modified, withdrawn or rescinded unless the Participants otherwise agree.

(e) If the Other Participant does not elect to sell any of its Ownership Interest to the Expanding Participant, or if the Ownership Interest that the Other Participant does elect to sell is not sufficient to provide the Expanding Participant with its full Desired Additional Capacity, the Expanding Participant shall be entitled to have a Modification undertaken to expand the Plant Capacity in an amount sufficient to provide the Expanding Participant with all or

the balance, as the case may be, of its Desired Additional Capacity, but any such Modification must be 10 Mgd or some whole number multiple thereof unless the Participants are adjusting their Ownership Interests to a 50%, 50% basis or unless the Participants otherwise agree; provided, however, that as a condition to the continued effectiveness of the Expanding Participant's Request for Additional Capacity, such Participant may request that the Project Manager provide information regarding the nature and extent of the Modification, including the Project Manager's best estimate of the cost thereof, in sufficient detail for the expanding Participant to evaluate whether, from a cost and financing standpoint, it desires to proceed with the proposed acquisition and to provide all funds necessary to complete such Modification, as hereinafter provided; and provided, further, that the Expanding Participant retains the right, for 45 days following its receipt of the above-referenced information, and notwithstanding the effectiveness of its Request for Additional Capacity, to rescind said Request by delivering to the City a written notice of rescission ("Notice of Request Rescission") if, because of the proposed cost or because of concerns regarding financing, the Expanding Participant does not desire to increase its Capacity by way of the proposed Modification. All costs and expenses

incurred by the Project Manager in preparing such report shall be paid by the Expanding Participant as such costs and expenses are incurred. If the Expanding Participant fails, for any reason, to provide to the Project Manager its Notice of Request Rescission of its prior Request within 45 days following its receipt of the Project Manager's report, the Expanding Participant shall be deemed to have reaffirmed its Request for Additional Capacity and may not thereafter amend, modify, withdraw or rescind said Request unless the Participants otherwise agree. The Project Manager's estimate of such proposed cost shall not constitute any representation or warranty regarding the actual cost thereof, and should the Expanding Participant elect to proceed to have added such Additional Capacity, the price therefor shall be the Additional Interest Purchase Price as determined in accordance with this Section 2.14 and Section 2.15 hereof, whether or not the actual cost of the Modification differs from the Project Manager's estimate of such cost. The City, as Project Manager, shall plan, design, construct, and complete any such Modification (or shall cause it to be planned, designed, constructed, and completed) as soon as reasonably practicable, taking into account good utility practices and subject in all respects to all events of Force Majeure (as defined in Subsection 2.6(f) hereof). The

entire Modification Cost shall be paid by the Expanding Participant, as needed. Prior to commencing construction of the Modification, the Project Manager shall be entitled to demand and receive assurances satisfactory to it that the entire Modification Cost will in fact be paid, as needed. If the Other Participant also desires Additional Capacity (which must also be 10 Mgd or some whole number multiple thereof unless the Participants otherwise agree), such Other Participant shall so state in its Response to Request for Additional Capacity, and such Other Participant shall have the rights afforded the expanding Participant in Subsection 2.14(d), and the Modification shall be planned, designed and constructed to include the Other Participant's Desired Additional Capacity as well as the Expanding Participant's Desired Additional Capacity. In that case, the Modification Cost shall be paid, as needed, by both Participants in proportion to their respective Additional Capacities included in the Modification, and the Project Manager shall be entitled to demand and receive, prior to commencing construction of the Modification, assurances satisfactory to it that each Participant will in fact pay its respective share of the entire Modification Cost, as needed. Upon completion of the Modification, the Ownership Interests of the Participants shall be adjusted (and appropriate

conveyancing documents shall be executed and delivered between the Participants, consistent with Subsection 2.6(g) hereof) so that each Participant's Ownership Interest in the Project as so modified shall thereafter be equal to the ratio (expressed as a percentage) that the sum of that Participant's Capacity prior to such Modification (including any Capacity resulting from the purchase of an Ownership Interest pursuant to Subsection 2.14(b)) plus that Participant's Additional Capacity resulting from such Modification bears to the aggregate Plant Capacity as increased by the Modification. If the computation contemplated in the preceding sentence results in any increase in a Participant's Ownership Interest, (the "Increase") expressed as a percentage of the total Ownership Interest in the Project, then the Participant whose Ownership Interest has increased (the "Increasing Participant") shall pay to the Participant whose Ownership Interest has decreased (the "Decreasing Participant") the Additional Interest Purchase Price determined with respect to the Increase.

(f) Notwithstanding any other provision hereof to the contrary, without the prior written consent of the City, LCRA shall at no time be entitled to have a Capacity in excess of 50% of the then-current Plant Capacity or in excess of the then-current Capacity of the City, and LCRA at

no time shall be entitled to own an aggregate Ownership Interest in the Project greater than 50% of the total Project ownership or greater than the aggregate Ownership Interest of the City. Moreover, nothing in this Section 2.14, in this Agreement, or in the Participation Agreement is intended to grant or shall be construed as granting to either Participant any other or greater rights to water from Lake Travis or any other source than it would otherwise have.

(g) The Additional Interest Purchase Price shall be payable at the Closing of the sale of an Ownership Interest as contemplated in Subsection 2.14(d) or the adjustment of Ownership Interests as contemplated in Subsection 2.14(e), in cash or such other form as may be acceptable to the recipient thereof. If the Additional Interest Purchase Price cannot be determined definitively as of the date of payment, then the Additional Interest Purchase Price as estimated in good faith by the Participants as of such date shall then be paid with any remaining balance to be paid or any overpayment to be refunded promptly following the determination of the actual Additional Interest Purchase Price, which determination shall be made as soon as practicable.

Section 2.15 Cost and Price.

(a) The "Initial Project Cost" shall be the total cost incurred in the planning, development, design, acquisition, construction and testing of the Project as it exists as of the Initial Completion Date including, without limitation, all land acquisition costs, costs incurred for road and utility improvements providing access or service to the Site (including without limitation Riverplace Blvd., Arterial No. 8, and Ribelin Ranch Road), the amounts paid under construction contracts, interest during construction, staff charges attributable to the Project, and engineering, legal and financial advisory fees relating to the Project. With respect to those costs which are attributable to components of or classes of property comprising the Plant or Project for which a useful life can be reasonably determined based upon recognized engineering principles and industry experience, by not later than the date upon which LCRA tenders its Notice of Exercise, the parties shall agree upon a depreciation schedule for each such component or class of property based on such principles and experience. In the event the parties are unable to agree upon any aspect of such schedule, the matter shall be jointly referred to the Austin, Texas office of a mutually agreeable accounting firm for final resolution. By use of such depreciation schedule, the

original cost of each such component or class of property shall be reduced by the amount of all accumulated depreciation as of the date of determination and only the cost remaining after such reduction shall be included in the summation of total costs included in the Initial Project Cost. The Initial Project Cost shall be reduced to reflect any removal by the City of real property which was included in the Site as of the Initial Completion Date and which has been removed from the Site as of the date of determination. The Initial Project Cost shall not include any costs classified as Modification Cost, as defined in Subsection 2.15(b) or as Additional Cost, and defined in Subsection 2.15(c).

(b) The "Modification Cost" for any given Modification shall be the total cost incurred in the planning, development, design, acquisition, construction and testing of the Modification as it exists as of the Modification Completion Date including, without limitation, all land acquisition costs, costs incurred for road and utility improvements providing access or service to the Site, the amounts paid under construction contracts, interest during construction, staff charges attributable to the Project, and engineering, legal and financial advisory fees relating to the Modification. The depreciation schedules agreed upon or established pursuant to Subsection 2.15(a) shall be used with respect to

those components or classes or property included within a Modification such that the original cost of each such component or class of property shall be reduced by the amount of all accumulated depreciation as of the date of determination and only the cost remaining after such reduction shall be included in the summation of total costs included in the Modification Cost. Modification Cost shall not include any costs classified as Initial Project Costs, as defined in Subsection 2.15(a) or as Additional Cost, as defined in Subsection 2.15(c).

(c) The "Additional Cost" shall mean, for any Participant and at any particular date and with respect to any particular Ownership Interest, an amount of money equal to the sum of all interest expense and cost of funds which have been incurred by that Participant in connection with its ownership of such Ownership Interest to the date of determination and which are attributable to such Participant's investment in the Project evidenced by such Ownership Interest. The Additional Cost shall include interest expenses and cost of funds associated with land acquisition costs only to the extent such real property is included in the Site as of the date of determination. Additional Cost shall not include any costs classified as the Initial Project Cost or the Modification Cost for any Modification.

(d) The "Initial Acquisition Purchase Price" shall be whichever of the following items (1) or (2) is the greater:

(1) The sum of the following:

[A] the product obtained by multiplying

1. the initial undivided ownership interest that is being acquired by LCRA in the Project (expressed as a percentage), by

2. the sum of the Initial Project Cost and all Modification Costs, if any (including, without limitation, any Modification undertaken to add all or any portion of LCRA's Desired Capacity to the Plant Capacity); plus

[B] the Additional Cost incurred by the City with respect to the undivided ownership interest being acquired by LCRA; or

(2) All Modification Costs of any Modification undertaken to add all or any part of LCRA's Desired Capacity to the Plant Capacity pursuant to Subsection 2.6(d) above (excluding, however, any such Modification Costs as are paid by the City); provided, however,

that if no such Modification shall have been undertaken, then the amount of this item (2) shall be zero;

provided, however, that LCRA shall be given a credit against the Initial Acquisition Purchase Price for all Modification Costs actually paid by LCRA in respect of any Modification undertaken to add all or any part of LCRA's Desired Capacity to the Plant Capacity pursuant to Subsection 2.6(d) above.

(e) The "Additional Interest Purchase Price" shall be whichever of the following items (1) or (2) is the greater:

(1) The sum of the following:

[A] the product obtained by multiplying

(1) the Ownership Interest that is being acquired by the Expanding Participant pursuant to Subsection 2.14(c) or the amount of the Increase in the case of an adjustment of Ownership Interests pursuant to Subsection 2.14(d) and for which the Additional Interest Purchase Price is being determined, by

(2) the sum of the Initial Project Cost and all Modification Costs, if any; plus

[B] the Additional Cost incurred by the Other Participant with respect to the Ownership Interest being acquired by the Expanding Participant pursuant to Subsection 2.14(c) or incurred by the Decreasing Participant with respect to the Increase in the case of an adjustment in Ownership Interests pursuant to Subsection 2.14(d), as applicable; or

(2) All Modification Costs of any Modification undertaken in connection with the acquisition of or adjustment to Ownership Interests in issue to add Additional Capacity to the Plant Capacity pursuant to Subsection 2.14(d) above (excluding, however, any such Modification Costs as are paid by the Other Participant or the Decreasing Participant, as the case may be); provided, however, that if no such Modification shall have been undertaken, then the amount of this item (2) shall be zero;

provided, however, that the Expanding Participant or the Increasing Participant, as the case may be, shall be given a credit against the Additional Interest Purchase Price for all Modification Costs actually paid by it in respect of any Modification undertaken in connection with the acquisition of or adjustment to Ownership Interests at issue to add Additional Capacity to the Plant Capacity pursuant to Subsection 2.14(d) above.

Section 2.16 Assignment and Transfer of Ownership. Except as specifically provided below in this Section 2.16, neither the City nor LCRA may transfer any part of its respective Ownership Interests in the Project or assign any of its respective rights, duties and obligations under this Agreement or the Participation Agreement:

(a) Subject to the following provisions of this Subsection 2.16(a), the City may freely transfer all or any part of its Ownership Interest in the Project at any time to any person or entity whatsoever; provided, however, that such prospective transferee must be, in the reasonable and good faith judgment of the City, ready, willing and financially able to acquire such Ownership Interest and to discharge thereafter all duties and obligations related to such Ownership Interest arising hereunder or under any

Participation Agreement that may then be in effect. The preceding sentence notwithstanding, however, if the prospective transferee is not a Qualified Successor (hereinafter defined) and if LCRA shall then own any Ownership Interest in the Project, the City shall first obtain a written offer from such prospective transferee setting forth the consideration and other terms of the offer, which offer shall be legally binding upon the transferee and unconditional in all respects except that it shall be specifically subject to LCRA's right of first refusal defined below. LCRA shall have the right of first refusal to acquire such interest for the same consideration and terms offered by the transferee. LCRA shall have not less than 180 days from the date of its receipt of the offer to exercise its right of first refusal; provided, however, that any failure by LCRA to notify the City of its exercise of the right of first refusal by the end of the 180-day period shall be deemed a waiver of LCRA's right and shall allow the City to proceed thereafter with the proposed transaction. A "Qualified Successor" shall be the United States, the State of Texas, any political subdivision or governmental agency of the United States or the State of Texas including, without limitation, any district or authority created under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, or any

municipal, governmental, cooperative or other not-for-profit entity or organization.

(b) LCRA may not assign its right under the Option granted to LCRA in Section 2.6 hereof to purchase an Initial Ownership Interest in the Project.

(c) If LCRA acquires an Ownership Interest in the Project and thereafter desires to transfer all or any portion (subject to the further requirement set forth below) of its Ownership interest in the Project to a person or entity other than the City, it may transfer such Ownership Interest only to a person or entity who or which is ready, willing and financially able to acquire the same and thereafter to discharge all duties and obligations related to such Ownership Interest arising hereunder or under any Participation Agreement that may then be in effect. LCRA shall first obtain a written offer from such prospective transferee setting forth the consideration and other terms of the offer, which offer shall be legally binding upon the prospective transferee and unconditional in all respects except that it shall be specifically subject to the City's right of first refusal defined below. The City shall have the right of first refusal to acquire such Ownership Interest for the same consideration and terms offered by the prospective transferee; provided, however, that at the

City's option, the price to be paid by the City to LCRA for such Ownership Interest shall be the Additional Interest Purchase Price for such Ownership Interest as determined pursuant to Subsection 2.14(d) and Subsection 2.15(e) if either:

(1) the prospective transferee, at any time prior to LCRA's acquiring its most recent Ownership Interest, or at any time prior to LCRA's most recent Notice of Exercise or Request for Additional Capacity becoming effective and no longer subject to rescission by LCRA, either made to LCRA, or agreed to subsequently make to LCRA, an offer to purchase an Ownership Interest for a price greater than the Additional Interest Purchase Price attributable to such Ownership Interest; or

(2) the prospective transferee's written offer is delivered by LCRA to the City within two years after LCRA acquired any Ownership Interest.

The City shall have not less than 180 days from the date of its receipt of the offer to exercise its right of first refusal; provided, however, that any failure by the City to notify the LCRA of its exercise of the right of first refusal by the end of the 180-day period shall be deemed a waiver of the City's right and shall allow the LCRA to

proceed thereafter with the proposed transaction. Notwithstanding the foregoing, LCRA shall have no right to offer for sale, or to transfer, any Ownership Interest in the Project which constitutes less than 10 Mgd in Plant Capacity.

(d) Any transferee of an Ownership Interest shall become a Participant under the Participation Agreement and shall be required to acquire, and shall acquire, such Ownership Interest subject to, and shall agree to be bound by and to perform, all of the terms and provisions hereof and of the Participation Agreement applicable to the transferor to the extent of its Ownership Interest so acquired except that any transferee of an LCRA Ownership Interest shall not have any right to increase its Ownership Interest or its capacity in the Plant without first obtaining the City's consent. Following each such transfer, all references herein and in the Participation Agreement to the City shall mean and include the City and each of its transferees, successors and assigns, and all references herein and in the Participation Agreement to LCRA shall mean and include LCRA and each of its transferees, successors and assigns. In connection with any such transfer, appropriate amendments to the Participation Agreement shall be meant to reflect the intent of this Subsection 2.16(d).

Section 2.17 Consents. Whenever in this Article II or in the Participation Agreement the consent of a party or Participant is required, such consent may, unless it is otherwise expressly provided to the contrary herein or in the Participation Agreement, be granted or withheld in the sole discretion of such party or Participant.

Section 2.18 No Inferences Regarding Additional Water. The right of LCRA to purchase an interest in the Plant and/or the right of the City to expand or modify the Lake Travis intake structure and other aspects of the Plant does not create, directly or inferentially, any right in the City to divert water from Lake Travis beyond the amount which LCRA agrees to make available to the City under Paragraph A of Article IV of the 1966 Agreement, as such Article IV is amended pursuant to Subsection 3.2(c) of this Agreement, except that water, if any, provided by LCRA for the benefit of itself or its customers pursuant to Section 2.12 of this Agreement.

ARTICLE III

WATER SUPPLY AGREEMENTS

Section 3.1 Interpretation of Previous Agreements. Pursuant to that certain Lease and Agreement dated as of the 5th day of February, 1938 by and between the City and LCRA (the "1938 Agreement"), the City leased to LCRA certain rights of the City relating to Tom Miller Dam and Lake Austin, and the use of water for the generation of hydroelectric power at Tom Miller Dam. LCRA agrees that, pursuant to previous agreements between them, the City has not leased to LCRA, and LCRA holds no interest in, any right, under the City's Certified Filing No. 330 or under any other water right owned by the City, to divert and use water from Lake Austin for any purpose of use other than the generation of hydroelectric power at Tom Miller Dam. The City agrees that it presently holds no independent water right which presently authorizes the diversion of water upstream of Mansfield Dam.

Section 3.2 Amendments to 1966 Agreement.

(a) LCRA and the City agree that the term of the Agreement between the City and LCRA dated December 15, 1966 (the "1966 Agreement"), as set forth in Article III thereof and as it pertains to the several contracts and agreements

between the parties set forth and amended therein, is hereby amended to extend to and including December 31, 2020, until terminated at any time thereafter by either party giving to the other not less than three (3) years' prior written notice.

(b) The City and LCRA agree that the first two sentences of Paragraph A of Article III of the 1966 Agreement are hereby consolidated into one sentence and amended to read as follows:

> The 1938 Agreement, the Modifying Agreement, the 1947 Land Lease Agreement, the 1954 Agreement, and this 1966 Agreement shall be in full force and effect down to and including December 31, 2020, and thereafter until terminated by either party hereto by giving the other party three (3) years prior written notice. . . .

(c) The City and LCRA agree that Article IV of the 1966 Agreement is hereby amended to read as follows:

ARTICLE IV

WATER

A. Lake Travis Diversions. LCRA agrees to make available to the City for diversion by the City at the Lake Travis Point of Diversion (hereinafter defined) 170,000 acre-feet per year of stored water under Permits Nos. 1260 and 1259 from Lakes Travis and Buchanan, respectively, for municipal purposes. The City may divert such water at a maximum daily diversion rate of 150 Mgd; provided, however, that the City may divert such water at higher rates in light of fluctuations in the level of Lake Travis, utilizing pumping facilities that have a rated capacity, with one pump not pumping, of 150 Mgd with Lake Travis at 667 feet MSL. LCRA

presently believes that the maximum amount of water that can be supplied from Lakes Travis and Buchanan to the City for the City's use at its proposed Water Treatment Plant 4 (the "Plant"), without impeding LCRA's overall water management responsibilities, is 170,000 acre-feet per year, at the diversion rate set forth above in this Paragraph A. LCRA hereby commits to supply such amount to the City for the City's use at the Plant, but LCRA makes no commitment, expressed or implied, to supply additional water to the City for the City's use at the Plant. The City may seek additional water or rights to water from Lakes Travis and Buchanan under the laws of Texas that then exist, and LCRA reserves its right to oppose any such effort by the City. The "Lake Travis Point of Diversion" is that point of diversion on Lake Travis for the intake to the Plant, such point being within a segment bordering on Lake Travis described and depicted in Exhibit "E" attached hereto, said Exhibit depicting the segment by reference to a corner of an original land survey and/or other survey point, giving both course and distance. LCRA shall bear all transportation and evapotranspiration losses in the delivery of stored water to the Lake Travis Point of Diversion.

B. Downstream Municipal Water Supply. LCRA agrees to make available to the City at the Downstream Points of Diversion (hereafter defined) sufficient stored water under Permits Nos. 1260 and 1259 from Lakes Travis and Buchanan, respectively, as may be required from time to time to firm up and/or supplement the water available under the City's independent water rights (regardless of what those rights may be), to allow the City to divert at the Downstream Points of Diversion and use for municipal purposes each year the Downstream Firm Amount (hereinafter defined). The "Downstream Firm Amount" for any year is the difference between 250,000 acre-feet of water and the amount of water, if any, actually diverted from Lake Travis by the City during that year at the Lake Travis Point of Diversion. LCRA and the City specifically agree that the stored water to be furnished below Mansfield Dam hereunder for municipal use is

to be provided only when there is insufficient water available for the City to divert for such use under independent water rights that are held by the City at such time. LCRA and the City further specifically agree that the aggregate amount of water diverted by the City in any year at the Downstream Points of Diversion and used for municipal use may exceed the Downstream Firm Amount for that year because of additional diversions by the City for such use under independent water rights that are held by the City at such time; provided, however, LCRA does not make any commitment under this Agreement, except pursuant to Paragraphs D, E and F, below, to make available any additional stored water during any year after the City has diverted 250,000 acre-feet of water for municipal use from the Colorado River under any water right during that year. The "Downstream Points of Diversion" are: (1) those three points of diversion, presently designated by the Texas Water Commission as D-0160, D-0180 and D-0320, at which the City currently diverts water from Lake Austin and Town Lake for municipal purposes; (2) such other points of diversion on Lake Austin and Town Lake which the City may so designate from time to time; and (3) such other points of diversion on the Colorado River downstream of Longhorn Dam that the City may so designate from time to time provided that any such point downstream of Longhorn Dam must be either approved by LCRA, or authorized under independent water rights that are held by the City at such time. LCRA shall bear all transportation and evapotranspiration losses in the delivery of stored water to the Downstream Points of Diversion.

C. Other Uses. LCRA agrees to make available to the City for diversion by the City at the Other Use Points of Diversion (hereinafter defined) the Remaining Amount (hereinafter defined) of stored water each year under Permits Nos. 1260 and 1259 from Lakes Travis and Buchanan, respectively, for industrial and irrigation use. The "Remaining Amount" for any year is the difference between 250,000 acre-feet and the total amount of water which was diverted by the City during that year at the Lake Travis Point of Diversion and the

Downstream Points of Diversion (together, the "Points of Diversion") and used by the City for municipal use. LCRA and the City specifically agree that the aggregate amount of water diverted by the City in any year at the Other Use Points of Diversion for industrial use and irrigation may exceed the Remaining Amount for that year because of additional diversions for such uses by the City under its independent water rights, as such rights exist at the time. The "Other Use Points of Diversion" are (1) any Point of Diversion (as defined above) which the City may so designate from time to time; (2) such other points of diversion on Lake Austin and Town Lake which the City may so designate from time to time; and (3) such other points of diversion on the Colorado River downstream of Longhorn Dam that the City may so designate from time to time provided that any such point downstream of Longhorn Dam must be either approved by LCRA, or authorized under independent water rights that are held by the City at such time. LCRA shall bear all transportation and evapotranspiration losses in the delivery of stored water to the Other Use Points of Diversion.

D. Lake Austin Level. LCRA agrees to pass through such inflows and release such stored water from Lake Travis as may be necessary to maintain the level of water in Lake Austin at not lower than three (3) feet below the crest of the dam, except in cases of emergency when the water level may be five (5) feet below the crest of the dam; provided, however, that this agreement is subject to the City's not diverting water from Lake Austin at any time in excess of the amounts set forth in this Agreement and the amounts that the City is authorized to divert pursuant to independent water rights that are held by the City at such time. The stored water made available by LCRA under this Paragraph D is in addition to the amounts made available under Paragraphs A, B and C, above. The parties recognize that the City will need periodically to have the level of Lake Austin lowered for periods of time for various purposes including, without limitation, for maintenance of docks and other structures and for control of aquatic vegetation. LCRA and the City agree to cooperate

with each other to establish reasonable guidelines for any such lowering of Lake Austin.

E. Town Lake Cooling Water. During periods when the Authority is releasing stored water from Lake Travis for any reason and such stored water flows into Town Lake, the City may divert, circulate and recirculate such water from Town Lake for industrial (cooling) purposes, with no limitation as to amount or rate of diversion or the number or location of points of diversion on Town Lake, provided that not more than 24,000 acre-feet of water may be consumptively used by such use in any year. The City agrees that it will call on the flow of the Colorado River and its tributaries to be passed through the Highland Lakes to honor the City's industrial (cooling) rights under Certified Filing No. 330, only to the extent that such flow is needed to be impounded in Town Lake, and/or to the extent that it is necessary to pass such flow through Town Lake to reduce the temperature of the water in Town Lake, to allow the City to divert and use such water for industrial (cooling) purposes at all times to the full extent authorized under Certified Filing No. 330. LCRA agrees that during periods when it is not otherwise releasing sufficient stored water from Lake Travis, it will release such additional amounts of stored water requested by the City and deliver such water to Town Lake, in addition to releases of inflows and other stored water, to the extent that such additional stored water is needed to be impounded in Town Lake, and/or to the extent that it is necessary to pass such additional flow through Town Lake to reduce the temperature of the water in Town Lake, to allow the City to divert and use such water for industrial (cooling) purposes at all times to the full extent authorized under Certified Filing No. 330. The stored water made available by LCRA under this Paragraph E is in addition to the amounts made available under Paragraphs A, B and C, above.

F. Decker Lake Makeup. LCRA agrees to make available to the City for diversion by the City at the City's diversion point D-0470 on the Colorado River, up to 16,156 acre-feet of such water per

year to the extent needed to firm up and/or supplement the City's independent water rights, and impound such water in Decker Lake for subsequent use therefrom for industrial (cooling) purposes. The City agrees to give LCRA timely prior notice of the duration and rate of the City's projected diversions of such water. The stored water made available under this Paragraph F is in addition to the amounts made available under Paragraphs A, B and C, above.

G. Interbasin Transfer. The City shall obtain the necessary authorization from the Texas Water Commission before any of the water supplied under Permits Nos. 1259 and 1260 pursuant to this Agreement is transferred and used outside the Colorado River Basin; provided, however, that to the extent allowed by the Texas Water Commission, all water transferred and used by the City outside of the Colorado River Basin or outside of the boundaries of LCRA's ten-county statutory district shall be deemed to be transferred and used under the City's independent water rights and so reported by the City, in which case no such authorization shall be required.

H. Additional Consideration. In addition to the other consideration given by the City to LCRA pursuant to the terms of this Agreement and pursuant to the terms of the 1987 Comprehensive Water Settlement Agreement by and between the City and LCRA, the City shall pay LCRA each year the greater of the amounts determined under the two succeeding subparagraphs (1) and (2):

(1) An amount of money, if any, equal to the Water Rate (hereinafter defined) applicable for the previous year multiplied by the amount of water, if any, by which the Payment Amount (hereinafter defined) for the previous year exceeds 150,000 acre-feet. The "Water Rate" applicable for any year is that rate determined by the Board of Directors of LCRA to be in effect on January 1 of that year for LCRA's sales of stored water for municipal use from Lake Travis. The Water Rate currently in effect for such sales is $68.43 per

acre-foot of water diverted. The "Payment Amount" for any year is the sum of the following:

(a) the total amount of water diverted by the City under any water right during that year at the Points of Diversion for municipal use pursuant to Paragraphs A and B hereof; and

(b) the total amount of stored water diverted by the City during that year at the Other Use Points of Diversion for industrial use and irrigation pursuant to Paragraph C hereof, such amount specifically not to include any water diverted by the City for such purposes of use under independent water rights that are held by the City at such time.

The Payment Amount shall not include any stored water diverted or used by the City or otherwise made available by LCRA pursuant to Paragraphs D, E and F hereof. The amount of water, if any, diverted by the City for LCRA at the Lake Travis Point of Diversion shall not be included in any determination of the amount of water diverted by the City under this Agreement. There shall be no charge imposed upon the City under this subparagraph H(1) for any calendar year during which the Payment Amount is less than or equal to 150,000 acre-feet;

OR

(2) An amount of money, if any, equal to the Additional Charge (hereinafter defined) multiplied by the number of acre-feet of water diverted by the City at the Lake Travis Point of Diversion during the immediately preceding calendar year (not including any water diverted by the City for LCRA at such point during such year), up to a maximum payment of $1,000,000 in any year. The "Additional Charge" is a fixed rate of $20.00 per acre-foot. LCRA agrees that the

Additional Charge shall not be increased, and that the maximum charge upon the City under this subparagraph H(2) shall not exceed $1,000,000 in any year. There shall be no charge imposed upon the City under this subparagraph H(2) for any calendar year during which no water was diverted by the City at the Lake Travis Point of Diversion.

The provisions in this Paragraph H are merely intended to define the payments to be made by the City to LCRA as additional consideration under this Agreement and the 1987 Comprehensive Water Settlement Agreement. It is understood and agreed that there shall be no additional charge imposed upon the City for water which LCRA makes available or agrees to make available under this Agreement, except as specifically provided above in this Paragraph H.

I. Water Rights. Nothing in this Agreement shall in any way be construed as a waiver or abandonment by the City or by LCRA of any of their respective water rights, or as a reduction, limitation or restriction of those rights. Nothing in this Agreement shall be construed as constituting an undertaking by LCRA to furnish water to the City except pursuant to the terms of this Agreement. Nothing in this Agreement shall in any way be construed to limit the City or LCRA in hereafter seeking the grant of amendments to their respective water rights, the grant of additional rights to water from any source or at any location, or the acquisition of existing rights from third parties, or to limit the parties in opposing the grant of any such amendments or additional rights.

J. Billing and Payment. LCRA shall submit one bill for the amount, if any, due under Paragraph H hereof for each year, on or before January 15 of the following year. Each such bill shall be paid by the City at LCRA's office in Austin, Texas, by check or bankwire on or before thirty (30) days from the date of receipt of the bill. Without limiting LCRA's rights in such event, if the City fails to pay the full amount due LCRA when the same is due, as herein provided, interest thereon

shall accrue at the maximum rate of interest allowed by law, such interest to apply from the date when such payment was due until such payment is made. In addition, the City shall be required to reimburse LCRA for all costs incurred by LCRA in seeking to collect any such payment, including, without limitation, reasonable attorneys fees. If the City should dispute its obligation to pay all or any part of the amount stated in any bill, in addition to all other rights that the City may have under law, the City may pay such amount under protest, in which case the amount in dispute shall be deposited by LCRA in an interest bearing account acceptable to both the LCRA and the City pending final resolution of such dispute.

K. Metering of Diverted Water. To measure the amount of water withdrawn from each Point of Diversion for municipal use, and to measure the amount of stored water withdrawn from each Other Use Point of Diversion for industrial use or irrigation, the City agrees at the City's expense to install (if such facilities are not already installed) such flow meters and recording devices as are approved by LCRA, such meters to permit, within five percent (5%) accuracy, determination of quantities of raw water withdrawn in units of 1,000 gallons at such points of diversion for such purposes of use; provided, however, that the City shall not be obligated hereunder to install or maintain any flow meter to measure any water diverted pursuant to Paragraph E, above. Such meters may be calibrated at any reasonable time by either party to this agreement, provided that the party making the calibration shall notify the other party at least two (2) weeks in advance and allow the other party to witness the calibration. LCRA may install, at its expense, check meters in or to any of the City's metering equipment at any time and may leave such check meters installed for such periods as is reasonably necessary to determine the accuracy of the City's metering equipment. On or before the first day of each month, LCRA shall have the right to make a reading of the meters installed by the City at each Point of Diversion. The City shall provide reasonable means of access to the meters for the representatives of LCRA.

Further, such meters shall be tested for accuracy by and at the expense of the City at least once each calendar year at intervals of approximately twelve (12) months and a report of such tests shall be furnished to LCRA. However, in the event any question arises at any time as to the accuracy of any such meter, such meter shall be tested promptly upon the demand of LCRA, the expense of such test to be borne by LCRA if the meter is found to be correct and by the City if it is found to be incorrect. Readings within five percent (5%) of accuracy shall be considered correct. If, as a result of any test, any meter is found to be registering inaccurately (i.e., in excess of five percent (5%) of accuracy), the readings of such meter shall be corrected at the rate of its inaccuracy for any period which is definitely known and agreed upon or, if no such period is known and agreed upon, the shorter of the following periods shall be used as the basis for correction:

(1) a period extended back either sixty (60) days from the date of demand for the test, or if no demand for the test was made, sixty (60) days from the date of the test; and

(2) a period extending back half of the time elapsed since the last previous test;

and the records of readings shall be adjusted accordingly. Following each test of a meter, the same shall be adjusted by the City to register accurately. The City shall notify LCRA prior to making each test of any of the City's meters and LCRA shall have the right to have a representative present at each test to observe the same and any meter adjustments found to be necessary.

L. Availability of Water Notwithstanding any other provisions herein, LCRA does not represent or warrant that water will be available at any particular time or place or that Lakes Buchanan and Travis will be retained at any specific level at any particular time. It is fully understood by the parties hereto that the level of said lakes will vary as a result of LCRA's operation of its

dams on the Colorado River and that this instrument is merely an agreement to require LCRA to make water available when and if water is present in said lakes, and to allow the City to make withdrawals of such water subject to applicable laws respecting the distribution and allocation of water during shortages of supply.

M. Pumping Facilities The City's pumping and related facilities shall be installed, operated and maintained by the City at the City's sole expense and risk.

N. Quality LCRA makes no representation as to the quality of the water in Lakes Travis and Buchanan.

O. Notice Each notice under this agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices and bills to the City shall be addressed to:

Director, Water and Wastewater Utility
City of Austin, Texas
P. O. Box 1088
Austin, Texas 78767

and all notices and payment to LCRA shall be addressed to:

General Manager
Lower Colorado River Authority
P. O. Box 220
Austin, Texas 78767

Either party may change its address by giving written notice of such change to the other party.

P. No Third Party Beneficiary The parties are entering into this agreement solely for the benefit of themselves and agree that nothing herein is intended to confer nor shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto.

Q. Captions The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

R. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

S. Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

Section 3.3 Continued Effectiveness. Except and to the extent that the 1966 Agreement and the contracts and agreements referred to in the 1966 Agreement are modified, amended and/or changed herein, said 1966 Agreement and those contracts and agreements shall remain in full force and effect in accordance with the provisions contained therein until terminated as provided therein and as may be amended herein.

ARTICLE IV

JOINT WATER OVERSIGHT COMMITTEE

Section 4.1 Establishment of Joint Water Oversight Committee. As a means of securing an effective interchange of information and of providing consultation on a prompt and

orderly basis in connection with various water-related matters covered by this Agreement, the City and LCRA hereby establish a Joint Water Oversight Committee. The Joint Water Oversight Committee shall be composed of a total of four (4) members, of which two (2) representatives each will be appointed by the City and LCRA. Each party will also designate one (1) alternate for each of its representatives. Such representatives shall be designated by the party represented by written notice to the other party. Each party shall give prompt written notice to the other party of any change in the designation of its representative(s) on the Joint Oversight Committee. The Joint Oversight Committee shall meet not less often than quarterly.

Section 4.2 Matters Addressed by Joint Water Oversight Committee. The Joint Water Oversight Committee shall address all water-related matters set forth in this Agreement or otherwise desired by the Committee including, but not limited to, water conservation, water quality, water demands, water availability, water rights, and the construction, operation and regulation of all water and wastewater facilities, in the entire Colorado River Basin and relevant adjoining areas. Certain matters are discussed in more detail below and in Article I, above.

Section 4.3 Water Conservation. Through the Joint Water Oversight Committee, the City and LCRA agree to promote practices, techniques, and technologies throughout the Colorado River Basin and relevant adjoining areas that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a water supply may be available for future or alternative uses. The City and LCRA further agree to cooperate and assist each other in the development of plans and programs applicable to the entire basin and relevant adjoining areas, and in the promulgation of reasonable rules to the extent authorized by law, concerning water conservation. Such rules may include limitations, conditions and guidelines with respect to development or use of land and the supply of water to any such development or for any such use. The City and LCRA shall seek the assistance and concurrence of other water right holders and the Texas Water Commission in the development of such plans, programs and rules.

Section 4.4 Non-Point Source Pollution Control. Through the Joint Water Oversight Committee, the City and LCRA agree to cooperate and assist each other in the development of plans and programs applicable to the entire

Colorado River Basin and relevant adjoining areas, and in the promulgation of reasonable rules to the extent authorized by law concerning non-point source water pollution control. Such rules may include limitations, conditions and guidelines with respect to development or use of land and the supply of water to any such development or for any such use. The City and LCRA shall seek the assistance and concurrence of other water right holders and the Texas Water Commission in the development of such plans, programs and rules.

Section 4.5 Water Rights. Through the Joint Water Oversight Committee, the City and LCRA shall cooperate in the development of a computerized daily allocation model to assist in the administration of the water resources in the Colorado River Basin and to determine the amounts of water diverted under the various water rights in the River Basin. The City and LCRA shall seek the assistance and concurrence of other water right holders and the Texas Water Commission in the development of such model.

ARTICLE V

WITHDRAWAL OF OTHER PROCEEDINGS

Section 5.1 Withdrawal of Other Proceedings. The City agrees to withdraw its Petition and related Motion to Compel in the proceeding styled In the Matter of the Petition of the City of Austin, Texas to Fix a Just and Reasonable Price for the Supply of Water by the Lower Colorado River Authority and for Other or Further Relief currently pending before the Texas Water Commission. The City agrees to dismiss the lawsuit which it filed on September 30, 1985 styled City of Austin, Texas v. Texas Water Commission, Cause No. 386,320 in the District Court of Travis County, Texas, 98th Judicial District. LCRA hereby withdraws its demand upon the City for arbitration pursuant to Article XI of the Contract between the City and LCRA dated February 5, 1938, which it submitted by letter dated November 20, 1986. LCRA agrees to dismiss the lawsuit which it filed on November 24, 1986 styled Lower Colorado River Authority v. Texas Water Commission, Cause No. 408,868 in the District Court of Travis County, Texas, 261st Judicial District.

ARTICLE VI

MISCELLANEOUS PROVISIONS

Section 6.1 Water Rights. Nothing in this Agreement shall in any way be construed as a waiver or abandonment by the City or by LCRA of any of their respective water rights, or as a reduction, limitation or restriction of those rights. Nothing in this Agreement shall be construed as constituting an undertaking by LCRA to furnish water to the City except pursuant to the terms of this Agreement. Nothing in this Agreement shall in any way be construed to limit the City or LCRA in hereafter seeking the grant of amendments to their respective water rights, the grant of additional rights to water from any source or at any location, or the acquisition of existing rights from third parties, or to limit the parties in opposing the grant of any such amendments or additional rights.

Section 6.2 Term. This Agreement shall terminate on the Final Date unless Articles II, III, IV and V hereof take effect prior to such date pursuant to the terms of Section 1.3 hereof. If such Articles take effect prior to the Final Date, then this Agreement shall be in full force and effect to and including December 31, 2020, and thereafter

until terminated at any time by either party giving to the other not less than three (3) years' prior written notice.

Section 6.3 Notice. Each notice under this agreement shall be mailed by certified mail, return receipt requested, and shall be effective on the date actually received. All notices and bills to the City shall be addressed to:

Director, Water and Wastewater Utility
City of Austin, Texas
P. O. Box 1088
Austin, Texas 78767

and all notice and payment to LCRA shall be addressed to:

General Manager
Lower Colorado River Authority
P. O. Box 220
Austin, Texas 78767

Either party may change its address by giving written notice of such change to the other party.

Section 6.4 Entire Agreement. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between LCRA and the City with respect to the subject matter hereof.

Section 6.5 Governing Law. This Agreement shall be governed in all respects, including validity, interpretation and effect, by and shall be enforceable in accordance with the laws of the State of Texas.

Section 6.6 Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 6.7 No Third Party Beneficiary. The parties are entering into this Agreement solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the parties hereto.

Section 6.8 Captions. The captions and headings appearing in this Agreement are inserted merely to facilitate reference and shall have no bearing upon the interpretation thereof.

Section 6.9 Waiver. Any waiver at any time by either party with respect to a default or any other matter arising in connection with this Agreement shall be not deemed a waiver with respect to any subsequent default or matter.

Section 6.10 Compliance with Filing Requirements. LCRA and the City agree to file jointly a copy of this Agreement with the Executive Director of the Texas Water

Commission, P. O. Box 13087, Capitol Station, Austin, Texas 78711, it being fully recognized by LCRA and the City that the effectiveness of this contract is dependent upon compliance with the Rules of the Texas Water Commission.

IN WITNESS WHEREOF, this Agreement is executed on behalf of the City and LCRA by their respective authorized officers, in multiple counterparts, each of which shall constitute an original.

CITY OF AUSTIN, TEXAS

By _____
John Ware,
Acting City Manager

ATTEST:

_____

LOWER COLORADO RIVER AUTHORITY

By _____
S. David Freeman,
General Manager

ATTEST:

_____
Acting Assistant Secretary

Agreement For Wholesale Potable Water Sales And For Transfer And Use of Irrigation Facilities

THE STATE OF TEXAS §
§ KNOW ALL PERSONS BY THESE PRESENTS
COUNTY OF TRAVIS §

This "Agreement For Wholesale Potable Water Sales And For Transfer And Use of Irrigation Facilities" is between the City of Austin (the "City"), a Texas home-rule municipal corporation and the Loop 360 Water Supply Corporation ("Loop 360"), a Texas non-profit water supply corporation.

Article 1 - Recitals

1.01 The City currently provides potable water service to a maintenance facility owned by Austin Country Club ("ACC") and a restroom located on ACC's golf course near the 15th hole (the "golf course restroom") from a 20" main transmission line connected to the Davenport Ranch water treatment plant ("Davenport WTP"), both of which the City acquired from Davenport Ranch Municipal Utility District No. 1 (the "District") on or about December 31, 1997, upon the City's annexation of the District. The City also uses the Davenport WTP and the 20" transmission line to supply potable water to a sewage treatment plant the City acquired upon annexation of the District on or about December 31, 1997 (the "Sewage Plant"), which is located on an easement on land owned by ACC in northwest Travis County, in Austin Texas.

1.02 Loop 360 claims a certain capacity interest in the Davenport WTP and related facilities (*i.e.*, a raw water Intake Structure, a Raw Water Pump Station, the water treatment plant itself and certain associated water transmission lines, including the 20" line referenced above, and associated easements (collectively the "Proposed Conveyed Water Facilities")). Loop 360, the City and other parties claiming certain capacity interests in the Proposed Conveyed Water Facilities have reached agreement as to the principal terms by which Loop 360 will purchase all interests in such facilities. The Proposed Conveyed Water Facilities are located on existing easements on ACC's land in northwest Travis County, Texas, and are the facilities currently used by the City to make

the water sales described in §1.01 above and to supply the Sewage Plant as described in §1.01 above.

1.03 Upon the transfer of the Proposed Conveyed Water Facilities becoming effective, the City will no longer own facilities with which it can supply potable water as described in §1.01 above without constructing new lines. The City does not desire to construct new lines at this time, but may want to do so in the future. Thus, the City desires to purchase potable water that it can resell to the ACC facilities described in §1.01 above, and furnish potable water to the Sewage Plant when the City no longer owns an interest in the Proposed Conveyed Water Facilities.

1.04 Upon acquiring the Proposed Conveyed Water Facilities, Loop 360 will have sufficient water treatment capacity to make wholesale sales to the City and agrees to do so under the terms and conditions provided for herein.

1.05 The City also sells raw water to ACC using some of the Proposed Conveyed Water Facilities, and upon transfer of those facilities to Loop 360 will no longer own facilities with which it can easily make raw water sales to ACC.

1.06 As set forth herein, Loop 360 agrees to transfer certain Proposed Conveyed Water Facilities to the City, at no costs, and to grant a right of entry and possession perpetually to the City, and its successors and assigns, with the right and privilege at any and all times to enter and use all or any part of certain other Proposed Conveyed Water Facilities.

NOW THEREFORE, in consideration of these premises, the covenants of each Party, and other good and valuable consideration, the receipt and sufficiency of which each Party acknowledges, the City and Loop 360 (the "Parties") do hereby agree and covenant as follows:

Article 2 - Supply of Potable Water

2.01 Water Supply And Price. Upon execution of this Agreement by both Parties and the transfer of the Proposed Conveyed Water Facilities becoming effective, Loop 360 agrees to sell and the City agrees, on an as needed basis, to buy potable water produced by Loop 360 at the Davenport WTP to serve the facilities described in §1.01 above. For the initial five year term of this Agreement, the price of the water purchased by the City shall

include only a base charge of $20.25 per month (the charge for a $^5/_8$" or ¾" inch meter as established in Loop 360's tariff and generally applicable to all Loop 360 customers with meters of this size for all three connections), plus $2.00 per thousand gallons for all water delivered to all meters used to measure usage by ACC's maintenance facility and golf course restroom and by the Sewage Plant. Following the expiration of the initial term of this Agreement, the price shall be the monthly base charge described above in effect at the time in question for all three connections, plus a charge per thousand gallons that equals the lowest charge per thousand gallons applied by Loop 360 to its residential customers. The City has no obligation to purchase any specific volume of water from Loop 360, and no obligation to pay any other water rate other than the above-mentioned rate for water purchased under this Agreement. Nothing in this section shall be construed to prevent or waive the City's right to seek review under applicable law of the reasonableness of any rates, fees or charges established in this Agreement by Loop 360 for the time period after the initial term of this Agreement.

2.02 City's Loop 360 Membership. Loop 360 agrees to issue a Loop 360 membership to the City at no charge to the City, the Loop 360 membership issued to the City will be valid for seven years. If the City remains a Loop 360 customer seven years after the initiation of water service under this Agreement, then the City shall pay Loop 360 $5,000.00 for the LUE issued pursuant to this § 2.02. If the City is no longer a Loop 360 customer seven years after the initiation of water service under this Agreement, then the City shall return the LUE issued to the City hereunder to Loop 360 at no cost to Loop 360. The City shall be entitled to use the LUE issued pursuant to this §2.02 at service locations other than those listed above; but any extension of service lines necessary to provide service to another location shall be the installed at the City's sole expense.

2.03 No New Facilities Required. The Parties agree that all water facilities required for the City to receive water service and Loop 360 to provide water service under this Agreement have been previously installed and no further construction is required by either Party to connect, provide and receive or meter the water service to be provided under this Agreement. Since all the facilities necessary to provide service are already in place, the City shall not be required to construct any new facilities or required to pay connection fees, tap fees or other similar fees normally paid upon commencement of service to a new customer. The approximate location of the facilities in question is shown in Exhibit A hereto.

2.04 City's Right To Reconnect. At any time after initiation of service under this Agreement, the City has the right, but not any obligation, to install a line or provide an alternative method to serve either the Sewage Plant, the maintenance facility, the golf course restroom or any combination thereof, and in such event, the facility or facilities reconnected to the City's water system shall cease to be supplied with potable water from the Davenport WTP. The City shall provide Loop 360 with at least thirty (30) days advance notice of the connection of its new line to any of these three delivery points to facilitate final Loop 360 meter reads.

2.05 Maintenance and Repair of Distribution Lines. The City shall be responsible for maintaining and repairing that certain section of distribution lines on the City's side of the meters described in this Agreement that are used to provide water service to the ACC maintenance facility and ACC golf course restroom and to the Sewage Plant. If Loop determines that any of the above-mentioned City distribution lines are leaking, Loop 360 shall promptly notify the City of such determination, and the City shall use reasonable diligence to investigate and determine if a leak exists and use reasonable diligence to repair any leak found.

2.06 Water Quality and Pressure. Water supplied hereunder shall satisfy the Texas Natural Resource Conservation Commission's requirements for water used for human consumption and domestic uses and shall be supplied at a minimum pressure of 35 pounds per square inch at the meters and meet all other water storage, capacity, and other requirements of the Texas Natural Resource Conservation Commission under normal operating conditions.

2.07 Curtailment of Service. Loop 360 may curtail or ration wholesale potable water service to the ACC maintenance facility in times of high demand on Loop's 360's system in the same manner and to the same extent that Loop 360 imposes a curtailment or water rationing on other wholesale or retail customers of Loop 360. Loop 360 will give notice to the City of the implementation and termination of any conservation and use restrictions it imposes on its customers, and the City agrees to impose and enforce its water conservation plan on the ACC maintenance facility within three (3) business days of receipt of written notice from Loop 360 of Loop 360's implementation of the curtailment or water rationing.

2.08 Temporary Curtailment of Service for Maintenance, Capital Replacement or Emergency Operations. The City agrees that, if water service is curtailed to other

customers of Loop 360, Loop 360 may impose a corresponding curtailment on water service to the City that is used to provide retail water service to the ACC maintenance facility, if required due to a maintenance operation, capital replacement or emergency condition, provided that the curtailment is only for the reasonable period necessary to complete the maintenance operation, or capital replacement or to respond to the emergency.

Article 3 – Delivery Points and Meters

3.01 Delivery Points. The Parties agree that the delivery points shall be the existing meters used to serve the three facilities described in §3.02 below. These delivery points shall not be changed except upon sixty (60) days written notice to the other Party. The Party changing a delivery point shall be responsible for the costs of any engineering and construction work incurred by either Party in making the change, unless the Parties agree otherwise in a written agreement signed by both Parties.

3.02 Meters.

(a) All water delivered hereunder shall be metered. The meters shall be those currently in place unless they are replaced by the City. The existing meters are owned by the City and shall be maintained by the City at its sole expense.

(b) Loop 360 shall also have the right to install, at its sole expense, a meter at the intersection of Loop 360's transmission line and the distribution line serving the golf course restroom and Sewage Plant. If and when Loop 360 elects to install this new meter, such new meter shall be used to measure and bill the City for water used by the two facilities on this distribution line.

(c) Either Party can request that the other Party to remove and have tested a meter owned by such Party. If the meter test shows that the meter is measuring water flow within the accuracy standards set by the American Water Works Association, the Party requesting the testshall pay the actual costs incurred by the other Party in removing, testing and reinstalling the meter. If the meter does not meet this accuracy standard, the owner of the meter will pay the costs of removing, testing and replacing the meter.

(d) In the event a meter is found to be not working or materially inaccurate, Loop 360 may estimate the volume of water not accurately measured using historical

analysis and other estimating data and may bill the City for the volume so estimated. If the City has been over-billed due to a materially inaccurate meter, refunds shall be made by giving a credit on the next bill. Loop 360 and City will in good faith negotiate the resolution of billing disputes under this Agreement. The City will have the right to continuity of service pending the resolution of a good faith negotiation of a disputed bill under this Agreement.

3.03 Access to Facilities. Notwithstanding any other provision of this Agreement, in cooperation with and with the consent of the City, Loop 360 will have the right of entry and access to the City's distribution lines and meters used to serve the three facilities described in §§ 1.01 and 1.02 above to read the meters, to inspect for leaks and for such other reasonable purposes, as determined by the City, that are related to the provision of wholesale water service under this Agreement.

Article 4 – Wholesale Billing Methodology

4.01 Monthly Statement. Loop 360 will send the City a monthly bill, setting forth the total charges to the City for wholesale water service during the preceding billing period and specifying the due date of the bill. The City agrees to make timely payment to Loop 360 for wholesale water service provided under this Agreement. Payment will be considered past due if not received by Loop 360 thirty (30) days from the due date specified on the bill. Loop 360 may apply a late charge on past due payments in accordance with its tariff applicable to other customers.

4.02. Monthly Billing Calculations. Loop 360 will compute the monthly billing for wholesale water service on the basis of: (a) Loop 360's monthly readings of the metering facilities described above; and (b) the applicable wholesale water rate for the City per §2.01 of this Agreement. Loop 360's bills shall include sufficient detail such that the City can determine how much water was used at the ACC maintenance facility and golf course restroom, and the City's Sewage Plant...

4.03. Effect of Nonpayment. If Loop 360 has not received payment from the City within thirty (30) days from the due date of the monthly bill, the bill will be considered delinquent, unless contested in good faith. In the event of any delinquent bill, Loop 360 will give written notice to the City of such delinquency and, if the City fails to make payment of the delinquent amount within 30 calendar days from the date of receipt of the written notice, then Loop 360 may, at its discretion, temporarily terminate service to the City until payment is made; provided, however, that service may not be terminated to the

Sewage Plant and the City will have the right to continue to receive service at all locations during a good faith appeal of a disputed bill.

Article 5 – Supply of Raw Water To ACC

5.01 Transfer of Facilities To the City.

(a) Upon the effective date of the transfer of the Proposed Conveyed Water Facilities to Loop 360, Loop 360 shall transfer to the City without charge the existing raw water irrigation pump located at the Raw Water Pump Station (a 30 hp, 700 gpm rated pump) and the 8" transmission line currently connected to the irrigation pump (collectively the "Irrigation Facilities"), which are the facilities used by the City to make the raw water sale described in §1.05 above. Transfer of the Irrigation Facilities will be accomplished by Loop 360's execution of the Bill of Sale attached hereto as Exhibit B, which the City and Loop 360 have found to be sufficient.

(b) The Irrigation Facilities shall be transferred by Loop 360 and accepted by the City **"as is," "where is"** and **with all known and unknown faults.** Loop 360 makes no warranties or representations regarding the condition of the Irrigation Facilities or the suitability of the Irrigation Facilities for the purposes intended by the City. The City represents and warrants that in deciding to enter into this Agreement, the City has not relied in any manner on representations from Loop 360 regarding the condition or suitability of the Irrigation Facilities, and instead has relied exclusively upon its own knowledge, investigation of the facts or its own examination of the Irrigation Facilities.

(c) From and after the date of transfer of the Irrigation Facilities to the City, the City shall be responsible for all costs to repair, refurbish, insure, operate, maintain, replace or rebuild the Irrigation Facilities or any part thereof. From and after the date of transfer of the Irrigation Facilities to the City, Loop 360 shall have no responsibility for any costs associated with the Irrigation Facilities or any part thereof.

5.02 The Irrigation Pump Electricity. The electricity that powers all pumps at the Raw Water Pump Station is delivered by a single electric feeder and is measured by a single meter. Loop 360 agrees that it will not add other facilities to this electric feeder. The City agrees that it will pay its prorata share of the cost of electricity delivered to and measured by the electric meter at the Raw Water Pump Station. The City's prorata share of each such electric bill will be determined by the ratio of the volume of water supplied to ACC to the total volume of water supplied to ACC and the Davenport WTP in the most recent water measurement period that ended before the ending date of time period to

which the electric bill applies. For example, if Loop 360 received an electrical bill for the Raw Water Pump Station meter in the amount of $200 for the period June 25 through July 26, and the raw water delivered to ACC through the LCRA billing period ending July 18 equaled 20% of total raw water delivered to ACC and the Davenport WTP in such billing period, then Austin's prorata share of the electric bill would be $40.00. Loop 360 shall perform this calculation and bill the City monthly for electric usage, and the City shall pay such bills in the normal course of business.

5.03 Access to the Irrigation Facilities, Raw Water Pump Station and Intake Structure. From and after the date the Irrigation Facilities are transferred to the City, the City shall have an irrevocable right of entry and possession under this Agreement to access to the Irrigation Facilities and the Raw Water Pump Station to effectuate the purposes of this Agreement without having to provide Loop 360 or its operator with any advance notice of the City's irrevocable contract right and intent to access and use the Irrigation Facilities and the Raw Water Pump Station. The City shall not make any repairs to the Raw Water Pump Station (other than to the Irrigation Facilities or the electricity metering referenced above) or the Intake Structure without the written consent of Loop 360.

5.04 Common Use of Intake Structure and Raw Water Pump Station. Loop 360 agrees that upon the transfer of the Irrigation Facilities to the City, the City shall have a perpetual right of entry and possession under this Agreement to use the Raw Water Intake Structure and common Raw Water Pump Station facilities to pump raw water from Lake Austin without charge or cost imposed by Loop 360 (other than common O&M expenses charged to the City per §5.05 below). The City's contract right under this Agreement to access and use these facilities is **not** a license granted by Loop 360, but rather is an irrevocable contract right arising from this Agreement, which right and interest may not be terminated and may be enforced by a suit, including but not limited to a suit for specific performance and damages, in a court of competent jurisdiction.

5.05 Payment of Common Costs.

(a) Loop 360 and the City agree to share the costs of maintaining, operating, repairing, refurbishing and replacing, as necessary, the Intake Structure and the facilities at the Raw Water Pump Station, or portions thereof, that are used in common by all pumps (collectively "common O&M costs"). Such costs may include, maintenance and replacement of screens at the Intake Structure, cleaning or other maintenance of the 42" intake pipeline, maintenance and cleaning of the catch basin at the Pump Station, repair or replacement of electrical facilities used in common by the Pump Station pumps, and

maintenance or replacement of existing fencing, but not the electricity costs addressed in §5.02 above. Loop 360's bills to the City for common O&M costs shall identify each activity and its cost being billed to the City. The City shall have the right to inspect invoices rendered to Loop 360 that support the common O&M costs being billed to the City.

(b) Loop 360 and the City will be responsible for determining what activities are necessary to maintain, operate, repair, refurbish or replace all commonly used facilities. Loop will initially pay the common O&M costs. During the first 12 months following transfer of the Irrigation Facilities to the City, Loop 360 will not bill the City for common O&M costs. Any common O&M costs incurred in this 12 month period will be billed to the City after the 12 months end, based on the City's total annual percentage share of all water withdrawn from the lake during such 12 months using the common facilities. For example, if the City's withdrawals in the first 12 months equaled 20% of the total water withdrawn by the City and Loop 360 together, then the City would pay 20% of the total common O&M costs incurred in the first 12 months and Loop 360 would pay 80% of the total common O&M costs incurred in the first 12 months. After the first 12 months, costs will be shared in the same manner; but based on the volumetric withdrawals during the most recent rolling 12 month period that ended prior to initiation of the work being billed. The City and Loop 360 agree that upon request, each of them will furnish to the other copies of their raw water bills from the Lower Colorado River Authority ("LCRA") and such bills will be used to determine the volumes of water withdrawn by the City and by Loop 360 for purposes of the cost sharing arrangements described in §§5.02 and 5.05 hereof.

5.06 Ownership and Sale of the Intake Structure and Raw Water Pump Station.

(a) The City warrants and represents that upon transfer of the Proposed Conveyed Water Facilities to Loop 360, the City will no longer own the Intake Structure and Raw Water Pump Station (other than its ownership of the Irrigation Facilities upon their conveyance to the City by Loop 360), and that the City's access and use of the Intake Structure and Raw Water Pump Station after the transfer of the Irrigation Facilities will be based upon irrevocable contract rights established in this Agreement.

(b) If Loop 360 decides to sell either itself, all its assets or the Intake Structure and/or the Raw Water Pump Station to a party that will continue to use such facilities, Loop 360 shall notify the City of that determination in writing at least sixty (60) days in advance of the date Loop 360 estimates it will sell such facilities.

(c) Loop 360 agrees and covenants that any sale of a controlling interest in its stock or memberships, a sale of all its assets or a sale of assets that includes the Intake Structure and/or Raw Water Pump Station shall be made subject to the irrevocable contract rights of the City and obligations of Loop 360 as stated in this Agreement to access and use of such facilities in the manner provided for in this Agreement.

Article 6 – Liability, Indemnification & Release

6.01 Liability As Between the Parties

(a) Except as provided in §6.02(b) and (c) below, Loop 360 shall not be liable to the City in tort, contract or otherwise for any damages, costs or claims, whether direct or consequential, that the City incurs as a result of, or arising out of, the transfer of the Irrigation Facilities to the City or the City's inability to pump water out of the lake to sell to ACC due to acts or omissions of Loop 360 or its contractors, agents or employees in operating, maintaining, refurbishing, repairing or replacing the Intake Structure or Raw Water Pump Station or in failing to perform such activities as to the Intake Structure or Raw Water Pump Station, unless the City's inability to pump water is due to Loop 360's breach of its obligations under §5.01(a) of this Agreement. **The City expressly agrees that this exemption from liability applies to damages, costs or claims arising partly or solely as a result of the negligence of Loop 360 or the negligence of those acting on its behalf.**

(b) Except as provided in §6.02(a) and (c) below, the City shall not be liable to Loop 360 in tort, contract or otherwise for any damages, costs or claims, whether direct or consequential, that Loop 360 incurs as a result of, or arising out of, the transfer of the Irrigation Facilities to the City or Loop 360's inability to pump water out of the lake due to acts or omissions of the City or its contractors, agents or employees in operating, maintaining, refurbishing, repairing or replacing the Irrigation Facilities and using the Intake Structure and common portions of the Raw Water Pump Station, unless the Loop 360's damages are due to the City's breach of its obligations under §5.02 of this Agreement. **Loop 360 expressly agrees that this exemption from liability applies to damages, costs or claims arising partly or solely as a result of the negligence of the City or the negligence of those acting on its behalf.**

6.02 Mutual Indemnification of Loop 360 and the City.

(a) The City hereby agrees to repair or replace at its sole cost, and to the satisfaction of Loop 360, any equipment or facilities of Loop 360 located at the Intake

Structure or at the Raw Water Pump Station that are damaged or destroyed as a result, in whole or in part, of the acts or omissions of the City or its contractors, agents or employees, regardless of whether such acts or omissions were negligent or not, in operating, maintaining, repairing, refurbishing or replacing the Irrigation Facilities. To the fullest extent allowed by law, the City further agrees to indemnify and hold Loop 360 harmless from any and all damages, costs and claims of any kind whatsoever, including but not limited to costs for attorneys and experts to investigate and defend claims, arising out of or resulting from personal injuries or deaths that result, in whole or in part, from the acts or omissions of the City or its contractors, agents or employees, regardless of whether such acts or omissions were negligent or not, in operating maintaining, repairing, refurbishing or replacing the Irrigation Facilities.

(b) Loop 360 hereby agrees to repair or replace at its sole cost, and to the satisfaction of City, the Irrigation Facilities, or any equipment or facilities used by the City and located at the Intake Structure or at the Raw Water Pump Station that are damaged or destroyed, if it is damaged or destroyed as a result, in whole or in part, of the acts or omissions of Loop 360 or its contractors, agents or employees, regardless of whether such acts or omissions were negligent or not, in operating maintaining, repairing, refurbishing or replacing the Davenport WTP. To the fullest extent allowed by law, Loop 360 further agrees to indemnify and hold the City harmless from any and all damages, costs and claims of any kind whatsoever, including but not limited to costs for attorneys and experts to investigate and defend claims, arising out of or resulting from personal injuries or deaths that result, in whole or in part, from the acts or omissions of Loop 360 or its contractors, agents or employees, regardless of whether such acts or omissions were negligent or not, in operating maintaining, repairing, refurbishing or replacing Loop 360's facilities located at the Intake Structure or at the Raw Water Pump Station.

(c) In the event of personal injuries or deaths, the indemnities stated above in subsections §6.02(a) and (b) shall not apply if the personal injuries or deaths are due to or a result of the joint negligence of: (a) Loop 360 or its contractors, agents or employees; and (b) the City or its contractors, agents, or employees.

Article 7 – Force Majeure

7.01. Force Majeure Events. If either Party is rendered unable by force majeure to carry out any of its obligations under this Agreement, whether in whole or in part, then the obligations of that Party, to the extent affected by the force majeure, will be suspended during the continuance of the inability; provided, however, that due diligence is exercised to resume performance at the earliest practicable time. As soon as reasonably

possible after the occurrence of the force majeure relied upon to suspend performance; the Party whose contractual obligations are affected must give written notice and the full particulars of the force majeure to the other Party. The cause, as far as possible, must be remedied with all reasonable diligence. Force majeure will relieve Loop 360 from liability to the City, or any water customer of the City, for failure to provide water service due to an inability covered by this Article, subject to the continuation of the force majeure and Loop 360's reasonable and diligent efforts to remedy the force majeure and resume service. Force majeure will not relieve the City of its obligation to make payment to Loop 360 for wholesale water service provided to the City under this Agreement.

7.02 Definition of Force Majeure. For purposes of this Agreement, "force majeure" means: acts of God; strikes, lockouts or other industrial disturbances; criminal conduct or sabotage; acts of the public enemy; orders of the government of the United States or the State of Texas or any civil or military authority; insurrections; riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply, and any other inability of either Party, whether similar to those enumerated or otherwise, that are not within the control of the Party claiming their ability and that could not have been avoided by the exercise of due diligence. 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 will not require the settlement of strikes, lockouts or other industrial or labor disturbances by acceding to the demands of the opponent in such dispute if the settlement is unfavorable to it in the judgment of the Party having the difficulty.

Article 8 – General Provisions

8.01 Sales To Other Customers. The City may not sell water purchased hereunder to entities other than ACC and itself or deliver water purchased hereunder to facilities other than those described in §§ 1.01 and 1.02 above without the express written consent of Loop 360.

8.02 Wholesale Service Commitment Non Transferable. The City may not assign or transfer, in whole or in part, Loop 360's commitment to provide wholesale water service under this Agreement without the prior written approval of Loop 360, which shall not be unreasonably withheld. The City may sale, assign or transfer, in whole or in part, the Irrigation Facilities and its irrevocable contract right of entry and possession under this Agreement without the prior written approval of Loop 360

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

8.04 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 for other utility-related purposes, the City and Loop 360 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.

8.05 Effective Date and Term of Agreement. This Agreement will become effective on the occurrence of the later of the following two events: (i) execution of this Agreement by the authorized representatives of the City and Loop 360; and (ii) transfer of the Proposed Conveyed Water Facilities to Loop 360. The term of the wholesale potable water sale provisions in this Agreement is five years from the effective date and will automatically renew for one year periods thereafter until terminated in accordance with this section. The City can terminate the wholesale potable water sale provisions of this Agreement at will, but shall give Loop 360 at least thirty (30) days notice of termination. Loop 360's grant to the City and its successors and assigns of a right of entry and perpetual possession of the Irrigation Facilities , right to use the Intake Structure and common portions of the Raw Water Pump Station , shall survive the termination of the wholesale provisions in this Agreement and are not merged into or released or waived by any documents executed by the City and Loop 360.

8.06. Default Process.

If one Party believes that the other Party is in default of any other 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; provided, however, that this provision shall not prevent Loop 360 from

exercising its rights under §4.03 hereof in the time frame specified in that section. 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 and reasonable efforts to resolve any dispute by agreement, which may include 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. 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. Nothing herein shall be construed as a waiver of a Party's right to seek emergency relief in the event of an emergency nor a waiver of the rights of a Party existing under the laws of the State of Texas.

8.07 Statement of Purpose. This Agreement is intended to set forth a comprehensive statement of all terms and conditions applicable to the provision of wholesale Water service by Loop 360 to the City and to set forth a comprehensive statement of all terms and conditions upon which Loop 360 shall transfer the Irrigation Facilities to the City and the City shall use such Irrigation Facilities and other related facilities.

8.08 Covenant of Good Faith and Fair Dealing. The Parties 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.

8.09 Notices. Any notice ("Notice") required or permitted to be given made or accepted by any Party to the other under this Agreement must be in writing. Notice may, unless otherwise provided herein, be given or served: (a) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; or (b) by delivering the Notice to the Party, or an agent of the Party. Notice deposited in the mail in the manner specified will be effective three days after such deposit. Notice given in any other manner will be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties will, until changed as provided below, be as follows:

Loop 360:	AUSTIN:
Loop 360 Water Supply Corporation C/O Thomas B. Hudson, Jr. Graves, Dougherty Hearon & Moody P.O. Box 98 Austin, Texas 78767-0098	City of Austin Water and Wastewater Utility P.0 Box 1088 Austin, Texas 78767-8828 Attn: Director

The Parties may change their respective addresses for purposes of Notice by giving at least five days written notice of the new address to the other Party. If any date or any period provided in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period will be extended to the next business day.

8.10 Further Documents. The Parties 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.

8.11 Severability. The provisions of this Agreement are severable, and 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.

8.12 Entire Agreement. This Agreement, including all exhibits, constitutes the entire agreement between the parties relating to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements, representations, covenants or warranties, whether oral or in writing, respecting the subject matter. The Parties recognize that they are parties to another agreement related to the sale and purchase of the Proposed Conveyed Water Facilities, but the terms of that agreement do not effect the terms of this Agreement and *vice versa*.

8.13 Amendment. No amendment of this Agreement will be effective unless and until it is reduced to a writing signed by the authorized representatives of the City and Loop 360 and, if required by law, duly approved by the governing bodies of regulatory authorities having jurisdiction over the Parties, or either of them, or over the subject matter of the amendment.

8.14 Independent Contractors and No Partnership or Joint Venture.

(a) Loop 360 will have the status of an independent contractor hereunder and will be solely responsible for the proper direction of its employees and contractors, and its employees and contractors will not be considered employees, borrowed servants or agents of the City for any reason. Similarly, the City will have the status of an independent contractor hereunder and will be solely responsible for the proper direction of its employees and contractors, and its employees and contractors will not be considered employees, borrowed servants or agents of Loop 360 for any reason.

(b) This Agreement does not create or establish a partnership, joint venture or agency, express or implied, and should not be construed in any form or manner to do so. In addition, the Parties expressly disavow the existence of any fiduciary relationships or duties as between and among the Parties arising out of or as a result of this Agreement or otherwise.

8.15 No Third Party Beneficiary. Nothing in this Agreement will be construed to confer any right, privilege or benefit on any person or entity not a party hereto or otherwise to create any vested right or third party beneficiary relationship.

8.16 Governing Law. This Agreement will be construed under the laws of the State of Texas and all obligations of the Parties are deemed performable in Travis County, Texas.

8.17 Venue. Venue for any suit arising under this Agreement will be in Travis County.

8.18 Water Service to ACC. The City shall be solely responsible for collecting any payments due to the City for raw water and potable water service provided to ACC by the City.

8.19 Interpretation. Each party has been represented by legal counsel who have participated, or had the opportunity to participate, equally in the formulation, drafting, and approval of this Agreement. Wherever appropriate, the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice versa. Both Parties have participated in the negotiation and drafting of this Agreement; therefore, in the event of any ambiguity, the provisions of this Agreement will not be construed more favorably for or against either party.

8.20 Duplicate Originals. This Agreement may be executed in duplicate originals, each of which shall be of equal dignity.

CITY OF AUSTIN

By: _____
Roger Chan
Assistant City Manager

Date: 10-26-01

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

LOOP 360 WATER SUPPLY CORPORATION,
a Texas non-profit corporation:

By: Ronald Poe
Ronald Poe, President

By: _____
Attorney for Loop 360
Water Supply Corporation

Date: 10-26-01

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT was acknowledged before me on this the 26 day of October 2001, by Roger Chan, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.

_____
Notary Public, State of Texas

KATHY S. NUNN
NOTARY PUBLIC
State of Texas
Comm. Exp. 04-11-2004

(SEAL)

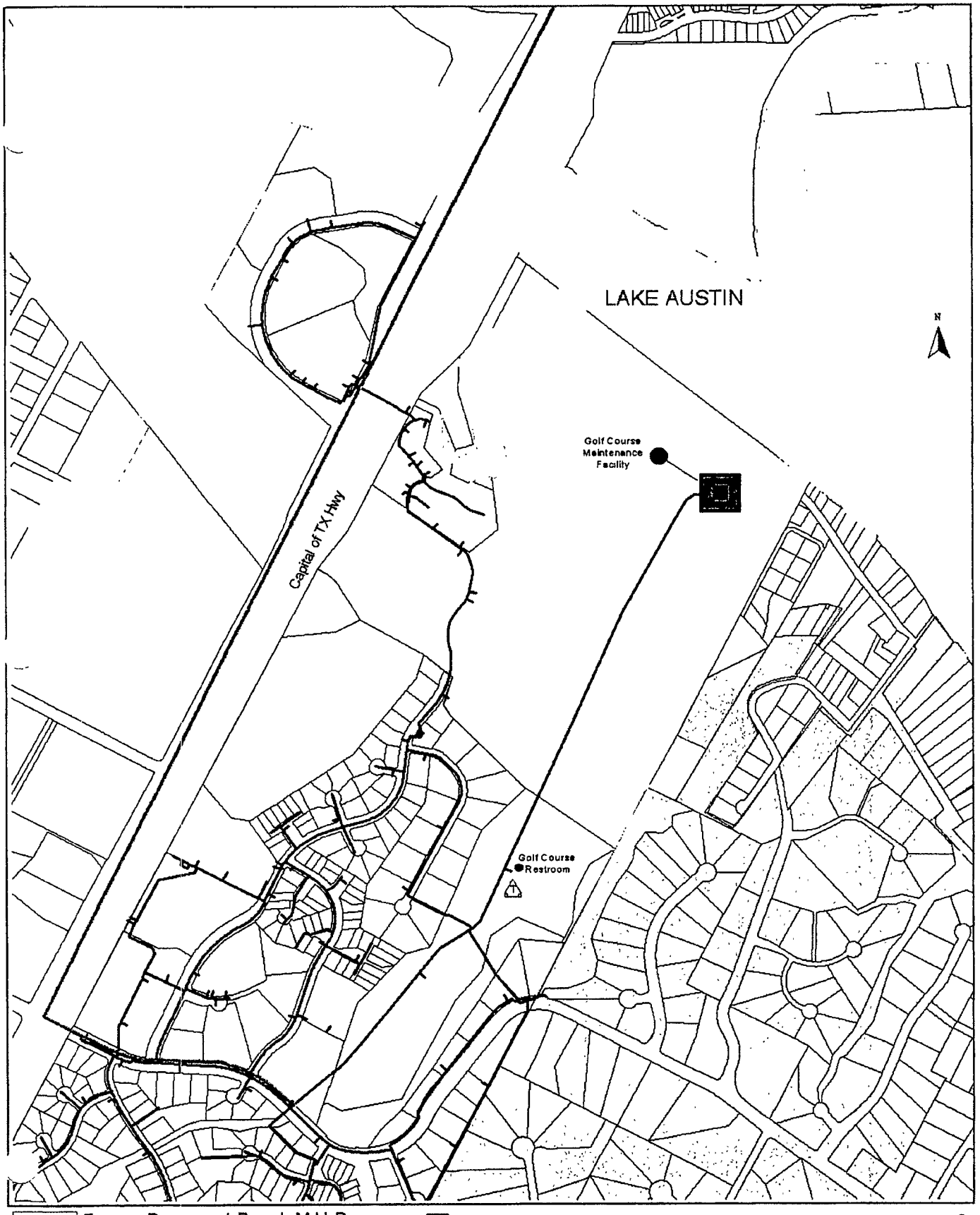
THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT was acknowledged before me on this the 26 day of October 2001, by Ronald Poe, President of Loop 360 Water Supply Corporation, a Texas non-profit corporation, on behalf of said corporation.

Notary Public, State of Texas

(SEAL)

KATHY S. NUNN
NOTARY PUBLIC
State of Texas
Comm. Exp. 04-11-2004


LAKE AUSTIN
N
Golf Course Maintenance Facility
Capital of TX Hwy
Golf Course Restroom
Former Davenport Ranch M.U.D.
Loop 360 WSC
Austin Full Purpose City Limits
Water Treatment Plant
City of Austin Water Mains
City of Austin 24" Water Main
Wastewater Treatment Plant
Exhibit A
9/10/01

BILL OF SALE

STATE OF TEXAS §
§ KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF TRAVIS §

THAT Loop 360 Water Corporation, a Texas non-profit water corporation ("***Seller***") in consideration of good and valuable consideration paid to Seller by the **City of Austin**, a Texas home-rule municipal corporation ("***Buyer***"), the receipt and sufficiency of which is hereby acknowledged, has **SOLD, TRANSFERRED,** and **DELIVERED,** and by these presents does hereby **SELL, TRANSFER,** and **DELIVER** unto Buyer that certain 30 h.p., 700 g.p.m rated raw water pump located at the Raw Water Pump Station located on an easement applicable to Austin Country Club's lands in northwestern Travis County, Texas, and heretofore currently used by Buyer to pump raw water from Lake Austin for delivery to Austin Country Club and the 8" transmission line connected to such pump (collectively "***Irrigation Facilities***"). Buyer, if required by an authorized person or entity, agrees to pay all ad valorem or personal property taxes accruing on the Irrigation Facilities from and after the Effective Date of this Bill of Sale.

Buyer acknowledges that, except for the special warranty of title contained in this Bill of Sale with respect to the Irrigation Facilities, neither Seller nor its representatives have made any representations or warranties, express, implied or statutory, relating to the physical condition, operating history, valuation, governmental approvals, governmental regulations, or environmental or physical condition of the Irrigation Facilities, upon which Buyer has relied. Buyer further acknowledges and agrees that other than the special warranty of title contained in this Bill of Sale:

(1) **SELLER HAS NOT MADE, DOES NOT MAKE AND EXPRESSLY DISCLAIMS, ANY WARRANTIES, REPRESENTATIONS, COVENANTS OR GUARANTEES, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, AS TO THE MERCHANTABILITY, HABITABILITY, QUANTITY, QUALITY OR ENVIRONMENTAL CONDITION OF THE IRRIGATION FACILITIES OR ITS SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE.**

(2) **BUYER AFFIRMS THAT IT (a) HAS INVESTIGATED AND INSPECTED THE IRRIGATION FACILITIES TO ITS SATISFACTION AND IS FAMILIAR AND SATISFIED WITH THE CONDITION OF THE IRRIGATION FACILITIES AND (b) HAS MADE ITS OWN DETERMINATION AS TO (i) THE MERCHANTABILITY, QUANTITY, QUALITY AND CONDITION OF THE IRRIGATION FACILITIES, INCLUDING, WITHOUT LIMITATION, THE POSSIBLE PRESENCE OF TOXIC OR HAZARDOUS SUBSTANCES, MATERIALS OR WASTES OR OTHER ACTUAL OR POTENTIAL ENVIRONMENTAL CONTAMINANTS, AND (ii) THE IRRIGATION FACILITIES' SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE AND (c) BUYER HAS SOLELY RELIED ON ITS OWN EXPERTISE AND THAT OF ITS CONSULTANTS.**

(3) **BUYER HEREBY ACCEPTS THE IRRIGATION FACILITIES IN THEIR PRESENT CONDITION ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS AND ACKNOWLEDGES THAT (a) WITHOUT THIS ACCEPTANCE, THIS**

TRANSFER WOULD NOT BE MADE, AND (b) THAT SELLER HAS NO OBLIGATION WHATSOEVER TO UNDERTAKE ANY REPAIR, ALTERATION, REMEDIATION OR OTHER WORK OF ANY KIND WITH RESPECT TO THE IRRIGATION FACILITIES.

Further, as to title, Seller warrants and represents to Buyer that; (1) it has no knowledge of any title defect; (2) to the best of its knowledge, its title is free and clear of the rights of persons other than Seller; (3) to the best of its knowledge, its interest is free and clear of all mechanic's liens, liens, mortgages, or encumbrances of any nature and no work has been performed or begun by Seller, and no materials have been furnished which might give rise to mechanic's, materialman's, or other liens against the Irrigation Facilities, or the Buyer's title therein, or any portion thereof; and (4) that it has such title as was transferred to it by Buyer pursuant to the "2001 Agreement Between the City of Austin, Loop 360 Water Supply Corporation, AquaSource Utility, Inc., and Davenport Limited, Regarding the Sale and Purchase of Shared Water Facilities and Settlement of All Claims Related to Water Provisions of 4th Amended Cost-Sharing Agreement" and that it has neither assigned, pledged or otherwise in any manner whatsoever sold or agreed to sell or transfer by an instrument in writing or otherwise the Irrigation Facilities to any other person or entity.

EXECUTED effective as of October 26, 2001, 2001 (called herein the "*Effective Date*").

CITY OF AUSTIN

By: _____
Roger Chan
Assistant City Manager

Date: 10-26-01

APPROVED AS TO FORM:

By: _____
Assistant City Attorney

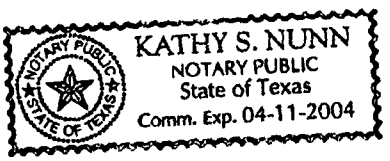
LOOP 360 WATER SUPPLY CORPORATION,
a Texas non-profit corporation:

By: Ronald Poe
Ronald Poe, President

Date: 10-26-01

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT was acknowledged before me on this the 26 day of October 2001, by Roger Chan, Assistant City Manager of the City of Austin, Texas, a municipal corporation, on behalf of said municipal corporation.

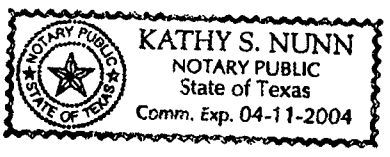


Notary Public, State of Texas

(SEAL)

THE STATE OF TEXAS)
)
COUNTY OF TRAVIS)

THIS INSTRUMENT was acknowledged before me on this the 24 day of October 2001, by Ronald Poe, President of Loop 360 Water Supply Corporation, a Texas non-profit corporation, on behalf of said corporation.



Notary Public, State of Texas

(SEAL)

MASTER CONTRACT
FOR THE
FINANCING, CONSTRUCTION, OWNERSHIP AND OPERATION OF THE
BRUSHY CREEK REGIONAL WASTEWATER SYSTEM

Among

CITY OF AUSTIN

CITY OF CEDAR PARK

AND

CITY OF ROUND ROCK

Dated: December 8, 2009