Appendix A-2

Agreements and Associated Water Rights

INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into as of the date last executed below ("Effective Date") by and between: the BRAZOS RIVER AUTHORITY of Texas ("BRA"), a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting by and through its Board of Directors and pursuant to a resolution duly passed and adopted by said Board of Directors; the CITY OF ABILENE, TEXAS (the "City"), a municipality of the State of Texas, organized and operating pursuant to its home rule charter, and the Constitution and laws of the State of Texas, acting herein by and through its City Council and pursuant to formal approval by said City Council; and, the WEST CENTRAL TEXAS MUNICIPAL WATER DISTRICT (the "District"), a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting by and through its Board of Directors and pursuant to a resolution duly passed and adopted by said Board of Directors.

RECITALS

WHEREAS, the BRA owns certain water rights for reservoirs in the Brazos River Basin, including water rights for Possum Kingdom Reservoir (CA 12-5155) ("Possum Kingdom"); and

WHEREAS, on June 25, 2004 the BRA filed an application with the Texas Commission on Environmental Quality ("TCEQ") for a System Operation Permit (Application No. 5851) ("System Operation Permit"); and

WHEREAS, the City and the District own certain water rights in the upper Brazos River Basin, including District water rights for Hubbard Creek Reservoir (CA 12-4213) ("Hubbard Creek Reservoir"); City water rights for the diversion and reuse of a portion of City municipal wastewater effluent return flows (Permit No. 4266C) ("Existing Reuse Authorization") which was issued by a predecessor agency of TCEQ with a provision that conditioned its effectiveness on the continued validity of a "Water Supply Agreement By and Between Brazos River Authority and City of Abilene," (the "Upstream Water Supply Contract"), which contract expires on December 31, 2011; and City water rights for the scalping of water from the Clear Fork of the Brazos River into Lake Fort Phantom Hill (CA 12-4139) (the "City's Clear Fork Scalping"); and

WHEREAS, the City's Clear Fork Scalping authorization, the City's Existing Reuse Authorization, and the District's Hubbard Creek Reservoir authorization are all "junior" in time priority to the BRA's existing Possum Kingdom authorization; and

WHEREAS, the City and the District have filed applications with TCEQ for additional water rights, including the City's application to reuse its wastewater treatment plant discharges (Application No. 12-4161C) (the "City's Pending Reuse Project") and the District's application to scalp excess flows from the Clear Fork of the Brazos River into Hubbard Creek Reservoir (Application No. 5870) (the "District's Clear Fork

Scalping Project"), both of which, if granted, will be "junior" in time priority to the BRA's Possum Kingdom authorization; and

WHEREAS, the City and the District are pursuing a water rights application for the permitting and development of the Cedar Ridge Reservoir Project ("Cedar Ridge Project"), to be located on the Clear Fork of the Brazos River and which, if permitted, will be "junior" in time priority to the BRA's Possum Kingdom authorization; and

WHEREAS, BRA's System Operation Permit, if granted, will be "senior" in time priority to the District's Clear Fork Scalping Project, if issued, and to the City and/or the District's proposed Cedar Ridge Project, if permitted; and

WHEREAS, the City, the District, and BRA (jointly referred to as the "Parties") agree that it is in their respective interests and in the public interest, to resolve existing and potential conflicts between their respective water rights and their pending and proposed applications; and

WHEREAS, the Parties desire to enter into this Agreement so they can each pursue, in a coordinated manner, their pending and proposed water supply projects in the Brazos River Basin; and

WHEREAS, pursuant to Chapter 791, Texas Government Code, and the general and special laws of the State of Texas, the Parties are authorized to enter into this Agreement providing for the undertaking, administration and implementation of the Agreement;

NOW, THEREFORE, be it resolved that for and in consideration of the mutual covenants, benefits and agreements hereinafter set forth, the adequacy and sufficiency of which is evidenced by the Parties' respective execution of this Agreement, the Parties agree as follows:

AGREEMENT

ARTICLE I

1. Agreement Regarding Existing Water Rights

a. BRA agrees to waive, without cost, its right to make priority calls under its Possum Kingdom authorization on the District's Hubbard Creek Reservoir authorization and on the City's Clear Fork Scalping authorization.

b. The District agrees that it will sell to BRA, without cost, from the District's Hubbard Creek Reservoir authorization, by means of a water supply contract meeting TCEQ's regulatory requirements in 30 Texas Administrative Code Chapters 295 and 297, 14,000 acre-feet of the District's authorized use of water per annum. This water shall be authorized for municipal use with a 1957 priority.

BRA agrees that no call will be made for the diversion or releases of water from Hubbard Creek Reservoir of this 14,000 acre-feet of water. Additionally, BRA agrees that it will not require the District to provide such water in any manner that will reduce the supply available to the District from the remaining 42,000 acre-feet of authorized diversions from Hubbard Creek Reservoir. BRA further agrees to timely supply to the District BRA's end of year water use information for utilization in complying with TCEQ water use reporting requirements.

c. In the event TCEQ fails to accept or allow the water supply contract anticipated under Article 1.b. of this Agreement, the Parties agree to negotiate a mutually acceptable subordination agreement that preserves the intent of the Parties reflected in Article 1.a. and 1.b. of this Agreement.

d. Upon the expiration of the Upstream Water Supply Contract in Year 2011, BRA agrees to enter into an extension of that contract, if requested by the City, for a period or term commensurate with the provisions of Article 5.q. of this Agreement. BRA agrees that in such contract extension it shall waive, without cost, its right to make priority calls under its Possum Kingdom authorization on the City's use of its Existing Reuse Authorization rights.

ARTICLE II

2. Agreement Regarding Specified Future Water Rights

a. BRA agrees to waive, without cost, its right to make priority calls by any water right it obtains pursuant to its pending System Operation Permit application on both the District's pending Clear Fork Scalping Project and the District's and/or the City's proposed Cedar Ridge Project. The provisions of this Article 2.a. are contingent upon the District and/or the City having one or both of these permit application(s) deemed administratively complete and public notice issued within 10 years following the Effective Date of this Agreement, and upon such applications being granted, in whole or in part, within thirteen (13) years of the Effective Date of this Agreement. BRA will be under no obligation to waive priority calls on either of the above-referenced projects for which a permit has not been issued within thirteen (13) years of the Effective Date of this Agreement.

b. BRA agrees to grant the City and/or the District, without cost, for a period of 10 years following the Effective Date of this Agreement, a preferential right and option to purchase up to 20,000 acre-feet per annum of BRA System Water by water supply contract in a form consistent with those in common use by BRA at that point in time. "BRA System Water" shall be water that is available for diversion from Possum Kingdom Reservoir on a firm, non-interruptible basis. Such purchase shall be in the form of a water supply contract acceptable to the Parties and consistent with TCEQ regulations. At the expiration of the 10-year period, the City and/or the District, at their exclusive option, may exercise the option or may preserve the option to purchase up to 20,000 acre-feet per annum

supply of BRA System Water at a "Reservation Rate" (i.e., a rate established by BRA to reserve water supply for a purchaser of water from the BRA and prior to the actual diversion and use of the water supply). If no "Reservation Rate" has been developed at the expiration of the 10-year option period, then the preferential right and option to purchase the 20,000 acre-feet per annum supply may be extended for another 10-year period, at the exclusive option of the City and/or the District, at a default rate of 50% of the then-existing BRA System Rate until a "Reservation Rate" is established. Any extensions thereafter shall be by mutual agreement. Such an option, if exercised, shall be exercised, in writing, prior to the expiration of the 10-year period that follows the Effective Date of this Agreement.

c. BRA agrees to waive its right to make priority calls by its Possum Kingdom authorization on the proposed Cedar Ridge Project and the District's Clear Fork Scalping Project, if those projects are permitted by TCEQ. The District and/or the City agree to compensate BRA for the impact to Possum Kingdom's stand-alone firm yield that will result from permitting and operating the Cedar Ridge Project and the District's Clear Fork Scalping Project in the amount of 10,000 acre-feet of water per annum. In the event that only one of these projects is permitted and operated, compensation shall be as follows: compensation for the District's Clear Fork Scalping Project shall be for 5,000 acre-feet per annum; compensation for the Cedar Ridge Project shall be for 5,000 acre-feet per annum. Compensation will be payable at 50% of the then-existing BRA System Rate, after permitting of each project but prior to completion of construction of each project. Upon completion of construction of each project, compensation will be payable at the then-existing BRA System Rate. Such compensation shall be due and payable in accordance with the terms and conditions of written agreement(s) entered into by the Parties. Such obligation to pay and the other terms and conditions of such agreement(s) shall be dependent upon the continued validity and effectiveness of the water rights specified in this Article 2.c.

d. Future performance of the provisions reflected in Article 2 of this Agreement is subject to BRA's System Operation Permit being i) identified as a "recommended water management strategy" in the 2006 Region G and Region H Regional Water Plans, pursuant to Texas Water Development Board guidelines, and ii) granted by TCEQ in amounts substantially sufficient to meet needs identified as being supplied by BRA in the 2001 and 2006 Region G and Region H Regional Water Plans. Upon final approval of the System Operation Permit by TCEQ, BRA agrees to provide written notification to the City and the District of whether such permit is substantially sufficient to address such identified needs. In the event that such permit is not issued so as to be substantially sufficient to meet such identified needs, the Parties agree to work together, in good faith, to address the possible impacts of the Cedar Ridge Project and the District's Clear Fork Scalping Project on the Possum Kingdom authorization.

ARTICLE III

3. Agreement Regarding Reuse

a. BRA agrees not to protest or seek payment from the City for: i) any direct reuse authorization it pursues, or ii) any indirect reuse authorization that may be issued as a result of the City's Pending Reuse Project water right application, for municipal, industrial and irrigation purposes, consistent with the area of use limitations on its indirect reuse supplies as referenced in Article 3.b.

b. The City agrees to limit the actual end-use of its indirect reuse supplies to locations within the City's corporate boundaries, its extra-territorial jurisdiction boundaries, its water Certificate of Convenience and Necessity service area, and within such boundaries and service areas as may be changed or amended in the future. This Agreement does not limit the location of use of any water available to the City under its other water rights and its other water supplies.

ARTICLE IV

4. Agreement Regarding Cooperation

a. BRA agrees not to protest the City's Pending Reuse Project, an application filed by the City and/or the District on the Cedar Ridge Project, an application filed by the City to transfer all or part of its Clear Fork Scalping permit to the Cedar Ridge Project location, or the District's pending Clear Fork Scalping Project. BRA further agrees not to fund or support the protest of these applications by any third party.

b. The City and the District agree not to oppose BRA's System Operation Permit application, and further agree not to fund or support the protest of that application by any third party.

c. The Parties agree to provide each party to this Agreement with copies of permit applications, documents, amendments, modifications, and proposed permit language related to any pending or proposed water right referenced in this Agreement so as to allow the Parties reasonable opportunity to review and comment on such applications and proposed permits.

d. The Parties agree to support and work towards inclusion of the City's Pending Reuse Project, the City's and/or the District's Cedar Ridge Project, the District's pending Clear Fork Scalping Project, and BRA's System Operation Permit in the Region G and State Water Plans as "recommended water management strategies." This Agreement extends to both the 2006 Region G Regional Water Plan and the 2007 State Water Plan and amendments of the 2001 Region G Regional Water Plan and the 2002 State Water Plan, if requested by any party.

e. The Parties agree to work together in developing a new Water Availability Model for the Brazos River Basin ("WAM") that will implement the subordination concepts identified in this Agreement in a manner that is acceptable to TCEQ.

f. BRA agrees to support, if sought, a unique reservoir designation pursuant to Water Code Section 16.051, for the Cedar Ridge Project.

ARTICLE V

5. Miscellaneous Provisions

a. ENTIRE AGREEMENT: Except for the provisions of Article 1.d,, above, the terms and provisions of this Agreement contain the entire Agreement between BRA and the City and between BRA and the District with respect to water supply issues within the Brazos River Basin.

b. SEVERABILITY: Except for the provisions of Article 2.d., above, the provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.

c. ADDRESSES AND NOTICE: Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively called "Notice") herein provided or permitted to be given, made, or accepted by any Party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the business day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close, in which case it shall be deemed received at the close of the next business day). Notice by overnight mail or courier shall be deemed to have been received two (2) business days after it was sent. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective upon deposit in the United States mail. Notice given in any other manner shall be effective only in and when received by the party to be notified. For the purpose of Notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:
Mayor
City of Abilene
555 Walnut Street

P. O. Box 60
Abilene, Texas 79604-0060
Telephone: (325) 676-6386
Fax: (325) 676-6229

If to the District, to:
President, Board of Directors
West Central Texas Municipal Water District
P. O. Box 2362
410 Hickory Street
Abilene, Texas 79601
Telephone: (325) 673-8254
Fax: (325) 673-8272

If to BRA, to:
General Manager
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555
Telephone: (254) 761-3100
Fax: (254) 761-3207

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least five (5) days written notice to the Parties.

d. MODIFICATION: This Agreement shall be subject to change or modification only by the mutual written consent of the Parties.

e. ASSIGNABILITY: This Agreement shall bind the Parties and their legal successors, but shall otherwise not be assignable by the Parties without prior written consent of the other Parties, which consent shall not be unreasonably withheld. All of the respective obligations of each of the Parties shall bind that Party and shall apply to and bind any successors or assigns of that Party.

f. COSTS AND EXPENSES: Each party to this Agreement shall be responsible for all costs and expenses incurred by such Party in connection with this Agreement.

g. GOVERNING LAW: This Agreement shall be governed by the Constitution and law of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

h. AMENDMENTS: This Agreement may be amended or modified only by written agreement duly authorized by the respective governing bodies of the Parties and executed by the duly authorized representative of each.

i. COOPERATION: The Parties agree to perform all obligations and undertake such actions as are or may become necessary or convenient to effectuate the purposes and intent of this Agreement.

j. VENUE: Venue for any action arising hereunder shall be in McLennan County, Texas.

k. THIRD PARTY BENEFICIARIES: Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

l. DAMAGES: None of the Parties shall be liable or have any responsibility to the other for any indirect, special, consequential, punitive or delay-related or performance-related damages including, without limitation, lost earnings or profits. Such limitation on liability shall apply to any claim or action, whether it is based on whole or in part on contract, negligence, strict liability, tort, statute or any other theory of liability.

m. FURTHER ASSURANCES: The Parties agree to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the terms and provisions of this Agreement.

n. INTERPRETATION AND RELIANCE: No presumption will apply in favor of any Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions thereof.

o. RELATIONSHIP OF PARTIES: This Agreement and the transactions contemplated hereunder are based upon the active participation of the Parties. Neither the execution nor delivery of this Agreement, nor the consummation of the transactions contemplated hereunder, shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the contractual arrangements specifically set forth in this Agreement. Except as is expressly agreed to in writing in this Agreement, no Party (or any of its agents, officers or employees) have any power to assume or create any obligation on behalf of the other Party.

p. FUTURE AMENDMENT OF WATER RIGHTS: Nothing in this Agreement shall be construed to prohibit or restrict the Parties from seeking to amend or to secure an amendment of any term of the water right authorizations of either Party, or from pursuing additional authorizations, that are not contemplated herein. A Party may amend its water rights, pursue additional water supply authorizations, or object to any action by any other Party hereto in any manner it may deem appropriate, in its complete discretion, except that no Party will take any such action that will prevent performance of its duties or obligations under this

Agreement. Notwithstanding the foregoing, nothing herein shall restrict either Party's ability to lawfully seek to preserve and protect its own water rights interests.

q. TERM: This Agreement shall commence on the Effective Date and shall continue in effect for so long as any of the Parties' water rights referenced in this Agreement remain in effect.

r. TERMINATION: This Agreement may be terminated by mutual written agreement of the Parties.

ARTICLE VI

6. Remedies

a. The Parties acknowledge and agree that the rights contemplated herein are unique and in the nature of a real property right. Accordingly, without limiting any other remedies that may be available to the Parties at law or in equity, the Parties shall have the remedy of specific performance to enforce performance of this Agreement.

b. A breaching party shall be liable to the other Parties for all costs actually incurred in pursuing such remedies, including reasonable attorney's fees.

EXECUTED this 10 day of March, 2005.

THE CITY OF ABILENE, TEXAS

Mayor

ATTEST/SEAL:

City Secretary

WEST CENTRAL TEXAS MUNICIPAL WATER DISTRICT

President, Board of Directors

ATTEST/SEAL:

Secretary, Board of Directors

BRAZOS RIVER AUTHORITY

President, Board of Directors

ATTEST/SEAL:

Secretary, Board of Directors

BRAZOS-COLORADO WATER ALLIANCE

WHEREAS, the Brazos River Authority ("BRA") is a conservation and reclamation district created under the authority of Article 16, Section 59, of the Constitution of the State of Texas, comprising all but three of the counties of the watershed of the Brazos River and its tributary streams; and

WHEREAS, BRA is authorized and empowered to control, coordinate, conserve and manage the employment and use of flood, storm and unappropriated flow waters of the Brazos River; and

WHEREAS, BRA is also authorized and empowered to construct, own, operate, maintain and provide sewerage gathering, treatment, and disposal services; and

WHEREAS, the Lower Colorado River Authority ("LCRA") is a conservation and reclamation district created under the authority of Article 16, Section 59, of the Constitution of the State of Texas, consisting of that part of the State of Texas that is included within the boundaries of the counties of Bastrop, Blanco, Burnet, Colorado, Fayette, Llano, Matagorda, San Saba, Travis and Wharton (the "District"); and

WHEREAS, although the County of Lampasas is not included in the LCRA's statutory District, LCRA also is authorized to exercise the same powers within Lampasas County that it may otherwise exercise within the District, provided, however, that, with respect to that portion of Lampasas County located within the Brazos River watershed, LCRA may not provide water and wastewater services without the consent of the Brazos River Authority; and

WHEREAS, LCRA's statutory powers include the directive to control, store, preserve, distribute, use and sell the waters of the Colorado River within the District or within the boundaries of the watershed that contribute inflow to the

Colorado River below the intersection of Coleman, Brown and McCulloch counties (the "LCRA basin"); to prevent or aid the prevention of flood damages from the waters of the Colorado River and its tributaries; and to construct, own, operate, maintain or otherwise to provide sewerage gathering, treatment, and disposal services; and

WHEREAS, the Central Texas region, including Williamson County, is experiencing rapid business and population growth, which is expected to continue for the foreseeable future with accompanying demands for municipal water supplies and wastewater services; and

WHEREAS, BRA and LCRA recognize that optimal development, conservation and use of the region's water resources depends upon cooperative planning and development.

THEREFORE, BRA and LCRA endorse and accept the following principles of joint action to address the immediate and long-term water and wastewater requirements of the Williamson County area and, where appropriate, the long-term water and wastewater needs of other areas of mutual concern to BRA and LCRA.

AGREEMENT

ARTICLE I

BRAZOS-COLORADO WATER ALLIANCE

1.1 To facilitate the regional conservation, planning and development of the water resources and the planning and development of regional wastewater services for the Williamson County area and, where appropriate, other areas of mutual concern to BRA and LCRA, BRA and LCRA hereby agree to form the Brazos-Colorado Water Alliance ("Alliance").

1.2 The foremost principle of the Alliance shall be the wise and efficient management of the water resources of the two basins for the benefit and well being of both regions and their citizens. BRA and LCRA commit to work together to gain for their respective basins the benefits of coordinated and, when appropriate, joint water and wastewater management and development programs.

ARTICLE II
WILLIAMSON COUNTY

2.1 Williamson County, although in the Brazos River basin, currently has southern portions of the county supplied with water from the Colorado River. Because of its proximity to the LCRA water service area and the county's important economic connections with LCRA's electric service area, Williamson County is a logical area to profit from cooperative water and wastewater planning and development by the Alliance. Dramatic growth in this area has led to pressing water supply shortages and highlighted the danger of potential limits to further economic development and growth in the area. Thus, the water and wastewater needs of this area are particularly acute regional issues that BRA and LCRA agree to address jointly through the following actions:

(a) carrying out joint planning, financing, construction, and, where appropriate, operation of regional water and wastewater facilities;

(b) developing the criteria for joint planning efforts;

(c) utilizing surface and groundwater resources from both basins to meet the Williamson County area's needs;

(d) assisting in the development of the water resources of the area;

(e) studying the quantity and quality of water resources available in each basin to serve the Williamson County area;

(f) determining the water demands of the Williamson County area;

(g) gathering and sharing streamflow and weather monitoring data;

(h) transferring and sharing technology;

(i) cooperating in working with the legislative and regulatory process to address the water and wastewater needs of the Williamson County area.

ARTICLE III

LONG-TERM PLANNING AND INITIATIVES

3.1 BRA and LCRA recognize that their statutory missions with respect to water resources and wastewater services, first and foremost, are to supply the immediate and long-term water and wastewater demands of their respective basins. BRA is recognized as the regional water and wastewater provider of choice in the Brazos basin and LCRA is recognized as the regional provider of choice in the Lower Colorado River basin. However, within the limits of statutory authority, BRA and LCRA may agree to other arrangements with respect to specific regional projects in either basin.

3.2 BRA and LCRA also recognize that they can best serve their respective basins by long-term planning efforts and initiatives that will focus, when appropriate, upon regional solutions to water and wastewater needs. Therefore, long-term, coordinated regional planning and initiatives will be key elements of the Alliance.

3.3 BRA and LCRA agree to institute long-term regional planning processes and initiatives to address the water and wastewater needs in areas of mutual

concern to the Alliance using the actions enumerated for addressing those needs in Williamson County in Article II, Section 2.1, above.

ARTICLE IV
GENERAL PROVISIONS

4.1 The Effective Date of this Alliance shall be on the date when this agreement is executed by the President of Brazos River Authority and the Chair of Lower Colorado River Authority and by the General Managers of both river authorities.

4.2 The Boards of Directors of both river authorities shall review the accomplishments of the Alliance and the desirability of its continued existence every ten years; provided, however, that either party may terminate this Alliance by giving not less than 30 days' written notice to the other party of such termination.

ENTERED into this the 21 day of November, 1995.

BRAZOS RIVER AUTHORITY

By: Charles Moser
CHARLES MOSER
President

By: Roy A Roberts
Roy A. Roberts
General Manager

LOWER COLORADO RIVER AUTHORITY

By: Teddy Boehm
TEDDY BOEHM
Chair

By:
Mark Rose
General Manager

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INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into as of the date last executed below ("Effective Date") by and between the BRAZOS RIVER AUTHORITY of Texas ("BRA"), a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting by and through its Board of Directors and pursuant to a resolution duly passed and adopted by said Board of Directors; and the CITY OF LUBBOCK, TEXAS (the "City" or "Lubbock"), a municipality of the State of Texas, organized and operating pursuant to its home rule charter, and the Constitution and laws of the State of Texas, acting by and through its City Council and pursuant to formal approval by said City Council.

RECITALS

WHEREAS, BRA owns certain water rights and permits on the mainstem of the Brazos River, more specifically Certificate of Adjudication ("CA") No. 12-5155 (Possum Kingdom Lake), CA No. 12-5156 (Lake Granbury), CA No. 12-5157 (Lake Whitney), and CA No. 2925A (proposed Allens Creek Reservoir), collectively, for the purposes of this Agreement, the " BRA Existing Water Rights"; and

WHEREAS, the City currently relies on surface water and groundwater for its water supply, and the City owns certain water rights and permits in the upper Brazos River Basin, including: (i) CA No. 12-3705 and CA No. 12-3705A, authorizing the maintenance of the Jim Bertram Lake System for recreational and industrial purposes, and which currently consists of

six reservoirs on the North Fork of the Double Mountain Fork of the Brazos River (the "North Fork"); ii) CA 12-3705B, authorizing the diversion of discharges made pursuant to the City's TPDES Permit No. 04599, a Bed and Banks authorization to transport such discharges to authorized points of diversion, and the diversion and use thereof for agricultural, municipal, industrial, and recreational purposes; iii) Water Use Permit No. 3985 (issued to the City by the Texas Commission on Environmental Quality ("TCEQ") pursuant to Application No. 4340), authorizing the reuse of wastewater effluent derived from water supplies purchased from the Canadian River Municipal Water Authority ("CRMWA"); and, iv) Water Use Permit No. 4146 (issued to the City by the TCEQ pursuant to Application No. 4155), authorizing the impoundment, diversion and use of water in and from Lake Alan Henry on the South Fork of the Double Mountain Fork of the Brazos River (the "South Fork"), collectively, for the purposes of this Agreement, the " City's Existing Water Rights"; and

WHEREAS, the City has filed several applications with the TCEQ, including i) Application No. 4340A, declared administratively complete on October 12, 2004, thereby establishing the priority date that will be applicable to the water right if it is approved by TCEQ, and seeking to amend Permit No. 3985 to authorize a Bed and Banks authorization to transport all historical and future discharges of Canadian River Basin surface water based effluent and groundwater based effluent and the diversion and use thereof for agricultural, municipal, industrial, and recreational purposes; and, ii) Application No. 5921, declared administratively complete on April 17, 2006, thereby establishing the priority date that will be applicable to the water right if it is approved by TCEQ, and seeking to construct Jim Bertram Lake No. 7 and to impound, divert, use, and reuse Developed Water discharged into the North Fork, unappropriated

State Water, Developed Stormwater, and Reclaimed Water and Return Flows resulting from the use of such water sources, and authorization to transport such water through the bed and banks of state streams; and

WHEREAS, BRA has filed Application No. 5851 with the TCEQ, seeking a System Operation Permit (the "System Operation Permit") to appropriate water made available by operating BRA's reservoirs as a system and from other sources, including unappropriated flows in the Brazos River Basin and return flows of dischargers in the Brazos River Basin; and

WHEREAS, the System Operation Permit application was declared administratively complete on October 15, 2004, thereby establishing the priority date that will be applicable to the water right if it is approved by TCEQ; and

WHEREAS, the City has protested BRA's Application No. 5851, and BRA has protested the City's Application No. 5921; and

WHEREAS, much of the Developed Stormwater sought by the City in Application No. 5921 is Developed Playa Lake Water that is not now and never has been a source of inflows into the Brazos River (except during storm events exceeding the 100 year flood), but instead was trapped in playa lakes and lost to either evaporation or infiltration to the ground; and

WHEREAS, the BRA does not object to the City's claim to Developed Playa Lake Water; and

WHEREAS, the City may participate in the development of additional future water supply projects and strategies, including the Post Reservoir Project Amendment, and additional Bed and Banks projects on the North Fork and the South Fork; and

WHEREAS, the City and BRA (jointly referred to as the "Parties") agree that it is in their respective interests and in the public interest to resolve potential conflicts between their respective pending and future water supply projects; and

WHEREAS, the Parties desire to enter into this Agreement so they can each pursue, in a coordinated manner, their pending and future water supply projects in the Brazos River Basin; and

WHEREAS, pursuant to Chapter 791, Texas Government Code, and the general and special laws of the State of Texas, the Parties are authorized to enter into this Agreement providing for the undertaking, administration, and implementation of the Agreement.

NOW, THEREFORE, be it resolved that for and in consideration of the mutual covenants, benefits, and agreements hereinafter set forth, the adequacy and sufficiency of which is evidenced by the Parties' respective execution of this Agreement, the Parties agree as follows:

AGREEMENT

I.

DEFINITIONS

For purposes of this Agreement, the Parties agree to the following definitions:

A. "Accounting Principles" means the principles attached hereto as Exhibit A which reflect the agreement of the Parties regarding the manner in which the City will account for its storage, diversion, use and passage of State Water, Developed Playa Lake Water, Reclaimed Water and Return Flows pursuant to Application No. 5921, if granted, and the Post Reservoir Project Amendment, if granted.

B. "Bed and Banks" means the use of the bed and banks of a state watercourse to transport water for subsequent storage, diversion and/or use.

C. "BRA WAM" means a version of the TCEQ Run 3 Brazos Water Availability Model, modified to include the BRA's System Operations, as submitted by the BRA to TCEQ in support of its System Operation Permit application (Application No. 5851). Subsequent modifications to the model that are approved by the Parties are to be used for determining the impacts to each other, if any, of their respective pending and future water rights applications. Impacts of future applications covered by this Agreement may be based on mutually agreeable modified versions of the BRA WAM, modifications of the BRA WAM made by TCEQ, or other similar modeling tools.

D. "Developed Water" means water that would not be in the Brazos River or its tributaries but for the efforts of the City or purveyors of water to the City, such as CRMWA, and includes, without limitation, groundwater (other than natural discharges through seeps or

springs), surface water transported via an interbasin transfer, and wastewater effluent resulting from the use of such Developed Water.

E. "Developed Playa Lake Water" means water that originates as diffused surface water collected in playa lakes that otherwise would not have reached a watercourse (except during storm events in excess of the 100 year flood), none of which, the Parties acknowledge, has been released or discharged historically (prior to the 2003 completion of the City's South Central Drainage Project), and discharged by way of the physical interconnection of such playa lakes through the City's storm drainage system to the North Fork or South Fork. For purposes of this Agreement, Developed Playa Lake Water includes only water discharged from playa lakes by City drainage projects completed during or after 2003.

F. "Developed Stormwater" means water that the City seeks recognition of an ownership interest in pursuant to Application No. 5921, as originally filed, that is discharged into the North Fork or its tributaries by the City's storm drainage system.

G. "Lubbock Service Area" means the area within the corporate boundaries of the City of Lubbock and all areas within its Extra Territorial Jurisdiction (ETJ), as those corporate limits and ETJ may be modified from time to time, as well as within the service area of any Certificate of Convenience and Necessity that the City owns, now or in the future.

H. "North Fork" means the North Fork of the Double Mountain Fork of the Brazos River and its tributaries.

I. "Post Reservoir Project Amendment" means the City's proposed amendment to CA No. 12-3711 so as to: authorize the use of water appropriated therein for multiple purposes of use; amend Special Condition No. 6.A of CA No. 12-3711, to specify the conditions

under which the passage of inflows to the Post Reservoir, as currently required in such special condition, would be made; amend Special Condition Special Condition No. 6.B to specify the conditions under which State Water stored in the sediment pool of Post Reservoir will be required to be released; and, to authorize the storage in and the diversion of Developed Playa Lake Water, Reclaimed Water, and/or Return Flows from the Post Reservoir.

J. "Reclaimed Water" means wastewater effluent that originated as Developed Water or Developed Playa Lake Water and which has been collected and treated for reuse by the City or by any wholesale water customer with which the City has contractually retained ownership of such effluent or has secured a contractual right of reuse, or by any regional wastewater treatment facility in which the City is a participant, as a water supply and/or for discharge into the North Fork or South Fork.

K. "Return Flows" means wastewater effluent that is not Reclaimed Water and which has been collected and treated for reuse by the City or by any wholesale water customer with which the City has contractually retained ownership or has secured a contractual right of reuse, or by any regional wastewater treatment facility in which the City is a participant, as a water supply and/or for discharge into the North Fork or South Fork, and which is proposed for reuse by the City within the Lubbock Service Area.

L. "South Fork" means the South Fork of the Double Mountain Fork of the Brazos River and its tributaries.

M. "State Water" means, for the purposes of this Agreement, water that naturally flows to the North Fork or South Fork or which has historically flowed to the North Fork or the South Fork including natural discharges from seeps and springs or other sources, but not

including any discharges of Return Flows, Reclaimed Water, or Developed Playa Lake Water.

N. "Support" means to not oppose or to not protest, formally or informally, any federal or state permit application or permit amendment application, and this includes verbal, written and financial efforts to oppose or protest such applications, and it also includes not funding or supporting the protest of such applications by a third party.

O. "System Water Availability Agreement" means BRA's long-term water supply agreement, as it may be, from time to time, amended or modified, or replaced by the BRA Board of Directors.

P. "TCEQ" means the Texas Commission on Environmental Quality or a successor agency.

II.

AGREEMENT REGARDING COOPERATION

A. Subject to the provisions of this Agreement, within thirty (30) days of the Effective Date of this Agreement, the City agrees to provide documentation to BRA of its amendment of Application No. 5921, as follows: i) the Developed Stormwater portion of the application shall be limited to Developed Playa Lake Water; and ii) the requested Bed and Banks authorization, and recognition of any City ownership interest, shall be limited to Developed Playa Lake Water and the City's discharges of Reclaimed Water derived from Developed Water or Developed Playa Lake Water, and its discharges of Return Flows, provided that such Return Flows are used within Lubbock's Service Area. Prior to the City's submission of any such amended application following the Effective Date of this Agreement, it shall afford BRA the opportunity to review, provide comments and to give

written notice to the City to such application so as to ensure that the terms and conditions of this Article II. A. are met.

B. Subject to the provisions of this Agreement, BRA agrees to Support and to withdraw its protest of and to the City's Application No. 5921; provided, however, BRA's protest withdrawal may be contingent upon review of a final draft permit in response to Application No. 5921 to determine that it is consistent with the terms and conditions of this Agreement.

C. Subject to the provisions of this Agreement, the City agrees to Support and to withdraw its protest of and to BRA's Application No. 5851 simultaneous with filing of BRA's withdrawal of protest to Application No. 5921; provided, however, City's protest withdrawal may be contingent upon review of a final draft permit in response to Application No. 5851 to determine that it is consistent with the terms and conditions of this Agreement.

D. Subject to the terms of this Agreement, the Parties agree that the TCEQ's approval of the City's Application No. 5921, as limited to a requested storage and diversion authorization based on Developed Playa Lake Water, unappropriated State Water, Return Flows and Reclaimed Water, and the City's subsequent storage, diversion and use of such water supplies, will not impair the BRA Existing Water Rights or its System Operation Permit, if granted, provided the City complies with the Accounting Principles included herein as Exhibit A. The Parties agree that the BRA's Existing Rights and any rights it may secure pursuant to the System Operation Permit, if granted, do not appropriate or seek to appropriate the City's Developed Playa Lake Water, Reclaimed Water, or Return Flows, and that the BRA does not have the right to make and therefore will not make priority

calls on such flows if they are adequately distinguished in the accounting plan from State Water, pursuant to the Accounting Principles. Alternatively, for purposes of fully satisfying BRA's interests pursuant to the BRA Existing Water Rights and the System Operation Permit, if granted, and by use of the BRA WAM, the Parties may agree to enter into a System Water Availability Agreement pursuant to Article II.G in order to address the impacts resulting from the City's appropriation of State Water that would result if the City does not pass such water. The Parties agree that BRA's Application No. 5851, if granted, and as identified in the BRA WAM, will not impair the City's Existing Water Rights.

E. Subject to the terms of this Agreement, BRA agrees to Support the following future permits or permit amendment applications to be filed by the City: i) securing further Bed and Banks authorizations for the City's transfer of Developed Playa Lake Water, Reclaimed Water, and Return Flows through the South Fork and the North Fork for subsequent storage, diversion, and/or use and reuse by the City; ii) securing a Bed and Banks authorization for the transfer of Developed Playa Lake Water, Reclaimed Water, and Return Flows to Lake Alan Henry, and the storage, diversion and/or use and reuse of such waters in and from Lake Alan Henry; iii) applications authorizing the further storage, diversion and/or use of all Developed Playa Lake Water by the City, as the City deems appropriate, including any Bed and Banks authorization or other authorizations needed to transport, divert, use, and reuse such waters; and, iv) applications for the Post Reservoir Project Amendment; provided that such future permits or permit amendment applications will not impair BRA's Existing Water Rights or its System Operation Permit, if granted, with such impairment or non-impairment to be determined by use of the BRA

WAM. To the extent the City makes a future application for Developed Playa Lake Water, Return Flows or Reclaimed Water, BRA agrees to subordinate any right it may have previously secured for any portion of such flows to the City's right to appropriate same. To the extent the City pursues the Post Reservoir Project Amendment application, and such amendment is granted as defined herein, BRA agrees that its Existing Water Rights and its System Operation Permit, if granted, will not be impaired by the approval of such application if the City complies with the Accounting Principles in its passage of State Water to which BRA may be entitled by its seniority, or if the City enters into a System Water Availability Agreement pursuant to Article II.G in order to address the impacts resulting from the City's appropriation of State Water that would result if the City does not pass such water to which BRA may be entitled.

F. Notwithstanding any provision of this Agreement to the contrary, the City agrees that it will not seek future permits, permit amendments, or regulatory authorizations for any project(s) that will reduce the ability of the BRA to utilize its authorized diversions from the BRA Existing Water Rights or the System Operation Permit, if granted, as such reduction, if any, would be determined utilizing the BRA WAM, unless i) the City and BRA agree in writing on the amount of any such reduction and the City enters into a System Water Availability Agreement in the amount of any such reduction, and in such event ii) BRA and the City shall agree in writing that BRA will not make priority calls on any water flowing to the City's project(s).

G. By analysis utilizing the BRA WAM, the Parties have determined that unrestricted exercise of rights (i.e., operation of Jim Bertram Lake No. 7 or the Post Reservoir Project without passing inflows for BRA's Existing Water Rights) sought by Lubbock pursuant

to Application No. 5921, the Post Reservoir Project Amendment, and to be sought for Bed and Banks Projects on the North Fork and South Fork, all as described herein, will result in reduction of the firm yield of Existing BRA Water Rights and the System Operation Permit, if granted, by 400 acre-feet per year. Therefore, the Parties agree that should Lubbock choose to utilize such rights, if granted, without passing inflows of State Water downstream, pursuant to the terms of this Agreement, Lubbock will enter a System Water Availability Agreement with BRA in an amount of not to exceed 400 acre-feet per year, depending upon which projects are permitted, (a) within 12 years following the Effective Date of this Agreement or (b) within 3 months following issuance of a final permit or amendment issued to the City pursuant to Application No. 5921, the Post Reservoir Project Amendment, or applications to be sought for Bed and Banks Projects on the North Fork and South Fork, whichever occurs sooner. If TCEQ should impose conditions upon any of these permits or amendments which restrict Lubbock's ability to achieve an unrestricted exercise of the rights sought, BRA agrees to analyze the impact of the permit(s) or amendment(s) utilizing the BRA WAM to determine the reduction in yield of BRA's Existing Water Rights and the System Operation Permit, if granted, under the permit(s) or amendment(s) as issued to Lubbock, and to modify the amount of water purchased under the System Water Availability Agreement to a lesser amount that may indicated by the BRA WAM analysis. If Lubbock has not obtained any of the permit(s) or amendment(s) identified above within 12 years following the Effective Date, it may elect to renounce any and all rights with respect to such applications under this Agreement and enter a System Water Availability Agreement for the amount of water indicated by the BRA WAM to be the reduction in firm yield of BRA's Existing Water

Rights and the System Operation Permit, if granted, that would occur without consideration of the applications renounced by Lubbock.

H. BRA agrees that the City's passage of all inflows of State Water to Lake No. 7 or the Post Reservoir Project, when inflows of State Water are greater than 5 cfs during any period when Possum Kingdom Reservoir is below elevation 1,000 feet above mean sea level shall fully satisfy BRA's Existing Water Rights and its rights under the System Operation Permit, if granted, and the City agrees to pass such inflows. The City shall not be required to pass such inflows of State Water when such inflows are 5 cfs or less nor when Possum Kingdom Reservoir is at or above elevation 1,000 feet above mean sea level.

I. For purposes of fully implementing this Agreement, the Parties hereby incorporate the Accounting Principles into the Agreement as if such principles were fully stated herein.

J. To the extent (i) the City is required to release or pass through non-State Water by instream flow requirements in any permit or amendment that may be issued by TCEQ in response to Application No. 5921 or the Post Reservoir Project Amendment, and (ii) to the extent that such release or pass through benefits BRA, assuming the enforcement of BRA's priority rights, BRA agrees that the City may accumulate and receive a one-to-one credit against its obligations otherwise due under the Accounting Principles and this Agreement to pass State Water. BRA will cooperate with the City in developing an agreed upon method for accounting for such credits within 90 days following the date that the permit issued in response to Application No. 5921 becomes final and non-appealable.

K. The Parties agree that their existing contracts related to Lake Alan Henry shall continue in effect.

L. The Parties agree to provide each other with copies of permit applications, documents, amendments, modifications, and proposed permit language, as well as engineering studies, models or simulations, or any other such materials as may be deemed appropriate by either Party, related to any application(s) referenced in this Agreement, so as to allow the Parties reasonable opportunity to review and comment on such applications and proposed permits. Application materials will be afforded by either Party within thirty (30) days of the filing of any such application; proposed permit language will be afforded by either Party within five (5) days of the generation of or receipt by a Party of such language.

M. Notwithstanding any provision of this Agreement, BRA is under no obligation to Support any pending or future permit application, described herein, filed by the City that is not deemed administratively complete and public notice issued within 10 years following the Effective Date of this Agreement, and unless such applications are granted, in whole or in part, within 13 years of the Effective Date of this Agreement.

III.

MISCELLANEOUS PROVISIONS

A. ENTIRE AGREEMENT: The terms and provisions of this Agreement contain the entire Agreement between BRA and the City with respect to the matters addressed above.

B. SEVERABILITY: The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never

been contained in the Agreement. Notwithstanding the foregoing, if any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable, and such provision served as consideration for a Party's agreement to a term, condition, or provision of this Agreement that shall remain in effect, the Parties agree to work together in good faith to provide an alternate means for providing consideration, such that their respective interests are protected and made whole.

C. ADDRESSES AND NOTICE: Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively called "Notice") herein provided or permitted to be given, made, or accepted by any Party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the business day on which it was transmitted or hand-delivered (unless transmitted or hand-delivered after close of business, in which case it shall be deemed received at the close of the next business day). Notice by overnight mail or courier shall be deemed to have been received two (2) business days after it was sent. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective upon deposit in the United States mail. Notice given in any other manner shall be effective only in and when received by the party to be notified. For the purpose of Notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:

Mayor
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457-0001
Telephone: (806) 775-2003
Fax: (806) 775-2051

If to BRA, to:

General Manager
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555
Telephone: (254) 761-3100
Fax: (254) 761-3207

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least five (5) days written notice to the other Party.

D. ASSIGNABILITY: This Agreement shall bind the Parties and their legal successors, but shall otherwise not be assignable by the Parties without prior written consent of the other Party, which consent shall not be unreasonably withheld. All of the respective obligations of each of the Parties shall bind that Party and shall apply to and bind any successors or assigns of that Party.

E. COSTS AND EXPENSES: Each Party to this Agreement shall be responsible for all costs and expenses incurred by such Party in connection with this Agreement. No payment by a Party for performance of a governmental function or service by the other Party is contemplated by this Agreement; provided, however, if any such payment is ever deemed to be required, such payment shall be made from current revenues available to the paying Party.

F. GOVERNING LAW: This Agreement shall be governed by the Constitution and law of the State of Texas, except as to matters exclusively controlled by the Constitution and statutes of the United States of America.

G. AMENDMENTS: This Agreement may be amended or modified only by mutual written agreement duly authorized by the respective governing bodies of the Parties and executed by the duly authorized representative of each.

H. VENUE: Venue for any action arising hereunder that is brought by BRA shall be in Lubbock County, Texas; venue for any action arising hereunder that is brought by the City shall be in McLennan County, Texas.

I. THIRD PARTY BENEFICIARIES: Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

J. REMEDIES AND DAMAGES: Regarding the matters expressly addressed herein, the Parties agree that in the event of a breach of this Agreement, remedies at law, such as money damages, are inadequate and that the exclusive remedy for both Parties for breach of this Agreement shall be specific performance. However, if and only if the remedy of specific performance fails as a matter of law, in whole or in part, the Parties shall also be entitled to seek any remedy that would have been available under law had the Parties not agreed to specific performance as their exclusive remedy. Further, in any case neither Party shall be liable or have any responsibility to the other for any indirect, special, consequential, punitive, or delay- or performance-related damages including, without limitation, lost earnings or profits. Such limitation on liability shall apply to any claim or

action, whether it is based, in whole or in part, on contract, negligence, strict liability, tort, statute or any other theory of liability.

K. FURTHER ASSURANCES: The Parties agree to do all acts and things and to execute and deliver such further written instruments as may be from time to time reasonably required to carry out the purposes and the provisions of this Agreement.

L. INTERPRETATION AND RELIANCE: No presumption will apply in favor of either Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions thereof.

M. RELATIONSHIP OF PARTIES: This Agreement is based upon the active participation of the Parties. Neither the execution nor the delivery of this Agreement shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the contractual arrangements specifically set forth in this Agreement. Except as is expressly agreed to in writing in this Agreement, no Party (or any of its agents, officers or employees) has any power to assume or create any obligation on behalf of the other Party.

N. TERM: This Agreement shall commence on the Effective Date and shall continue in effect for so long as either of the Parties' or their successors' and assigns' water rights referenced in this Agreement remain in effect.

O. TERMINATION: This Agreement may be terminated by mutual written agreement of the Parties.

P. WAIVER: Any waiver at any time by a Party of its rights with respect to default under this Agreement shall not be deemed a waiver of such rights with respect to any subsequent default or matter.

Q. AUTHORITY: Each of the persons signing on behalf of the Parties hereby confirms that they have the authority to execute this Agreement on behalf of the Party indicated by their signature.

EXECUTED this 14th day of May, 2009:

CITY OF LUBBOCK, TEXAS

Mayor TOM MARTIN

ATTEST/SEAL:

City Secretary Rebecca Garza

EXECUTED this 9 day of April, 2009:

BRAZOS RIVER AUTHORITY

General Manager/Chief Executive Officer

STATE OF TEXAS §
§ ACKNOWLEDGMENT
COUNTY OF McLENNAN §

This instrument was acknowledged before me on this the 9 day of April, 2009, by Phillip J. Ford, a person known to me in his capacity as General Manager / CEO of the Brazos River Authority.

JENNIFER WHITE
Notary Public
STATE OF TEXAS
My Commission
Expires 05/21/2009

Notary Public in and for the State of Texas

WATER SUPPLY CONTRACT
BETWEEN THE
BRAZOS RIVER AUTHORITY
AND
PALO PINTO COUNTY MUNICIPAL WATER DISTRICT NO. 1

This Water Supply Contract (the "Contract") is made and entered into as of the date last executed below by and between the **PALO PINTO COUNTY MUNICIPAL WATER DISTRICT NO. 1**, a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting herein by and through its Board of Directors and pursuant to a resolution duly passed and adopted by said Board of Directors, and the **BRAZOS RIVER AUTHORITY**, a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting pursuant to authorization of its Board of Directors.

RECITALS

WHEREAS, the District owns certain water rights in the upper Brazos River Basin, namely rights for Lake Palo Pinto on Palo Pinto Creek, tributary of the Brazos River (authorized in CA No. 12-4031), pursuant to which the District is authorized to impound not to exceed 44,100 acre-feet of water in Lake Palo Pinto, 24 acre-feet of water in the District's downstream channel dam (the "Channel Dam"), and to divert and use from either Lake Palo Pinto or the Channel Dam an amount of water not to exceed 12,500 acre-feet for municipal purposes and 6,000 acre-feet per annum for industrial purposes; and

WHEREAS, CA No. 12-4031 further provides that (i) the right to impound 34,250 acre-feet of water in Lake Palo Pinto and to divert from either Lake Palo Pinto or the Channel Dam 10,000 acre-feet per annum for municipal use and 6,000 acre-feet per annum for industrial use has a time priority of July 3, 1962, and (ii) the right to impound an additional 9,850 acre-feet of water in Lake Palo Pinto and 24 acre-feet of storage in the Channel Dam, and the diversion of 2,500 acre-feet per annum for municipal use from either Lake Palo Pinto or the Channel Dam has a time priority of September 8, 1964; and

WHEREAS, the District's CA No. 12-4031 water right is conditioned so that the District cannot divert water from Lake Palo Pinto when said diversion will result in there being diverted from Lake Palo Pinto, in combination with diversions from Lake Mineral Wells, on Rock Creek, tributary of the Brazos River (authorized under CA No. 12-4039), more than 16,000 acre-feet per annum for municipal and industrial purposes; and

WHEREAS, a 1986 volumetric survey indicated that the storage capacity of Lake Palo Pinto is 27,650 acre-feet, which is less than the storage right authorized in CA 12-4031; and

WHEREAS, in order to restore the District's storage capacity in the Palo Pinto Creek watershed to the full extent authorized under CA No. 12-4031, and to plan for the future water needs of its present and future customers, the District is in the process of investigating the feasibility of storing water at its proposed Turkey Peak Storage Capacity Restoration Project ("Turkey Peak Project") in amounts of up to 49,369 acre-feet (when combined with the storage capacity of Lake Palo Pinto) or at its Wilson Hollow Storage Capacity Restoration Project ("Wilson Hollow Project"), a new off-channel storage project, in amounts of up to 44,100 acre-feet (when combined with the storage capacity of Lake Palo Pinto) each referred to as a "Storage Capacity Restoration Project and collectively referred to as the "Storage Capacity Restoration Projects"; and

WHEREAS, the BRA owns certain water rights and permits on the mainstem of the Brazos River, more specifically CA No. 12-5155 (Possum Kingdom Lake), CA No. 12-5156 (Lake Granbury), CA No. 12-5157 (Lake Whitney), and CA No. 2925A (the proposed Allens Creek Reservoir), collectively, for the purposes of this Contract, referred to as the "BRA Existing Water Rights"; and

WHEREAS, on June 25, 2004, the BRA filed an application (Application No. 5851) with the TCEQ for a System Operation Permit ("System Operation Permit"); and

WHEREAS, the System Operation Permit application was declared administratively complete by the TCEQ on October 15, 2004, establishing the priority date that will be applicable to the water right if it is approved by TCEQ; and

WHEREAS, the District and BRA, as water suppliers within the upper Brazos River Basin, have been working together to develop and promote the most efficient means for the Parties to utilize their existing and pending water rights so as to meet the needs of the upper Brazos River Basin; and

WHEREAS, on July 5, 2007, the Parties entered into an agreement (the "Interlocal Agreement") concerning their respective water supplies, existing and future; and

WHEREAS, the purpose of the Contract, consistent with the Texas Water Code and TCEQ's rules, is to set forth the provisions whereby the District agrees to sell to BRA, without charge, an amount of water not to exceed 1000 acre-feet of water per annum of the District's authorized water use under CA No. 12-4031 at the District's authorized diversion point at the Channel Dam on Palo Pinto Creek in consideration for the impact to the BRA's existing and future water rights and BRA's agreement not to make priority calls on the Storage Capacity Restoration Project selected by the District; and

NOW, THEREFORE, in consideration of the foregoing promises and the mutual agreements, covenants, and conditions hereinafter set forth, the BRA and District agree as follows:

I. DEFINITIONS

Throughout this Contract, the following terms and expressions as used herein shall have the meanings set forth below:

1.01 The term "BRA" shall mean the Brazos River Authority.

1.02 The term "CA" shall mean Certificate of Adjudication.

1.03 The term "Calendar Year" shall mean January 1 through December 31.

1.04 The term "District" shall mean the Palo Pinto County Municipal Water District No. 1.

1.05 The term "Fiscal Year" shall mean the District's fiscal year, which begins on October 1 and ends on September 30, or such other annual fiscal year period as the District may later determine.

1.06 The term "Parties" shall mean the BRA and District, collectively.

1.07 The term "System" shall mean the BRA's water supply system and its attendant water rights, including the Possum Kingdom Reservoir and its attendant water rights, and shall include the BRA's facilities, infrastructure and properties insofar as they are related to making water available from the BRA, together with all future extensions, improvements, enlargements, and additions to and replacements of the System, and all replacements thereof whether from surface water supplies, groundwater, or a combination thereof, unless specifically excluded from the System by resolution of the BRA's Board of Directors.

1.08 The term "System Rate" shall mean the rate per acre-foot of water established by the BRA from time to time under the system–wide pricing methodology for water made available to the BRA's customers.

1.09 The term "TCEQ" shall mean the Texas Commission on Environmental Quality, or any successor agency thereof.

II. AVAILABILITY OF WATER

2.01 As of the Effective Date of this Contract and continuing throughout the duration of the effectiveness of this Contract, the District shall make available to the BRA 1,000 acre-feet of water per annum pursuant to the District's water supplies authorized under CA No. 12-4031, from its authorized diversion point at the Channel Dam on Palo Pinto Creek, located in T. & P. RR Company Survey 49, Abstract 744, in Palo Pinto County. This water shall be authorized for municipal use and have a priority date of September 8, 1964 (as well as any other purposes of use that may be authorized for this portion of water in the future through an amendment to CA No. 12-4031). The BRA acquires no property interest in the water made available to it under

this Contract beyond the right to have same made available to it for use, as such use may be authorized and limited under the express terms of this Contract. The BRA acquires no rights or interests in Lake Palo Pinto, the Channel Dam, or any other existing or future water that the District may control or operate, including but not limited to the Wilson Hollow Project and the Turkey Peak Project.

2.02 The District shall not be required to provide the BRA with the 1,000 acre-feet of water per annum as contemplated in Section 2.01 of this Contract and the Parties agree to terminate the Contract, when and if any of the following events occur:

a. the TCEQ authorizes the District's selected Storage Capacity Restoration Project through an amendment to CA No. 12-4031 or the issuance of a new water right, such that the amount of water storage capacity at either the Wilson Hollow Project or the Turkey Peak Project, together with the actual water storage capacity in Lake Palo Pinto (collective storage up to a 44,100 acre-feet of water), is given a priority date that is senior to BRA's System Operation Permit, once granted by TCEQ to the BRA and the TCEQ's action on the System Operation Permit application becomes final and non-appealable. This subsection 2.02.a. is not affected in the event that the TCEQ grants the District's amendment to CA No. 12-4031 such that the District is authorized to store more than 44,100 acre-feet at Lake Palo Pinto and Turkey Peak, collectively, and the portion of capacity that is in excess of 44,100 is assigned a priority date junior to BRA's System Operation Permit;

b. the District does not meet the ten (10) and thirteen (13) year deadlines for either of the Storage Capacity Restoration Projects as contemplated in Article II.A. of the Interlocal Agreement; or

c. the District affirmatively decides, as evidenced by a formal Resolution of its Board of Directors, that it will not pursue either of the Storage Capacity Restoration Projects within ten (10) years of the Effective Date of the Interlocal Agreement.

2.03 Subject to the terms and conditions of the Interlocal Agreement, the BRA agrees that if TCEQ issues a water right for one of the District's Storage Capacity Restoration Projects, but not both, the BRA will waive, without charge, its right to make priority calls on such project pursuant to its existing and future water rights. The District's agreement to sell 1,000 acre-feet of water per annum to the BRA, as provided and limited in this Contract, is in consideration for the impact to the BRA Existing Water Rights and future water rights and BRA's agreement not to make priority calls on the Storage Capacity Restoration Project selected by the District.

III. PAYMENT

3.01 The "Payment Amount" will be determined by multiplying the unit cost, on a per acre-foot basis, based on BRA's System Rate (in terms of price per acre-foot of water), as such rate exists as of the Effective Date of this Contract or as same may be changed from time to time during the term of this Contract, times 1,000. The initial System Rate for the water available to the BRA under this Contract is $52.50 per acre-foot of water.

3.02 Notwithstanding anything in this Contract to the contrary and regardless of whether the District pursues the Turkey Peak Project or the Wilson Hollow Project, the Parties agree that the BRA's waiver of its rights to make a priority call on the District's selected Storage Capacity Restoration Project, as contemplated in the Interlocal Agreement and the Contract and in consideration for the impact to BRA's existing and future water rights, is just and adequate consideration and is equivalent to the Payment Amount, as defined above. Therefore, the Parties agree that the BRA shall not be required to make monetary payments to the District for the water supplied by the District hereunder.

IV. RECORDS

The BRA agrees that it will keep accurate records of the water used pursuant to this Contract. To assist the District in filing annual water use reports with TCEQ, the BRA shall timely supply the District with the BRA's end of year water use information for the 1,000 acre-feet of water per annum provided to the BRA by the District pursuant to the Contract, as required by and consistent with the TCEQ's water use reporting requirements applicable at that time. The BRA shall submit these annual water use reports to the District by February 1st each year for the previous Calendar Year or part thereof, identifying at least the amount of diversion or use by the BRA during the preceding Calendar Year. The BRA agrees to work in good faith and exercise due diligence in providing the District with these reports in a timely manner.

V. WATER CONSERVATION AND DROUGHT CONTINGENCY PLANNING

5.01 In the event of a shortage of water resulting from drought, the water to be distributed under this Contract will be divided in accordance with Texas Water Code § 11.039.

5.02 The BRA agrees to maintain and implement Water Conservation and Drought Contingency Plans satisfying the applicable requirements of Title 30 Texas Administrative Code, Chapter 288.

VI. EFFECTIVE DATE

The Effective Date of this Contract is August 31, 2007.

VII. COMPLIANCE WITH TCEQ RULES AND OTHER LAWS

This Contract's effectiveness is dependent upon the Parties' compliance with Title 30 Texas Administrative Code, Chapter 297, subchapter J and Title 30 Texas Administrative Code § 295.101.

VIII. MISCELLANEOUS

8.01 Parties' Rights. Nothing in this Contract shall be construed in any manner so as to abridge, limit, or deprive the Parties of any means they would otherwise have for enforcing any right or remedy, either in law or in equity, for breach of any of the provisions hereof. Further, nothing contained in this Contract shall be construed as a waiver of any right of a Party to question or contest any law, ordinance, order, rule, or regulation of any governmental authority.

8.02 Water Quality. The Parties acknowledge that there is no warranty with respect to the quality of water under this Contract, either express or implied, and that water used by the BRA pursuant to this Contract is provided by the District "as is", without warranty of any kind as to quality, sufficiency, adequacy or usefulness for any intended purpose.

8.03 Cancellation. Except as otherwise provided by the Contract or the Interlocal Agreement, this Contract may not be unilaterally cancelled.

8.04 Interbasin Transfer. The water made available under this Contract shall not be transferred or used outside of the Brazos River Basin unless the BRA obtains i) the express written consent of the District and ii) all required governmental approvals.

8.05 Shortages. The District makes no guarantee that the Channel Dam will be maintained at any specific level at any particular time in order to make the specified water available for use by the BRA pursuant to this Contract. It is fully understood by the Parties that the level of water in the Channel Dam will vary as a result of weather conditions beyond the District's control, and that this Contract is merely a contract to allow the BRA to make use of water under the District's water right (CA No. 12-4031) when and if water is available, and pursuant to the terms and conditions of this Contract.

8.06 Other Contracts. The right of the District to maintain and operate Lake Palo Pinto, the Channel Dam, either the Wilson Hollow Project or the Turkey Peak Project, and other sources of supply and to impound, divert, use, release, and make available waters therefrom at

any and all times in the future in any lawful manner and to any lawful extent the District may see fit, is recognized by the BRA.

8.07 Force Majeure. Notwithstanding anything herein to the contrary, none of the Parties hereto shall be under any liability or be deemed in default with respect to their obligations under this Contract for any failure to perform or for delay in performing such Party's obligations hereunder where such failure or delay is due to force majeure, while and to the extent that such performance is prevented by such cause. The term "force majeure" means acts of God, fire, storm, flood, war, terrorist activity, riots, sabotage, strikes or other differences with labor (whether or not within the power of the Parties to settle same), decrees or orders of the courts or other governmental authority, or other similar or dissimilar causes not within the reasonable control of such Party and not due to negligence of such Party. Each Party shall use due diligence to resume performance of any obligation suspended by force majeure at the earliest practicable time.

8.08 Waiver. Any waiver at any time by any Party of its rights with respect to default under this Contract shall not be deemed a waiver of such rights with respect to any subsequent default or matter.

8.09 Governing Law. This Contract shall be governed by the Constitution and laws of the State of Texas, except as to matters exclusively controlled by the Constitution and statutes of the United States of America.

8.10 Venue. Venue for any action arising hereunder at the request of the BRA shall be in Palo Pinto County, Texas. Venue for any action arising hereunder at the request of the District shall be in McLennan County, Texas.

8.11 Notices. Notices and certifications provided for in this Contract shall be in writing. The same shall be delivered by certified mail, postage paid, return receipt requested, to the respective Parties at the following addresses:

If to the District, to:
President
Palo Pinto County Municipal Water District No. 1
P.O. Box 387
Mineral Wells, Texas 76068-0387
Telephone: (940) 328-7712
Fax: (940) 328-7725

If to the BRA, to:
General Manager
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555
Telephone: (254) 761-3100
Fax: (254) 761-3207

Each Party may change its address as shown above by written notice to the other Parties. Notices shall be deemed to have been delivered on the third business day following their deposit in the United States mail, postage paid, and properly addressed and certified.

8.12 Limitations. Notwithstanding any provision of this Contract to the contrary, the BRA has no right to call for the release of the 1,000 acre-feet of water to be provided to it in accordance with this Section 2.01. Additionally, the BRA agrees that it will not require the District to provide such water in any manner that will impair the District's ability to divert and use 16,000 acre-feet per annum from Lake Palo Pinto and 1,500 acre-feet per annum from the Channel Dam. The BRA represents, and the District relies on such representation, that the interest in water under this Contract shall be used solely by the BRA or its customers for beneficial use and pursuant to the provisions of this Contract.

8.13 Severability. The provisions of this Contract are severable, and if for any reason any one or more of the provisions contained in this Contract shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Contract and this Contract shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Contract.

8.14 Successors and Assigns. Assignment of this Contract by the Parties is prohibited without the prior written consent of each Party, which consent shall not be unreasonably withheld. All of the respective covenants, undertakings, and obligations of each of the Parties shall bind that Party and shall apply to and bind any successors or assigns of that Party.

8.15 Authority. Each of the persons signing on behalf of the Parties hereby confirm that they have the authority to execute this Contract on behalf of the Party indicated by their signature.

8.16 Term of Contract. Except as otherwise provided in the Interlocal Agreement or the Contract, the term of this Contract shall begin on the Effective Date and shall continue in effect for so long as the District's or its successors and assigns' water rights CA Nos. 12-4039 and 12-4031, as amended, as such right may be amended in the future, remains in effect. This Contract may be terminated by mutual written agreement of the Parties. The Interlocal Agreement shall survive this Contract. If TCEQ fails to accept and file this Contract, it shall become null and void. In such event, however, the Parties agree to negotiate a mutually acceptable subordination agreement that preserves the intent of the Parties as reflected in the Interlocal Agreement.

EXECUTED this 31 day of August, 2007.

PALO PINTO COUNTY MUNICIPAL WATER DISTRICT NO. 1

President

ATTEST/SEAL:

BRAZOS RIVER AUTHORITY

General Manager/Chief Executive Officer

ATTEST/SEAL:

INTERLOCAL AGREEMENT

WHEREAS, the Brazos River Authority (the "Authority") has filed an application with the Texas Commission on Environmental Quality ("TCEQ") to appropriate additional water, it's "System Operation Permit" application, Application No. 5851;

WHEREAS, Pecan Grove Municipal Utility District (the "District") has contested the Authority's application because of its concern that authorization of the System Operation Permit might interfere with its ability to develop and obtain additional water supplies that may be needed to reduce the District's reliance upon groundwater, as is currently being required by the Fort Bend Subsidence District;

WHEREAS, the System Operation Permit will make additional surface water supplies available in the Fort Bend County area;

WHEREAS, the Authority has agreed that the System Operation Permit will not prevent reuse of treated effluent in which the District has an interest, as described more fully below;

WHEREAS, the Authority and the District (jointly referred to as the "Parties") agree that it is in their respective interests and the public interest to resolve their differences in a manner that promotes cooperative solutions to Fort Bend County water supply issues;

NOW, THEREFORE, the Parties agree to enter into an Interlocal Agreement as follows:

1. Agreement Regarding Reuse of Water.

    a. The Authority agrees that it will neither protest nor seek compensation from the District for direct reuse of treated wastewater effluent discharged by it or by another entity that is contractually responsible for treating the District's wastewater effluent.

    b. If the District participates in a regional sewage treatment facility, the Authority agrees that it will neither protest nor seek compensation for direct reuse of effluent from the regional sewage treatment facility or for indirect reuse from the regional sewage treatment facility if the water is being put to use within the boundaries of the District or any other entity contributing wastewater to the regional sewage treatment facility.

c. If the District determines that it does not desire to obtain its own reuse authorization pursuant to Texas Water Code § 11.042(b), the Authority agrees to make the effluent of such District available for indirect reuse by the District within its current and future service area under the authorization of the Authority's System Operation Permit. If the District utilizes this alternative for water delivery, the District agrees to pay the Authority an administrative fee that does not exceed the Authority's actual cost of providing for the alternative water delivery under the Authority's System Operation Permit

2. Withdrawal of Protest. The District shall withdraw its protests to the Authority's System Operation Permit application within 30 days following the Effective Date of this Interlocal Agreement.

3. Effective Date. The Effective Date of this Interlocal Agreement shall be the date upon which the last party signs this Interlocal Agreement.

Pecan Grove Municipal Utility District

By: _____

Name: Joe G. Taylor
Title: Board President
Pecan Grove MUD

Date: 1/30/2007

Brazos River Authority

By: _____

Name: Phillip J. Ford
General Manager/CEO
Brazos River Authority

Date: 12 Jan 07

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WATER SUPPLY AGREEMENT

This Water Supply Agreement ("Agreement") is made and entered into by and between the **CITY OF STAMFORD** ("City" or "Stamford") a municipal corporation located in Haskell and Jones Counties, Texas and **BRAZOS RIVER AUTHORITY** ("Authority"), a river authority of the State of Texas.

1. RECITALS. Stamford holds Certificate of Adjudication No. 12-4179, as amended, which authorizes the impoundment of water in Lake Stamford, the diversion of flood flows from a diversion project downstream of the confluence of California Creek and Paint Creek, the subsequent diversion of such flood waters to Lake Stamford, and the subsequent diversion and use of such waters from Lake Stamford by the City and its customers. Pursuant to Certificate of Adjudication No. 12-4179, as amended, the City owns the right to divert 10,000 acre-feet of water per annum from Lake Stamford. Authority owns and operates various dams and reservoirs in the Brazos River Basin ("System") for the conservation and beneficial use of surface waters in the state and for the benefit of the Authority and its customers. One of these impoundments, Lake Possum Kingdom, is located downstream from Lake Stamford. Authority supplies water to customers from diversion points up stream, lakeside and downstream from said impoundment. Authority wishes to contract for Stamford to make available 3,000 acre-feet of diversion rights per Fiscal Year at an agreed-upon rate, pursuant to the terms and conditions herein provided.

2. **DEFINITIONS.**

a) The term "Agreement" means this agreement,

b) The term "Authority" shall mean the Brazos River Authority.

c) The term "Board" shall mean the Board of Directors of Brazos River Authority.

d) The term "Calendar Year" shall mean January 1 through December 31.

e) The term "Fiscal Year" shall mean the Authority's fiscal year, September 1 to August 31, or such other annual fiscal year period as the Authority may later determine.

f) The term "System Rate" shall mean the rate that Authority charges per acre-foot of water as established by the Authority from time to time under the system-wide pricing methodology for water made available to its customers within the System.

g) The acronym "TNRCC" shall mean the Texas Natural Resource Conservation Commission, or any successor agency.

3. **EFFECTIVE DATE.** The effective date of this Agreement is Sept. 10, , 2001.

4. **AVAILABILITY OF WATER.** While this Agreement remains in force, Stamford agrees to make available to Authority the use of its water rights for diversion from any point downstream of the dam structures authorized to Stamford in Certificate of Adjudication No. 12-4179, as amended, and upstream of, or on the

perimeter of, Lake Possum Kingdom, as such area is depicted on the vicinity map attached hereto as Exhibit A, in an amount not to exceed 3,000 acre-feet of water per Fiscal Year. Authority acquires no property interest in the water rights made available to it under this Agreement beyond the right to have same made available to it for diversion and use under the terms of this Agreement. Stamford agrees to make such diversion rights available, and Authority acquires no rights or interests in Lake Stamford or other water supply sources that Stamford controls or operates above and beyond those rights that accrue to it under this Agreement. Authority represents, and Stamford relies on such representation, that all rights to divert water under this Agreement shall be used solely by Authority or its customers for municipal, domestic, and industrial purposes.

5. DATE AND PLACE OF PAYMENTS. Payments to be made hereunder shall be mailed to the City Manager at P.O. Drawer 191, Stamford, Texas 79553-0191. Annual payments shall be made on or before September 15 each year during the term of this Agreement.

6. UNCONDITIONAL NATURE OF PAYMENT OBLIGATION; PRICE. Authority unconditionally agrees to pay Stamford annually for the rights to be made available to Authority hereunder at a price equal to the product of multiplying a factor of .607 (Six Hundred and Seven Thousandths) times the Authority's System Rate, as such rate exists as of the Effective Date of this Agreement or as same may be changed from time to time during the term of this Agreement, times 3,000 acre-feet of water per Fiscal

Year, regardless of whether, or to what extent, such rights are actually exercised by Authority.

7. SOURCE OF PAYMENTS. The payments to be made hereunder by Authority shall constitute operating expenses of Authority's System. Authority shall charge rates for the resale of water purchased under this Agreement that will be sufficient to pay the operating and maintenance expenses thereof, including the payments provided for hereunder, and the interest of and principle of, as the same come due and mature, obligations issued by Authority now or hereafter payable from the revenues of said System

8. REMEDIES FOR NONPAYMENT OR DEFAULT. Should Authority fail to make any payment to Stamford when due hereunder or otherwise be in default under this Agreement, Stamford at its sole option and in addition to and without impairing any other remedy available to it on account of the default, may elect to either (i) suspend its duty to make available to Authority the rights provided under this Agreement or (ii) terminate this Agreement, by providing written notice of such suspension or termination delivered to Authority on or before 30 days before the date specified in said notice of suspension or termination, provided that the nonpayment or other default with respect to which notice of suspension or termination of this Agreement has been given, shall not be cured by the date specified in the notice. Nothing in this Agreement shall be construed in any manner so as to abridge, limit, or deprive either Party hereunto of any

means which it would otherwise have of enforcing any right or remedy either in law or in equity for breach of any of the provisions hereof.

9. DIVERSION RATE. The rights to be made available to Authority under this Agreement may be exercised at daily rates desired by Authority as are approved by the TNRCC.

10. MEASUREMENT OF WATER DIVERTED. Authority agrees that, it will require all of its customers for this water, at the customers' sole cost and expense to install, operate and maintain a means for the accurate measurement of all waters diverted by Authority under this Agreement in order to aid Stamford in accurately reporting actual water usage to the TNRCC, as required by applicable law or regulation. Such means of measurement shall be submitted to Stamford for its review and approval, which approval shall not be unreasonably withheld. In the event any question arises at any time as to the accuracy of any such means of measurement, the Parties shall work cooperatively to address and resolve such question.

11. REPORTING. Authority agrees that it will keep accurate records of the water diverted pursuant to this Agreement, utilizing the means of measurement referenced in Section 10, above. These records shall be subject to inspection by Stamford at reasonable times and places. Authority shall submit reports to Stamford by February 15th each year for the previous Calendar Year or part thereof, identifying diversions made by Authority during the preceding Calendar Year.

12. CONSERVATION OF WATER. It is the intent of the Parties to this Agreement to provide to the maximum extent practicable for the conservation of water, and Authority agrees that it is a condition of this Agreement that it shall maintain and operate its facilities in a manner that will prevent unnecessary waste of water. Stamford, in accordance with applicable law or regulation, may from time to time adopt reasonable rules and regulations relating to water conservation. Authority agrees to abide by Stamford's Drought Contingency Plan, as adopted by its city council, and any Drought Contingency Plans subsequently adopted. If required by applicable law or regulation, or by the City, Authority agrees to implement a water conservation and drought contingency plans and that the rights accruing to the Authority pursuant to this Agreement will be exercised in accordance with such water conservation and drought contingency plans. If required by applicable law or regulation, Authority agrees that, in the event Authority furnishes water or water services to a customer that in turn will furnish the water or water services to the ultimate consumer, the requirements relative to water conservation and drought contingency plans shall be met through contractual agreements between Authority and its customer providing for compliance with such applicable law or regulation.

13. WATER QUALITY, QUANTITY. THE PARTIES ACKNOWLEDGE THAT THERE IS NO WARRANTY WITH RESPECT TO THE QUALITY OR QUANTITY OF WATER SUPPLIED BY STAMFORD TO THE AUTHORITY UNDER THIS AGREEMENT, EITHER EXPRESS OR IMPLIED, AND THAT WATERS DIVERTED

BY AUTHORITY PURSUANT TO THIS AGREEMENT ARE PROVIDED BY STAMFORD "AS IS", WITHOUT WARRANTY OF ANY KIND AS TO QUALITY, SUFFICIENCY, ADEQUACY OR USEFULNESS FOR ANY INTENDED PURPOSE.

14. WATER SURPLUS TO PURCHASER'S NEEDS. Authority may not unilaterally cancel this Agreement or reduce the amount of its rights under this Agreement or its obligation to pay under the terms of Section 6., above.

15. INTERBASIN TRANSFER. The water rights made available under this Agreement shall not be transferred or used outside of the Brazos River Basin unless Authority obtains the express written consent of Stamford and obtains all required governmental approvals.

16. SHORTAGES. Stamford makes no guaranty that Lake Stamford or other sources of supply available to the City will be maintained at any specific level at any particular time in order to make water available for diversion by Authority pursuant to this Agreement. With respect to such diversions, Authority shall bear all transportation losses prior to final diversion. It is fully understood by the Parties that the level of water in City lakes or other sources of supply, including Possum Kingdom, will vary as a result of weather conditions beyond Stamford's control, and that this Agreement is merely an agreement to allow Authority to divert water under Stamford's water rights when and if water is available for the Authority's diversion and use. Notwithstanding any provision of this Agreement to the contrary, Authority's right to divert water hereunder is

subrogated to the rights of the City to divert and use water under Certificate of Adjudication No. 12-4179, as amended.

17. STAMFORD'S OTHER CONTRACTS. The right of Stamford to maintain and operate Lake Stamford and other sources of supply at any and all times in the future to impound, divert, use, release, and make available waters therefrom in any lawful manner and to any lawful extent Stamford may see fit is recognized by Authority. Following the Effective Date of this Agreement, Stamford may enter into any agreements with other parties so long as such agreements do not impair Stamford's ability to meet its obligations to Authority in accordance with this Agreement.

18. FORCE MAJEURE. Notwithstanding anything herein to the contrary, neither Party hereto shall be under any liability or be deemed in default with respect to its obligations under this Agreement for any failure to perform or for delay in performing such Party's obligations hereunder (except for the obligation to pay money) where such failure or delay is due to force majeure, while and to the extent that such performance is prevented by such cause. The term force majeure means acts of God, fire, storm, flood, war, riots, sabotage, drought, lack of availability of water due to sedimentation, low inflows of water to, or lack of water supply, strikes or other differences with labor (whether or not within the power of the Parties to settle same), decrees or orders of the courts or other governmental authority, or other similar or dissimilar causes not within the reasonable control of such Party and not due to negligence of such Party. Each

Party shall use due diligence to resume performance of any obligation suspended by force majeure at the earliest practicable time.

19. WAIVER. Any waiver at any time by any Party of its rights with respect to default under this Agreement shall not be deemed a waiver of such rights with respect to any subsequent default or matter.

20. NOTICES AND CERTIFICATIONS. Notices and certifications provided for in this Agreement shall be in writing. The same shall be delivered by mailing certified mail, postage paid, return receipt requested, to the respective Parties at the following addresses:

Stamford:
City Manager
City of Stamford
P.O. Drawer 191
Stamford, Texas 79553-0191
Telephone: 915-773-2591
Fax: 915-773-2145

Authority:
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555
Telephone: 254-772-5780
Fax: 254-772-5780

Either Party may change its address as shown above by written notice to the other Party. Notices shall be deemed to have been delivered on the third business day following their deposit in the United States mail, postage paid, and properly addressed and certified.

21. OTHER REQUIREMENTS. This Agreement is subject to conditions, provisions, and limitations included in Stamford's water rights from the TNRCC. Further, this Agreement is subject to all applicable federal, state and local laws, and any applicable ordinances, rules, orders and regulations of any local, state or federal governmental authority having jurisdiction. Specifically, this contract is effective only upon compliance by the Parties with the provisions of applicable TNRCC rules in 30 Texas Administrative Code Chapters 295 and 297, related to Water Supply Contracts. However, nothing contained in this Agreement shall be construed as a waiver of any right of a Party to question or contest any law, ordinance, order, rule, or regulation of any governmental authority.

22. SEVERABILITY. The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.

23. ASSIGNMENT. This Agreement may be assigned by Authority only with the written consent of Stamford, which consent shall not be unreasonably withheld or delayed.

24. **TERM OF AGREEMENT.** The term of this Agreement shall begin on the Effective Date and shall end on the 31st day of August, 2041. This Agreement shall be extended thereafter upon mutual written agreement of the Parties.

CITY OF STAMFORD

By: _____
Louis E. Johnson
Mayor

BRAZOS RIVER AUTHORITY

By: _____
Phillip J. Ford
General Manager

ATTEST:

_____
Liz Torres
City Secretary

ATTEST:

_____
Mike Bukala
Assistant Secretary

APPROVED AS TO FORM:

_____
Martin C. Rochelle
Attorney for
City of Stamford

APPROVED AS TO FORM:

_____
Michael E. Field
Attorney for
Brazos River Authority

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FIRST AMENDMENT TO SYSTEM WATER AVAILABILITY AGREEMENT BETWEEN BRAZOS RIVER AUTHORITY AND CITY OF STAMFORD

THIS FIRST AMENDMENT made and entered into this the 30th day of January, 2001, by and between **BRAZOS RIVER AUTHORITY** ("Authority") and **CITY OF STAMFORD** ("Purchaser").

Authority and Purchaser entered into System Water Availability Agreement Between Brazos River Authority and City of Stamford ("Agreement"), dated March 13, 2000, with an effective date of February 1, 2000. The original term of the Agreement was 30 years. Purchaser has now acquired financing to build the facilities needed to use the water being made available under Agreement. The term of the loan for the facilities is 40 years, and a requirement of that loan is that Purchaser have a contract for water for at least the term of the loan. Therefore, Purchaser wishes to amend Agreement to extend the term an additional 11 years.

A.
Amendment of Section 29.
TERM OF AGREEMENT

Section 29. TERM OF AGREEMENT is amended by the deletion of the date "31st day of August, 2030", and the substitution in its place of the date "31st day of August 2041", in the first sentence of this section.

IN WITNESS WHEREOF, this **FIRST AMENDMENT** is executed on behalf of Authority and Purchaser by their respective officers hereunto duly authorized.

CITY OF STAMFORD

By: _____
Title: City Manager

BRAZOS RIVER AUTHORITY

By: _____
JOHN GARLAND
Acting General Manager

ATTEST:

_____

ATTEST:

_____

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INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into as of the date last executed below ("Effective Date") by and between: the BRAZOS RIVER AUTHORITY of Texas (the "BRA"), a conservation and reclamation district created by the Texas Legislature pursuant to the provisions of Art. XVI, Section 59 of the Texas Constitution, acting by and through its Board of Directors and pursuant to a resolution duly passed and adopted by said Board of Directors; and the CITY OF SUGAR LAND, TEXAS (the "City"), a municipality of the State of Texas, organized and operating pursuant to its home rule charter, and the Constitution and laws of the State of Texas, acting herein by and through its City Council and pursuant to formal approval by said City Council.

RECITALS

WHEREAS, on June 25, 2004 the BRA filed an application with the Texas Commission on Environmental Quality ("TCEQ") for a System Operation Permit (Application No. 5851) ("System Operation Permit"), which application includes a request to appropriate return flows that are or will be discharged into state watercourses; and

WHEREAS, the City currently relies upon groundwater as its source of municipal water supply and anticipates filing an application for authorization to reuse effluent derived from such groundwater in order to meet the City's future needs for municipal supply, whereby the City would convey these return flows discharged from the various wastewater treatment plants utilized by the City via the bed and banks of various bayous and tributary watercourses in Segment Nos. 1245 and 1202 of the Brazos River Basin to the Gulf Coast Water Authority (the "GCWA") and receive credit for return flows thus diverted by the GCWA against the City's purchase of water from the GCWA (the "Anticipated Reuse Project"); and

WHEREAS, the Anticipated Reuse Project will require further authorizations from TCEQ if the City and the GCWA desire to exchange reuse water under that project of diversion of raw water at a point upstream from the GCWA's existing diversion point; and

WHEREAS, the BRA's System Operation Permit, if granted, will be "senior" in time priority to any additional water rights the City may obtain from TCEQ in the future, for reuse of its wastewater treatment plant discharges; and

WHEREAS, the policy of the BRA is to encourage reuse projects as a water conservation strategy, enabling the use of return flows within a municipality's service area; and

WHEREAS, the BRA's System Operation Permit, if granted, will include a provision, for reuse projects within the boundaries of a particular jurisdiction, to allow interruption of the BRA's appropriation of return flows by a municipality or other retail water provider that has an indirect reuse project within that retail water provider's service

area or planning jurisdiction, effectively reserving those wastewater discharges for reuse by the discharger in the future; and

WHEREAS, the City and the BRA (jointly referred to as the "Parties") agree that it is in their respective interests and in the public interest to resolve potential conflicts between their respective pending and proposed water supply projects; and

WHEREAS, the Parties desire to enter into this Agreement so they can each pursue, in a coordinated manner, their pending and proposed water supply projects in the Brazos River Basin; and

WHEREAS, pursuant to Chapter 791, Texas Government Code, and the general and special laws of the State of Texas, the Parties are authorized to enter into this Agreement providing for the undertaking, administration and implementation of the Agreement;

NOW, THEREFORE, be it resolved that for and in consideration of the mutual covenants, benefits and agreements hereinafter set forth, the adequacy and sufficiency of which is evidenced by the Parties' respective execution of this Agreement, the Parties agree as follows:

AGREEMENT

ARTICLE I

1. Agreement Regarding Reuse

a. For purposes of this Agreement:

i) "direct reuse" means subsequent use of wastewater effluent prior to its release into a state watercourse;

ii) "indirect reuse" means subsequent use of wastewater effluent discharged into a state watercourse following the City's initial use;

iii) "bed and banks" means the use of the bed and banks of a state watercourse to transport water for subsequent use; and

iv) "Anticipated Reuse Project" has the meaning set forth above.

b. The BRA agrees not to protest or seek payment from the City for any direct reuse authorization the City pursues or receives from the State, or any indirect reuse authorization the City pursues or receives from the State that is consistent with the area of use limitations on its indirect reuse supplies as referenced in Article 1.c. The BRA further agrees not to protest or otherwise oppose the Anticipated Reuse Project, subject to the following limitations for the protection of the BRA's existing water rights: i) BRA will have the opportunity to review the hydrology, including analysis of channel losses, supporting the Anticipated Reuse Project; and ii) the GCWA will have no rights to reuse water under the Anticipated Reuse

Project until such time as the City is able to make use of the water exchanged by GCWA.

c. Except via the Anticipated Reuse Project, the City agrees to limit the actual end use of its indirect reuse supplies to locations within the City's corporate boundaries, its extra-territorial jurisdiction boundaries, its water Certificate of Convenience and Necessity ("CCN") service area, if any, and within such boundaries and service areas as may be changed or amended in the future.

d. The BRA agrees to waive, without cost, its right to make priority calls on the Anticipated Reuse Project by any water right it obtains pursuant to its pending System Operation Permit application. The BRA further agrees that its authorization to appropriate wastewater return flows under the System Operation Permit, if granted, will be interruptible by either direct reuse or indirect reuse by the City within its jurisdiction, extra-territorial jurisdiction, or contiguous CCN service area, if any.

e. The BRA agrees, should the City determine that it does not desire to obtain its own reuse authorization pursuant to Texas Water Code § 11.042(b), to make the City's effluent available for indirect reuse by the City within the City's service area as specified in Article 1.c, under the authority of the BRA's System Operation Permit. If the City utilizes this alternative for water delivery, the BRA will charge the City an administrative fee that does not exceed the BRA's actual costs in providing for the alternative water delivery under the BRA's System Operation Permit.

ARTICLE II

2. Agreement Regarding Cooperation

a. The City agrees not to oppose the BRA's System Operation Permit application, and further agrees to use its best efforts to ensure that the GCWA does not oppose the BRA's System Operation Permit application.

b. The BRA agrees not to oppose the authorization of the Anticipated Reuse Project, provided that the Anticipated Reuse Project is subject to the limitations set forth in Article 1.b of this Agreement.

c. The Parties agree to provide each other with copies of permit applications, documents, amendments, modifications, and proposed permit language related to any pending water right referenced in this Agreement or future proposed water reuse right of the City as contemplated by Article 1 of this Agreement so as to allow the Parties reasonable opportunity to review and comment on such applications and proposed permits.

ARTICLE III

3. Miscellaneous Provisions

a. ENTIRE AGREEMENT: The terms and provisions of this Agreement contain the entire Agreement between the BRA and the City with respect to water reuse issues within the Brazos River Basin.

b. SEVERABILITY: The provisions of this Agreement are severable, and if for any reason any one or more of the provisions contained in this Agreement shall be deemed to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.

c. ADDRESSES AND NOTICE: Unless otherwise provided in this Agreement, any notice, communication, request, reply, or advice (herein severally and collectively called "Notice") herein provided or permitted to be given, made, or accepted by either Party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the Party to be notified, with return receipt requested, or by delivering the same to an officer of such Party, or by facsimile or other documentary form. Notice by facsimile or hand delivery shall be deemed to have been received by the close of the business day on which it was transmitted or hand delivered (unless transmitted or hand delivered after close of business, in which case it shall be deemed received at the close of the next business day). Notice by overnight mail or courier shall be deemed to have been received two (2) business days after it was sent. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective upon deposit in the United States mail. Notice given in any other manner shall be effective only in and when received by the Party to be notified. For the purpose of Notice, the addresses of the Parties shall, until changed as hereinafter provided, be as follows:

If to the City, to:
City Manager
City of Sugar Land
P.O. Box 110
Sugar Land, Texas 77487-0110
Telephone: (281) 275-2707
Fax: (281) 275-2721

If to the BRA, to:
General Manager
Brazos River Authority
P.O. Box 7555
Waco, Texas 76714-7555
Telephone: (254) 761-3100
Fax: (254) 761-3207

The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least five (5) days written notice to the other Party.

d. ASSIGNABILITY: This Agreement shall bind the Parties and their legal successors, but shall otherwise not be assignable by any Party without prior written consent of the other Party, which consent shall not be unreasonably withheld. All of the respective obligations of each of the Parties shall bind that Party and shall apply to and bind any successors or assigns of that Party.

e. COSTS AND EXPENSES: Each Party to this Agreement shall be responsible for all costs and expenses incurred by such Party in connection with this Agreement.

f. GOVERNING LAW: This Agreement shall be governed by the Constitution and law of the State of Texas, except as to matters exclusively controlled by the Constitution and Statutes of the United States of America.

g. AMENDMENTS: This Agreement may be amended or modified only by mutual written agreement duly authorized by the respective governing bodies of the Parties and executed by the duly authorized representative of each.

h. VENUE: Venue for any action arising hereunder shall be in McLennan County, Texas.

i. THIRD PARTY BENEFICIARIES: Except as expressly provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties, any rights, benefits, or remedies under or by reason of this Agreement.

j. DAMAGES: Neither of the Parties shall be liable or have any responsibility to the other for any indirect, special, consequential, punitive or delay-related or performance-related damages including, without limitation, lost earnings or profits. Such limitation on liability shall apply to any claim or action, whether it is based in whole or in part on contract, negligence, strict liability, tort, statute or any other theory of liability.

k. FURTHER ASSURANCES: The Parties agree to do all acts and things and to execute and deliver such further written instruments, as may be from time to time reasonably required to carry out the purposes and the provisions of this Agreement.

l. INTERPRETATION AND RELIANCE: No presumption will apply in favor of either Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions thereof.

m. RELATIONSHIP OF PARTIES: This Agreement is based upon the active participation of the Parties. Neither the execution nor the delivery of this Agreement shall create or constitute a partnership, joint venture, or any other form of business organization or arrangement between the Parties, except for the

contractual arrangements specifically set forth in this Agreement. Except as is expressly agreed to in writing in this Agreement, no Party (or any of its agents, officers or employees) has any power to assume or create any obligation on behalf of the other Party.

n. TERM: This Agreement shall commence on the Effective Date and shall continue in effect for so long as any of the Parties' water rights referenced in this Agreement remain in effect.

o. TERMINATION: This Agreement may be terminated by mutual written agreement of the Parties.

EXECUTED this 27 day of June, 2005.

CITY OF SUGAR LAND, TEXAS

City Manager

ATTEST/SEAL:

City Secretary

BRAZOS RIVER AUTHORITY

General Manager/Chief Executive Officer

ATTEST/SEAL:

Secretary, Board of Directors

THE STATE OF TEXAS *
*
COUNTY OF McLENNAN * INTERLOCAL AGREEMENT

This Interlocal Agreement ("Agreement") is made and entered into by and between Brazos River Authority ("Authority"), a body politic and corporate, hereafter referred to as "Authority," and the Texas Forest Service, hereinafter referred to as "Grantee."

For and in consideration of the mutual promises, covenants, obligations, and benefits described in this Agreement, Authority and Grantee agree as follows:

Section 1. **Permitted Use.** Grantee may divert water from all Authority reservoirs, namely Lakes Possum Kingdom, Granbury, Limestone, Alan Henry, Aquilla, Belton, Granger, Georgetown, Proctor, Somerville, Stillhouse Hollow, and Whitney, hereinafter called "the Projects," for the sole and only purpose of emergency fire suppression operations. For the purposes of this Agreement, the term "emergency fire suppression operations" includes the use of water to fight fires and manage chemical spills.

Section 2. **Prohibited Uses.** Grantee may not sell the water or permit others to use the water granted under this Agreement without prior written approval of the Authority.

Section 3. **Term.** This Agreement shall be effective on the date it is signed by Authority's authorized representative, as shown on the signature page of this Agreement, and shall continue in effect for a period of fifteen (15) years from the effective date, provided that either party may terminate this Agreement upon thirty (30) days' advance written notice to the other party.

Section 4. **Diversion Point.** Grantee shall divert raw water from the Projects by means of helicopter.

Section 5. **Regulatory Requirements.** This Agreement is subject to all applicable federal, state, and local laws and any applicable ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having jurisdiction.

Section 6. **Raw Water Quality and Quantity.** **THE WATER WHICH AUTHORITY OFFERS TO GRANTEE IS NON-POTABLE, RAW, AND UNTREATED. GRANTEE HAS SATISFIED ITSELF THAT SUCH WATER IS SUITABLE FOR ITS NEEDS. AUTHORITY EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE QUALITY OR QUANTITY OF THE RAW WATER OR SUITABILITY OF THE RAW WATER FOR ITS INTENDED PURPOSE.**

Section 7. **Release and Indemnification.** Grantee does hereby release, relinquish, and discharge and agree to indemnify and hold harmless the Authority, and the Authority's officers, directors, servants, agents and employees from any and all claims, demands, liabilities, suits, causes of action, obligations, damages, injuries, losses, penalties, costs, charges, and expenses (**including, without limitation, attorney's fees, court costs, consultant fees, expert fees, and other litigation-related expenses**) of whatsoever kind or character directly or indirectly resulting from, arising out of or in

connection with, or relating to (1) any condition of the Authority Property; (2) any use or occupation of the Authority Property; (3) any breach or default on the part of the Grantee in the performance of any covenants or agreements contained in this Agreement or imposed by law; (4) the conduct or management of the Grantee's operations of the Authority Property; (5) any act of negligence, whether of omission or commission, of the Grantee, or any of its officers, directors, servants, employees, contractors, subcontractors, or any other person acting on behalf of the Grantee; (6) any damage to the Grantee's property which may arise in connection with the Authority's operation and maintenance of said Authority Property; (7) any noncompliance with any Hazardous Material Law by the Grantee, or any of its officers, directors, agents, servants, employees, contractors, subcontractors, or any other person acting on behalf of the Grantee, or (8) any accident, injury, or damage whatsoever caused to any person, firm, corporation, or property. This release and indemnification extends to and includes any and all claims for bodily injury, death, sickness, disease, property damage or destruction, consequential damage, or economic loss caused to or suffered by any person or property, including, but not limited to the Grantee, and any officers, directors, agents, servants, employees, contractors, subcontractors, or any other person acting on behalf of the Grantee, or any other person or entity. In case of any action or proceeding brought against the Authority by reason of any such claim the Grantee, upon notice from the Authority, **agrees to defend the action or proceedings by counsel acceptable to the Authority at the Grantee's cost. THE PROVISIONS OF THIS RELEASE AND INDEMNIFICATION SHALL REMAIN AND BE IN FULL FORCE AND EFFECT EVEN IF ANY CLAIM, DEMAND, LOSS, LIABILITY, DAMAGE, OR EXPENSE, OR CLAIM THEREFOR, BY ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY RESULTS FROM, ARISES OUT OF, OR RELATED TO, OR IS ASSERTED TO HAVE RESULTED FROM, ARISEN OUT OF, OR BE RELATED TO, IN WHOLE OR IN PART, ONE OR MORE NEGLIGENT ACTS OR OMISSIONS OF THE AUTHORITY, OR ANY OF THE AUTHORITY'S OFFICERS, DIRECTORS, AGENTS, SERVANTS, EMPLOYEES OF ANY OTHER PERSON OR ENTITY ACTING ON BEHALF OF THE AUTHORITY, THE PARTIES INTENDING HEREBY TO SATISFY THE EXPRESS NEGLIGENCE DOCTRINE. This release and indemnification shall survive termination or expiration of this Agreement.**

Section 8. Non-Assignability. Grantee understand and agrees that any assignment of rights or delegation of duties under this Agreement is void without written prior consent of the Authority.

Section 9. Severability. The provisions of this Agreement are severable and if, for any reason, any one or more of the provisions contained in the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the illegality or unenforceability shall not affect any other provision of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

Section 10. Notices. All notices required or allowed by this Agreement shall be in writing and be given by depositing the notice in the United States mail postpaid and certified, with return receipt requested, and addressed to the party to be notified. Notice deposited in the mail in the previously described manner shall be conclusively deemed to be effective from and after the expiration of three (3) days after the notice is deposited in

the mail. For purposes of notice, the addresses of and the designated representative for receipt of notice of each of the parties shall be shown above the signatures of the individuals who signed this Agreement on behalf of Authority and Grantee. Either party may change its address by giving written notice of the change to the other party at least fifteen (15) days before the change becomes effective.

Section 11. **Place of Performance.** All damages for the breach of this Agreement, shall be paid and be due in McLennan County, Texas, being the place of performance agreed to by the parties to this Agreement. In the event that any legal proceeding is brought to enforce this Agreement or any provision hereof, the same shall be brought in McLennan County, Texas.

Section 12. **Duplicate Originals.** Grantee and Authority, acting under authority of their respective governing bodies, shall authorize the execution of this Agreement in two counterparts, each of which shall be an original. Grantee shall submit written evidence in the form of bylaws, charters, resolutions or other written documentation specifying the authority of Grantee's representative to sign this Agreement, which evidence shall be attached to this Agreement as Exhibit 1.

EFFECTIVE as of the date signed by the authorized representative of Authority.

BRAZOS RIVER AUTHORITY
P.O. Box 7555
Waco, Texas 76714-7555

Attn: General Manager

BY: Roy A Robert

TITLE: General Manager

DATE: April 30, 1997

TEXAS FOREST SERVICE
College Station, Texas 77843-2136

BY: Bobby R. Young

TITLE: Associate Director

DATE: 5-6-97

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DUPLICATE ORIGINAL

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND
THE BRAZOS RIVER AUTHORITY OF TEXAS
FOR
WATER STORAGE SPACE IN AQUILLA LAKE, TEXAS

THIS CONTRACT, entered into this 5th day of April 1976, by and between the United States of America (hereinafter called the Government), represented by the Contracting Officer executing this contract, and the Brazos River Authority of Texas (hereinafter called the Authority), an agency of the State of Texas, WITNESSETH THAT:

WHEREAS, The Flood Control Act of 1968 (Public Law 90-483, 82 Stat. 741) authorized the construction, operation, and maintenance of Aquilla Lake (hereinafter called the Project) on Aquilla Creek in the State of Texas; and

WHEREAS, the Authority desires to contract with the Government for the use of storage included in the Project for municipal and industrial water supply and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b); and

WHEREAS, the Authority is empowered so to contract with the Government and is vested with all the necessary powers for accomplishment of the purposes of this contract, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b);

NOW, THEREFORE, the Government and the Authority agree as follows:

ARTICLE 1. Water storage space.

a. Project construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, shall design and construct the Project so as to include therein space for the storage of water by the Authority.

b. Rights of the Authority.

(1) The Authority shall have the right to utilize an undivided 100 percent of the total storage space in the Project below elevation 537.5 feet above mean sea level, which total storage space is estimated to contain 33,600 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for present and anticipated future demands or needs for municipal and industrial water supply. Ten percent (10%) (an estimated 3,360 acre-feet) of the space which the Authority has a right to utilize is for present use water storage and 90 percent (90%) (an estimated 30,240 acre-feet) is for future use water storage.

(2) The Authority shall have the right to withdraw water from the lake, or to order releases to be made by the Government through the outlet

works in the dam, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide, and shall have the right to construct all such works, plants, pipelines, and appliances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the Contracting Officer as to design and location. The grant of an easement for right-of-way across, in, and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, without additional cost to the Authority, under the authority of and in accordance with the provisions of 10 U.S.C. 2669. Subject to the conditions of such easement, the Authority shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges herein granted.

c. Rights reserved. The Government reserves the right to lower the water in the Project to elevation 537.5 feet above mean sea level during such periods of time as is deemed necessary, in its sole discretion, for flood control purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life or property.

d. Quality or availability of water. The Authority recognizes that this contract provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor or for the treatment of the water.

ARTICLE 2. Regulation of and right to use of water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the Authority. The Authority has the full responsibility to acquire in accordance with State laws and regulations, and if necessary to establish or defend, any and all water rights needed for utilization of the storage provided under this contract. The Government shall not be responsible for withdrawals or diversions by others, nor will it become a party to any controversies involving the use of the storage space by the Authority except as such controversies may affect the operation of the Government.

ARTICLE 3. Operation and maintenance. The Government shall operate and maintain the Project, and the Authority shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The Authority shall be responsible for operation and maintenance of all installations and facilities which it may construct for the diversion or withdrawal of water from the lake and shall bear all costs of construction, operation, and maintenance of such installations and facilities.

ARTICLE 4. Measurement of withdrawals and releases. The Authority agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the Contracting Officer for the measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The Authority shall furnish to the Government monthly statements of all such withdrawals. Releases from the water supply

storage space through the Project outlet works shall be made in accordance with written schedules furnished by the Authority and approved by the Contracting Officer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5. Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the Authority shall pay the following sums to the Government:

a. Project investment costs.

(1) The Authority shall repay to the Government, at the times and with interest on the unpaid balance as hereinafter specified, the amounts stated below which, as shown in Exhibit A of this contract, constitute the entire estimated amount of the construction costs, including interest during construction, allocated to the water storage right acquired by the Authority under this contract. The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance will be determined by the Secretary of the Treasury as of the beginning of the Government fiscal year in which construction of the Project is initiated on the basis set forth in the Water Supply Act of 1958, as amended. Such interest rate at the time of negotiation of this contract (Government fiscal year 1976) is 5.116 percent. The Authority shall repay:

100 percent of the construction cost of specific water supply facilities, estimated at	None
23.980 percent of the total Project joint use construction cost, estimated at	$ 9,499,000
Interest during construction, estimated at	1,214,900
Total estimated amount of Project investment cost allocated to water supply	$10,713,900

(2) The Project investment cost allocated to the storage space indicated in Article 1b(1) as being provided for present demand is currently estimated at $1,071,390 on the basis of the costs presented in Exhibit A of this contract. The amount of the Project investment cost allocated to the storage for present demand shall be paid in 50 consecutive annual payments, the first of which shall be due and payable within 30 days after the Authority is notified by the Contracting Officer that the Project is completed and operational for water supply purposes. Annual payments thereafter will be due and payable on the anniversary date of said notification by the Contracting Officer. Except for the first payment, which will be applied solely to the retirement of principal, all payments shall include accrued interest on the unpaid balance at the rate provided above. The last annual payment shall be adjusted upward or downward when due to assure repayment of all of the investment cost allocated to the storage for present demand within 50 years.

(3) The Project investment cost allocated to the remaining portion of the storage space, that provided for future use, is currently estimated at $9,642,510 on the basis of the costs presented in Exhibit A of this contract. No principal or interest payment with respect to this storage for future water supply is required to be made during the first 10 years following the date the Project is operational for water supply purposes unless all or a portion of such storage is used during this period. The amount to be paid for any portion of such storage which is used shall be determined by multiplying the percentage of the total storage for future water supply which is placed in use by the total amount of the Project investment cost allocated to future water supply. Interest at the rate provided above will be charged on the amount of the Project investment cost allocated to the storage for future water supply which is not being used from the tenth (10th) year following the date the Project is operational for water supply purposes until the time when such storage is first used. The Authority may at its option pay the interest as it becomes due or allow the interest to accumulate until the storage is used. If this latter option is exercised, the interest will be compounded annually and added to the principal amount. When any portion of the storage for future water supply is used, the amount of the Project investment cost allocated thereto plus interest applicable to such portion as provided above will be due and payable on the date of first use of water from such portion. The said amount due shall be paid within the life of the Project in not to exceed 50 consecutive annual payments beginning on the next anniversary date established in accordance with the provisions of Article 5a(2) above following the said date of first use. Annual payments thereafter for such portion will be due and payable on said anniversary date. For any portion, all payments shall include accrued interest on the unpaid balance at the rate provided above, with interest accruing from the said date of first use of water from such portion. The last annual payment for any portion shall be adjusted upward or downward when due to assure repayment of all the investment cost allocated to such portion within the repayment period.

(4) An estimated schedule of annual payments for the storage provided for present demand is attached as Exhibit B of this contract. The annual payments as provided therein shall be made until an interim estimated determination of cost or a final determination of cost is made as provided in Article 6. Payment schedules for the storage provided for future water supply demands will be furnished by the Contracting Officer when use of such storage is started, and if based on estimated costs will be subject to revision, as provided in Article 6, until actual costs are known.

(5) The Authority shall have the right at any time it so elects to prepay the indebtedness under this Article 5a, in whole or in part, with accrued interest thereon to the date of such prepayment.

b. Major capital replacement costs and sedimentation resurveys costs. The Authority shall pay to the Government 6.174 percent of the joint use major capital replacement items costs of the Project until such time as the storage for future water supply is used. As the storage provided for future water supply demands is used, the share of the joint use major capital replacement items costs which the Authority shall be required to pay will be increased

commensurate with the percentage of the total water supply storage being used up to a total of 61.740 percent of such costs. The Authority will also be required to pay to the Government 2.793 percent of the sedimentation resurveys costs of the Project until such time as the storage for future water supply is used. As the storage provided for future water supply demands is used, the share of the sedimentation resurveys costs which the Authority will be required to pay will be increased commensurate with the percentage of the total water supply storage being used up to a total of 27.930 percent of such costs. Payment shall be made either in lump sum on demand at the time such costs are incurred or annually with interest on the unpaid balance. If paid annually, the Authority's share shall be paid within the life of the Project in not to exceed 25 consecutive annual payments beginning on the next anniversary date established in accordance with the provisions of Article 5a(2) above following the date demand is made for payment of said major capital replacement costs or sedimentation resurveys costs. Annual payments thereafter will be due and payable on said anniversary date. All payments shall include accrued interest on the unpaid balance at the rate determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which the said demand for payment is made, with interest accruing from the date said demand for payment is made. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred costs within the repayment period.

c. Annual operation and maintenance costs.

(1) The Authority shall pay to the Government 5.343 percent of the annual experienced joint use operation and maintenance costs of the Project until such time as the storage for future water supply is used. As the storage provided for future water supply demands is used, the share of the annual experienced joint use operation and maintenance costs which the Authority will be required to pay will be increased commensurate with the percentage of the total water supply storage being used up to a total of 53.427 percent of such costs. The first payment for operation and maintenance costs of present use water supply storage will be due and payable in advance within 30 days after the Contracting Officer notifies the Authority that the Project is completed and operational for water supply purposes, will be for the period beginning on the date the Project is operational for water supply purposes and ending on 30 September following, and will amount to the first payment, P_j, for joint use costs computed as shown in part B of section IV of Exhibit A of this contract. Annual payments thereafter, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will be the payments P_j computed consecutively as shown in part B of section IV of Exhibit A of this contract.

(2) When each and any portion of the future water supply storage is placed in use, the first payment of the additional amount of the joint use operation and maintenance costs required to be paid for such storage use will be due and payable in advance within 30 days after first use of water from such storage, will be for the period beginning on the date of said first use

and ending on 30 September following, and will amount to the first payment, P_j, computed as shown in part C of section IV of Exhibit A of this contract. Annual payments thereafter, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will be the payments P_j computed consecutively as shown in part C of section IV of Exhibit A of this contract.

d. Charges for delinquent payments. If the Authority shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5a, 5b, and 5c above shall be that determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which the Project investment payment is due, the major capital replacement or sedimentation resurvey costs payment is due, or in which the operation and maintenance costs were incurred, respectively. The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue (31 to 60 days after the anniversary date), one month's interest shall be charged. This provision shall not be construed as giving the Authority a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the Authority.

ARTICLE 6. Construction cost adjustments. All construction cost dollar amounts in this contract, including those in the Exhibits, are tentative only based on the Government's best estimates. They will be adjusted upward or downward by the Contracting Officer when final construction costs become known, and the contract will be modified to reflect the adjustments. Within two years after the Project is completed and operational for water supply purposes, the Contracting Officer shall make a revised interim estimated determination of construction costs, including interest during construction and taking into account the actual costs to the extent they are then known. In like manner, further interim determinations shall be made at two year intervals until all actual costs are known, at which time the Contracting Officer shall prepare a final cost determination, including interest during construction. On each occasion of an interim determination, or on final determination, the annual payments thereafter due shall be changed so as to provide for the payment of the balance due in equal payments during the remaining life of the repayment period; and a revised schedule, or schedules as necessary, of annual payments shall be furnished to the Authority.

ARTICLE 7. Duration of contract. This contract shall be effective when approved by the Secretary of the Army and shall continue in full force and effect for the life of the Project.

ARTICLE 8. Permanent rights to storage. Upon completion of payments by the Authority as provided in Article 5a herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public

Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The Authority shall continue payment, as provided in Article 5c, of the annual operation and maintenance costs allocated to water supply.

b. The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. Such costs will be established by the Contracting Officer. Repayment arrangements, including schedules, will be in writing and will be made a part of this contract.

c. Upon completion of payments by the Authority as provided in Article 5a herein, the Contracting Officer shall redetermine the storage space for municipal and industrial water supply, taking into account such equitable reallocation of lake storage capacities among the purposes served by the Project as may be necessary due to sedimentation. Such findings, and the storage space allocated to municipal and industrial water supply, shall be defined and described in an exhibit which will be made a part of this contract. Following the same principle, such reallocation of lake storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the Authority under this contract shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate contract, or supplemental agreement, providing for:

(1) Continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) Terms which will protect the public interest; and

(3) Effective absolvement of the Government by the Authority from all liability in connection with such continued operation.

ARTICLE 9. Release of claims. The Authority shall hold and save the Government, including its officers, agents, and employees, harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project made or ordered by the Authority, or as a result of the construction, operation, or maintenance of the features and appurtenances owned and operated by the Authority, provided, that this shall not be construed as obligating the Authority to hold and save the Government harmless from damages or liability resulting from the sole negligence of the Government or its officers, agents, or employees and not involving negligence on the part of the Authority or its officers, agents, or employees.

ARTICLE 10. Assignment. The Authority shall not transfer or assign this contract or any rights acquired hereunder, nor sub-allot said water supply storage space or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this contract, without the approval of the Secretary of the Army, provided, that unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the Authority and furnished to any third party or parties, nor any method of allocation thereof.

ARTICLE 11. Officials not to benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise herefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 12. Covenant against contingent fees. The Authority warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to add to the contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13. Environmental quality. During any construction, operation, and maintenance by the Authority of any facilities, specific actions will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to (1) reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases and smoke from temporary heaters; (2) reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion; (3) minimization of noise levels; (4) onsite and offsite disposal of waste and spoil; and (5) prevention of landscape defacement and damage.

ARTICLE 14. Federal and State laws.

a. In acting under its rights and obligations hereunder, the Authority agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); and Title 29, Code of Federal Regulations, Part 3.

b. The Authority furnishes as part of this contract an assurance (Exhibit C) that it will comply with Title VI of the Civil Rights Act of

1964 (78 Stat. 241, 42 U.S.C. 2000d et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

ARTICLE 15. Definitions.

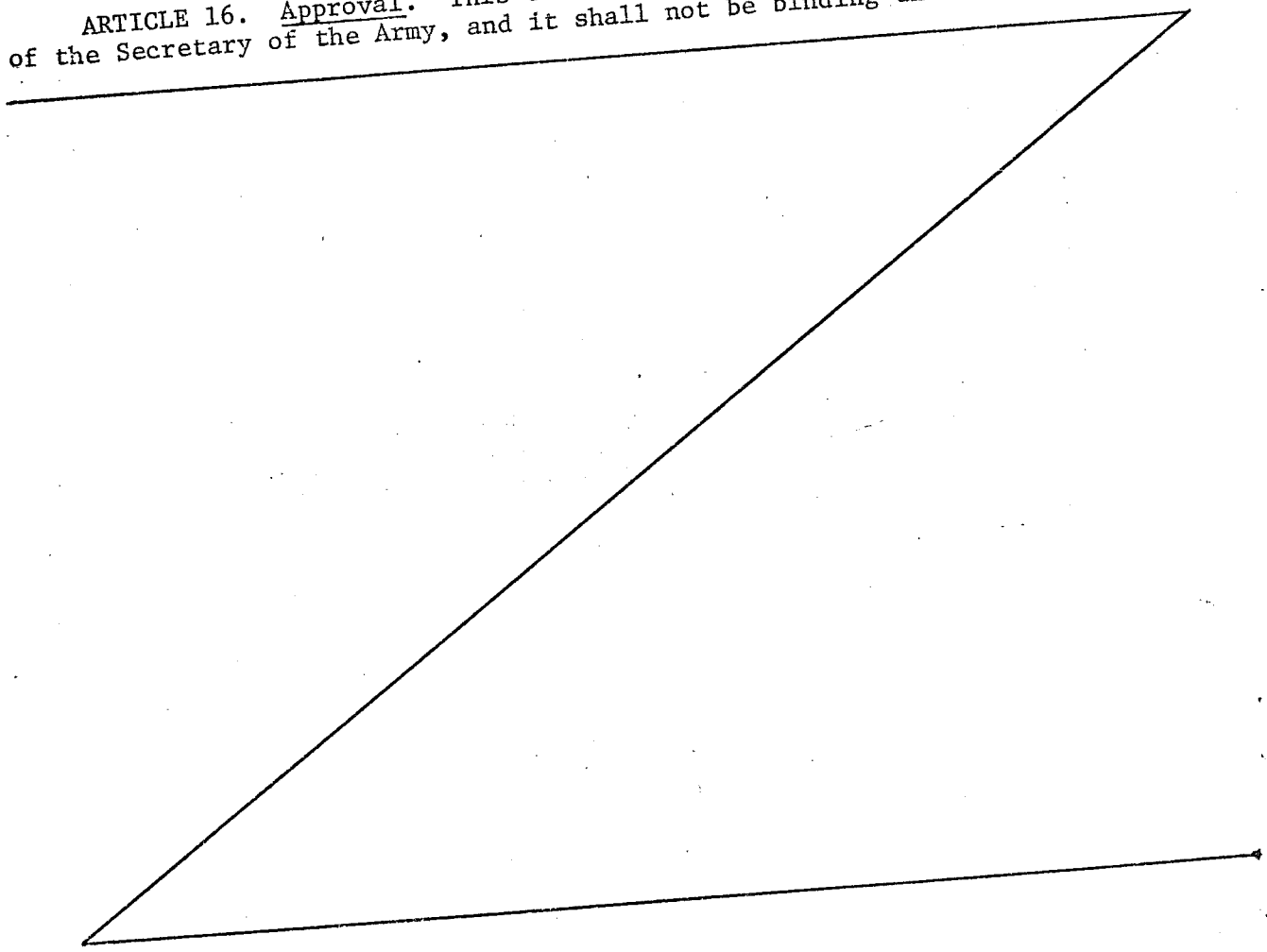
a. Joint use costs. The costs of features used for any two or more Project purposes.

b. Project investment costs. The initial cost of the Project, including: land acquisition; construction; interest during construction on the value of land, labor, and materials used for planning and construction of the Project.

c. Specific costs. The costs of Project features normally serving only one particular Project purpose.

d. Interest during construction. An amount of interest which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available to the Authority for water storage.

ARTICLE 16. Approval. This contract is subject to the written approval of the Secretary of the Army, and it shall not be binding until so approved.



IN WITNESS WHEREOF, the parties hereto have executed this contract as of the day and year first above written.

APPROVED:

Victor V. Veysey
~~Assistant Secretary of the Army~~
(Civil Works)
Secretary of the Army

Date 29 June 1976

THE UNITED STATES OF AMERICA

By _____
Joe H. Sheard
Colonel, CE
Contracting Officer 16 Apr 05

THE BRAZOS RIVER AUTHORITY OF TEXAS

By _____
Charles G. Lee
President

I, Burford I. King, certify that I am the Secretary of the Brazos River Authority of Texas herein; that Charles G. Lee who signed this contract on behalf of the Authority was then President of said Brazos River Authority of Texas; that said contract was duly signed for and on behalf of the Brazos River Authority of Texas by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Brazos River Authority of Texas this 1st day of April 1976.

_____
Burford I. King
Secretary
Brazos River Authority of Texas

CORPORATE SEAL

BELTON RESERVOIR
SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, entered into this 29th day of Sept, 2011, by and between THE DEPARTMENT OF THE ARMY (hereinafter called the "Government") represented by the U.S. Army Engineer, Fort Worth District (hereinafter called the "District Engineer") and BRAZOS RIVER AUTHORITY, an agency of the State of Texas (hereinafter called the "Authority"), represented by its General Manager;

WITNESSETH THAT:

WHEREAS, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (hereinafter called the "ARRA"), was enacted to preserve and create jobs and promote economic recovery; assist those most impacted by the recession; provide investments needed to increase economic efficiency; invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases;

WHEREAS, Contract No. DA-41-443-CIVENG-58-120 (hereinafter the "Contract) was entered into on 31 October 1957, between the Government and the Authority, to provide the Authority the right to use 90.453 percent of the storage space in the Belton Reservoir on Leon River, Texas (hereinafter called the "Project") between elevations 540.0 feet and 569.0 feet above mean sea level, and included a provision for payment by the Authority of 11.214 percent of the cost of major capital replacements;

WHEREAS, Modification No. 1 to the Contract was entered into on 18 January 1960, to provide the Authority the right to use the storage space between elevation 569.0 feet and 594.0 feet above mean sea level, and included a provision for payment by the Authority of an additional 24.391 percent of the cost of major capital replacements (35.605 percent total);

WHEREAS, the Authority has requested that the Government further modify the Contract, to allow payments by the Authority of its share of the costs of repair, rehabilitation and replacement (RR&R) work, which is funded or will be funded by the ARRA, to be made annually within the life of the Project in not to exceed 30 consecutive annual installments;

WHEREAS, the Authority also has requested that the Government further modify the Contract to evidence the conversion of the Authority's right to the permanent use of water supply storage space in the Project as prescribed in the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390c-f);

WHEREAS, the Water Supply Act of 1958, as amended, specifies the interest rate that shall apply to repayments by State or local interests and requires the recalculation of such interest rate at five-year intervals; and

WHEREAS, the Authority as shown in Exhibit "A", attached to and made a part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement.

NOW, THEREFORE, the Government and the Authority agree to modify the said contract in the following particulars but in no others:

I. Add the following paragraph to Article 4 of the Contract—

h. Notwithstanding the provisions of this Article, the method of payment for repair, rehabilitation, and replacement (RR&R) work, to include major capital replacements, funded by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115, shall be pursuant to Article 17 of this Contract.

II. Change the first sentence of Article 5 of the Contract to read—

This contract shall become effective as of the date of approval by the Secretary of the Army or his duly authorized representative and shall continue in full force and effect for the life of the Project.

III. Delete Article 6 of the Contract and substitute in lieu thereof—

ARTICLE 6. PERMANENT RIGHTS TO STORAGE.- Upon completion of payments by the Authority, as provided in paragraphs a.(1), a.(2), b.(1), b.(2), e. and f. of Article 4 herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The Authority shall continue payment of annual operation and maintenance costs allocated to water supply as described in Article 4.

b. The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. The District Engineer will establish such costs and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 4 for reconstruction, rehabilitation, and replacement costs, and be made a part of this agreement.

c. Upon completion of payments by the Authority as provided in paragraphs a.(1), a.(2), b.(1), b.(2), e. and f. of Article 4 herein, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance applicable instructions. Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the Authority under this agreement shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement or additional supplemental agreement providing for:

(1) continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) terms which will protect the public interest; and,

(3) effective absolvement of the Government by the Authority from all liability in connection with such continued operation.

IV. Delete Article 17 of the Contract and substitute in lieu thereof—

ARTICLE 17. REIMBURSEMENT OF RR&R COSTS FUNDED BY THE ARRA.

a. This Article applies solely and exclusively to RR&R work funded wholly or in part by the ARRA (hereinafter called "RR&R-ARRA work").

b. The Authority will be required to pay 100 percent of the cost of RR&R-ARRA work allocated to specific water supply facilities. In addition, the Authority will be required to pay 35.605 percent of the cost of RR&R-ARRA work allocated to joint-use Project features. Payment of the costs of RR&R-ARRA work specified in this paragraph may be made by any of the following methods:

(1) In increments, without interest, as financial obligations are incurred by the Government during the performance of RR&R-ARRA work;

(2) In lump sum, with interest, upon the completion of RR&R-ARRA work;

(3) Amortized, with interest, in accordance with the provisions of this Article.

c. Interest on unpaid balances shall begin to accrue with the initial expenditure of Federal funds by the Government. The interest rate to be used for purposes of computing interest on unpaid balances will be the yield rate, adjusted at five-year intervals, as determined by the Secretary of the Treasury on the basis set forth in Section 932 of the Water Resources Development Act of 1986, P.L. 99-662. The fiscal year 2011 interest rate is 4.250 percent.

d. The following terms and conditions shall apply to the amortization of the unpaid balance of the costs of RR&R-ARRA work:

(1) The Authority's share of the costs of RR&R-ARRA work shall be paid within the life of the Project in not to exceed 30 years from the date of completion of RR&R-ARRA work. The payments shall be in equal consecutive annual installments, adjusted at 5-year intervals in accordance with paragraph c. of this Article.

(2) The first payment shall be due and payable within 30 days after the Authority is notified, in writing, by the District Engineer that the RR&R-ARRA work has been completed. Annual installments thereafter will be due and payable on the anniversary date of the date of notification. Except for the first payment, which will be applied solely to the retirement of principal, all installments shall include accrued interest on the unpaid balance at the rate provided in paragraph c. of this Article. The last annual installment shall be adjusted upward or downward to assure repayment of all of the costs of RR&R-ARRA work allocated to the Authority within the life of the Project or 30 years from the first payment, whichever is less.

(3) The District Engineer shall provide an amortization schedule to the Authority at the time of the notification specified in paragraph d.(2) of this Article. The District Engineer shall adjust the schedule at five-year intervals in accordance with paragraph c. of this Article and provide it to the Authority no later than 30 days prior to the date on which the next installment payment is due.

(4) The Authority shall have the right to prepay the indebtedness under this Article, in whole or in part, at any time, with accrued interest thereon to the date of such prepayment.

e. For purposes of this Article, the term "RR&R-ARRA work" shall mean capital improvements to the Project, the costs of which are funded wholly or in part by the ARRA, that represent costly, infrequent work intended to ensure the continued satisfactory operation of the Project. The term does not include the operation or routine maintenance of the Project.

IN WITNESS WHEREOF, the parties have executed this supplemental agreement as of the day and year first above written.

THE DEPARTMENT OF THE ARMY

Richard J. Muraski, Jr.
Colonel, U.S. Army
District Engineer

DATE: 29 Sep 2011

BRAZOS RIVER AUTHORITY

Phil Ford
General Manager

DATE: 16 Sept 11

DUPLICATE ORIGINAL

Contract No. DACW63-79-C-0084

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND
THE BRAZOS RIVER AUTHORITY OF TEXAS
FOR
WATER STORAGE SPACE IN NORTH FORK LAKE, TEXAS

THIS CONTRACT, entered into this 22nd day of January 1980, by and between the United States of America (hereinafter called the Government), represented by the Contracting Officer executing this contract, and the Brazos River Authority of Texas (hereinafter called the Authority), an agency of the State of Texas, WITNESSETH THAT:

WHEREAS, the Flood Control Act of 1962 (Public Law 874, 87th Congress) authorized the construction, operation, and maintenance of North Fork Lake (hereinafter called the Project) on the San Gabriel River in the State of Texas; and

WHEREAS, the Authority furnished assurances to the Government by its resolution of 16 October 1967 that it would contract for the use of the storage included in the Project for its future municipal and industrial water supply needs; and

WHEREAS, the Authority desires to contract with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b); and

WHEREAS, the Authority is empowered so to contract with the Government and is vested with all the necessary powers for accomplishment of the purposes of this contract, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b);

NOW, THEREFORE, the Government and the Authority agree as follows:

ARTICLE 1. Water storage space.

a. Project construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the Authority.

b. Rights of the Authority.

(1) The Authority shall have the right to utilize an undivided 100 percent of the total storage space in the Project between elevations 699.0 feet above mean sea level and 791.0 feet above mean sea level, which total storage space is estimated to contain 29,200 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for anticipated future demands or needs for municipal and industrial water supply.

Incl 1

(2) The Authority shall have the right to withdraw water from the lake, and to order releases to be made by the Government through the outlet works in the dam, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appliances as may be necessary and convenient for the purpose of diversions or withdrawals, subject to the approval of the Contracting Officer as to design and location. The grant of an easement for right-of-way across, in, and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, without additional cost to the Authority, under the authority of and in accordance with the provisions of 10 U.S.C. 2669. Subject to the conditions of such easement, the Authority shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges herein granted.

c. Rights reserved. The Government reserves the right to lower the water in the Project to elevation 791.0 feet above mean sea level during such periods of time as is deemed necessary, in its sole discretion, for flood control purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life or property, including the right not to make downstream releases during such periods of time as deemed necessary, in its sole discretion, to inspect, maintain, and repair the Project.

d. Quality or availability of water. The Authority recognizes that this contract provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor or for the treatment of water.

ARTICLE 2. Regulation of and right to use of water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the Authority. The Authority has the full responsibility to acquire in accordance with State laws and regulations, and if necessary to establish or defend, any and all water rights needed for utilization of the storage provided under this contract. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the Authority except as such controversies may affect the operations of the Government.

ARTICLE 3. Operation and maintenance. The Government shall operate and maintain the Project and the Authority shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The Authority shall be responsible for operation and maintenance of all installations and facilities which it may construct for the diversion or withdrawal of water from the lake and shall bear all costs of construction, operation, and maintenance of such installations and facilities.

ARTICLE 4. Measurement of withdrawals and releases. The Authority agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the Contracting Officer for the

measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The Authority shall furnish to the Government monthly statements of all such withdrawals. Releases from the water supply storage space through the Project outlet works shall be made under arrangements approved by the Contracting Officer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5. Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the Authority shall pay the following sums to the Government:

a. Project investment costs.

(1) The Authority shall repay to the Government, at the times and with interest on the unpaid balance as hereinafter specified, the amounts stated below which, as shown in Exhibit A of this contract, constitute the entire estimated amount of the construction costs, including interest during construction, allocated to the water storage right acquired by the Authority under this contract. The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance will be determined by the Secretary of the Treasury as of the beginning of the Government fiscal year in which construction of the Project is initiated on the basis set forth in the Water Supply Act of 1958, as amended. For the Project, this interest rate is 3.253 percent (fiscal year 1968). The Authority shall repay:

21.414 percent of the total Project joint use construction cost, estimated at	$5,527,300
Interest during construction, estimated at	486,400
Total estimated amount of Project investment cost allocated to water supply	$6,013,700

(2) The Project investment cost allocated to the storage space indicated in Article 1b(1) as being provided for future use is currently estimated at $6,013,700 on the basis of the costs presented in Exhibit A. No principal or interest payment with respect to this storage for future water supply is required to be made during the first 10 years following the date the Project is operational for water supply purposes unless all or a portion of such storage is used during this period. The amount to be paid for any portion of such storage which is used shall be determined by multiplying the percentage of the total storage for future water supply which is placed in use by the total amount of the Project investment cost allocated to future water supply. Interest at the rate provided above will be charged on the Project investment costs allocated to the storage for future water supply which is not being used from the tenth (10th) year following the date the Project is operational for water supply purposes until the time when such storage is first used. The Authority may at its

option pay the interest as it becomes due or allow the interest to accumulate until the storage is used, If this latter option is exercised, the interest will be compounded annually and added to the principal amount. When any portion of the storage for future water supply is used, the amount of the Project investment cost allocated thereto plus interest applicable to such portion as provided above will be due and payable on the date of first use of water from such portion. The said amount due shall be paid within the life of the Project in not to exceed 50 consecutive annual payments, the first of which shall be due and payable within 30 days after the date of first use of water from such portion. Annual payments thereafter for said portion will be due and payable on the anniversary date of said first use of water. Except for the first payment, which will be applied solely to the retirement of the said amount due, all payments shall include accrued interest on the unpaid balance at the rate provided above, The last annual payment shall be adjusted upward or downward when due to assure repayment of all the investment cost allocated to such portion within the repayment period. Payment schedules for the storage provided for future water supply demands will be furnished by the Contracting Officer when use of such storage is started, and if based on estimated costs will be subject to revision, as provided in Article 6, until actual costs are known,

(3) The Authority shall have the right at any time it so elects to prepay the indebtedness under this Article 5a, in whole or in part, with accrued interest thereon to the date of such prepayment,

b. Major capital replacement cost. The Authority will be required to pay to the Government the cost for any major capital replacement of specific water supply facilities. In addition, the Authority shall pay to the Government the share of the costs of joint use major capital replacement items allocated to the water supply storage being used, As the storage provided for future water supply demands is used, the share of the joint use major capital replacement items costs, which the Authority will be required to pay in addition to the major capital replacement costs of the specific water supply facilities, will be increased commensurate with the percentage of the total water supply storage being used up to a total of 21.414 percent of such costs. Payment shall be made either in lump sum on demand at the time such costs are incurred or annually with interest on the unpaid balance, If paid annually, the Authority's share shall be paid within the life of the Project in not to exceed 25 consecutive annual payments beginning on the next anniversary date established in accordance with the provisions of Article 5a(2) above following the date demand is made for payment of said major capital replacement costs. Annual payments thereafter will be due and payable on said anniversary date. All payments shall include accrued interest on the unpaid balance at the rate determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which the major capital replacement is initiated. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred costs within the repayment period,

c. Annual operation and maintenance expense.

(1) The Authority will be required to pay to the Government the annual experienced operation and maintenance expense of specific water supply facilities. In addition, the Authority shall pay to the Government the share of the annual experienced joint use operation and maintenance expense of the Project allocated to the water supply storage being used. As the storage provided for future water supply demands is used, the share of the annual experienced joint use operation and maintenance expense, which the Authority will be required to pay in addition to the operation and maintenance expense of the specific water supply facilities, will be increased commensurate with the percentage of the total water supply storage being used up to a total of 37.798 percent of such expense. The first payment for operation and maintenance expense will be due and payable in advance within 30 days after first use of the water supply storage space, will be for the period beginning on the date of said first use and ending on 30 September following, and will amount to the sum of the first payment, P_s, for specific water supply facilities expense and the first payment, P_j, for joint use expense computed as shown in parts B and C, respectively, of section IV of Exhibit A. Annual payments thereafter for the first portion of the water supply storage placed in use, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will be the sum of payments P_s and P_j computed consecutively as shown in parts B and C, respectively, of section IV of Exhibit A. When each and any additional portion of the future water supply storage is placed in use, the first payment of the additional amount of the joint use operation and maintenance expense required to be paid for such storage use will be due and payable in advance within 30 days after first use of such storage, will be for the period beginning on the date of said first use and ending on 30 September following, and will amount to the first payment, P_j, computed as shown in part C of section IV of Exhibit A. Annual payments thereafter, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will amount to payments P_j computed consecutively as shown in part C of section IV of Exhibit A.

(2) For the purposes of this contract and repayment requirements by the Brazos River Authority, costs associated with sedimentation resurveys and surveys and monumentation shall be considered as operation and maintenance expense, and those construction costs that are capitalized and funded with Government O&M general funds shall be considered as project investment costs and shall be subject to repayment percentages as set forth in Article 5a. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred expense within the repayment period.

d. Charges for delinquent payments. If the Authority shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used

for overdue payments due under the provisions of Articles 5a, 5b, and 5c above shall be that determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which each period of delinquency occurs. The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue (31 to 60 days after the anniversary date), one month's interest shall be charged. This provision shall not be construed as giving the Authority a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the Authority.

ARTICLE 6. Construction cost adjustments. All construction cost dollar amounts in this contract, including those in the Exhibits, are tentative only, based on the Government's best estimates. They will be adjusted upward or downward by the Contracting Officer when final construction costs become known, and the contract will be modified to reflect the adjustments.

ARTICLE 7. Duration of contract. This contract shall be effective when approved by the Secretary of the Army and shall continue in full force and effect for the life of the Project.

ARTICLE 8. Permanent rights to storage. Upon completion of payments by the Authority as provided in Article 5a herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The Authority shall continue payment, as provided in Article 5c, of the annual operation and maintenance costs allocated to water supply.

b. The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. Such costs will be established by the Contracting Officer, and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5b for major replacement costs and will be made a part of this contract.

c. Upon completion of payments by the Authority as provided in Article 5a herein, the Contracting Officer shall redetermine the storage space for municipal and industrial water supply, taking into account such equitable reallocation of lake storage capacities among the purposes served by the Project as may be necessary due to sedimentation. Such findings, and the storage space allocated to municipal and industrial water supply, shall be defined and described in an exhibit which will be made a part of this contract. Following the same principle, such reallocation of lake storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the

exhibit revised to show the revised storage space allocated to municipal and industrial water supply,

d. The permanent rights of the Authority under this contract shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate contract, or supplemental agreement, providing for:

(1) continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) terms which will protect the public interest; and

(3) effective absolvement of the Government by the Authority from all liability in connection with such continued operation,

ARTICLE 9. Release of claims. The Authority shall hold and save the Government, including its officers, agents, and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the Authority or as a result of the construction, operation, or maintenance of the features or appurtenances owned and operated by the Authority, provided, that this shall not be construed as obligating the Authority to hold and save the Government harmless from damages or liability resulting from the sole negligence of the Government or its officers, agents, or employees and not involving negligence on the part of the Authority or its officers, agents or employees.

ARTICLE 10. Assignment. The Authority shall not transfer or assign this contract or any rights acquired hereunder, nor sub-allot said water supply storage space or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this contract, without the approval of the Secretary of the Army, provided, that unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the Authority and furnished to any third party or parties, nor any method of allocation thereof,

ARTICLE 11. Officials not to benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise herefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 12. Covenant against contingent fees. The Authority warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority

for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to add to the contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13. Environmental quality. During any construction, operation, and maintenance by the Authority of any facilities, specific action will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to (1) reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases and smoke from temporary heaters; (2) reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion; (3) minimization of noise levels; (4) onsite and offsite disposal of waste and spoil; and (5) prevention of landscape defacement and damage.

ARTICLE 14. Federal and State laws.

a. In acting under its rights and obligations hereunder, the Authority agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); and Title 29, Code of Federal Regulations, Part 3.

b. The Authority furnishes as part of this contract an assurance (Exhibit C) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations,

ARTICLE 15. Definitions.

a. Joint use costs. The costs of features used for any two or more Project purposes.

b. Project investment costs. The initial cost of the Project, including: land acquisition; construction; interest during construction on the value of land, labor, and materials used for planning and construction of the Project.

c. Specific costs. The costs of Project features normally serving only one particular Project purpose.

d. Interest during construction. An amount of interest which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available to the Authority for water storage.

ARTICLE 16. Approval. This contract is subject to the written approval of the Secretary of the Army, and it shall not be binding until so approved.

IN WITNESS WHEREOF, the parties have executed this contract as of the day and year first above written.

APPROVED:

John O. Marsh, Jr.

Secretary of the Army

Date 24 April 1981

THE UNITED STATES OF AMERICA

By Donald J. Palladino

Donald J. Palladino
Colonel, CE
Contracting Officer

Date 22 January 1980

BRAZOS RIVER AUTHORITY OF TEXAS

By

Glynn A. Williams
President

I, Hugh W. Dobbs, certify that I am the Secretary of the Brazos River Authority of Texas, named as Authority herein; that Glynn A. Williams who signed this contract on behalf of the Authority was then President of the Brazos River Authority of Texas; that said contract was duly signed for and on behalf of the Brazos River Authority of Texas by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Brazos River Authority of Texas, this 21st day of January, 1980.

Hugh W. Dobbs
Secretary, Brazos River Authority
of Texas

CORPORATE SEAL

D''PLICATE ORIGINAL

Contract No, DACW63-79-C-0083

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND
THE BRAZOS RIVER AUTHORITY OF TEXAS
FOR
WATER STORAGE SPACE IN GRANGER LAKE, TEXAS

THIS CONTRACT, entered into this 22nd day of January 1980, by and between the United States of America (hereinafter called the Government), represented by the Contracting Officer executing this contract, and the Brazos River Authority of Texas (hereinafter called the Authority), an agency of the State of Texas, WITNESSETH THAT:

WHEREAS, the Flood Control Act of 1962 (Public Law 874, 87th Congress) authorized the construction, operation, and maintenance of Granger Lake (hereinafter called the Project) on the San Gabriel River in the State of Texas; and

WHEREAS, the Authority furnished assurances to the Government by its resolution of 16 October 1967 that it would contract for the use of the storage included in the Project for its future municipal and industrial water supply needs; and

WHEREAS, the Authority desires to contract with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b); and

WHEREAS, the Authority is empowered so to contract with the Government and is vested with all the necessary powers for accomplishment of the purposes of this contract, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b);

NOW, THEREFORE, the Government and the Authority agree as follows:

ARTICLE 1. Water storage space.

a. Project construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the Authority.

b. Rights of the Authority.

(1) The Authority shall have the right to utilize an undivided 100 percent of the total storage space in the Project between elevations 440.0 feet above mean sea level and 504.0 feet above mean sea level, which total storage space is estimated to contain 37,900 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for anticipated future demands or needs for municipal and industrial water supply.

Encl 1

(2) The Authority shall have the right to withdraw water from the lake, and to order releases to be made by the Government through the outlet works in the dam, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appliances as may be necessary and convenient for the purpose of diversions or withdrawals, subject to the approval of the Contracting Officer as to design and location. The grant of an easement for right-of-way across, in, and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, without additional cost to the Authority, under the authority of and in accordance with the provisions of 10 U.S.C. 2669. Subject to the conditions of such easement, the Authority shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges herein granted.

c. Rights reserved. The Government reserves the right to lower the water in the Project to elevation 504.0 feet above mean sea level during such periods of time as is deemed necessary, in its sole discretion, for flood control purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life or property, including the right not to make downstream releases during such periods of time as deemed necessary, in its sole discretion, to inspect, maintain, and repair the Project.

d. Quality or availability of water. The Authority recognizes that this contract provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor or for the treatment of water.

ARTICLE 2. Regulation of and right to use of water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the Authority. The Authority has the full responsibility to acquire in accordance with State laws and regulations, and if necessary to establish or defend, any and all water rights needed for utilization of the storage provided under this contract. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the Authority except as such controversies may affect the operations of the Government.

ARTICLE 3. Operation and maintenance. The Government shall operate and maintain the Project and the Authority shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The Authority shall be responsible for operation and maintenance of all installations and facilities which it may construct for the diversion or withdrawal of water from the lake and shall bear all costs of construction, operation, and maintenance of such installations and facilities.

ARTICLE 4. Measurement of withdrawals and releases. The Authority agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the Contracting Officer for the

measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The Authority shall furnish to the Government monthly statements of all such withdrawals. Releases from the water supply storage space through the Project outlet works shall be made under arrangements approved by the Contracting Officer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5. Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the Authority shall pay the following sums to the Government:

a. Project investment costs.

(1) The Authority shall repay to the Government, at the times and with interest on the unpaid balance as hereinafter specified, the amounts stated below which, as shown in Exhibit A of this contract, constitute the entire estimated amount of the construction costs, including interest during construction, allocated to the water storage right acquired by the Authority under this contract. The interest rate to be used for purposes of computing interest during construction and interest on the unpaid balance will be determined by the Secretary of the Treasury as of the beginning of the Government fiscal year in which construction of the Project is initiated on the basis set forth in the Water Supply Act of 1958, as amended. For the Project, this interest rate is 3.256 percent (fiscal year 1969). The Authority shall repay:

26.921 percent of the total Project joint use construction cost, estimated at	$13,063,900
Interest during construction, estimated at	1,555,300
Total estimated amount of Project investment cost allocated to water supply	$14,619,200

(2) The Project investment cost allocated to the storage space indicated in Article 1b(1) as being provided for future use is currently estimated at $14,619,200 on the basis of the costs presented in Exhibit A. No principal or interest payment with respect to this storage for future water supply is required to be made during the first 10 years following the date the Project is operational for water supply purposes unless all or a portion of such storage is used during this period. The amount to be paid for any portion of such storage which is used shall be determined by multiplying the percentage of the total storage for future water supply which is placed in use by the total amount of the Project investment cost allocated to future water supply. Interest at the rate provided above will be charged on the Project investment costs allocated to the storage for future water supply which is not being used from the tenth (10th) year following the date the Project is operational for water supply purposes until the time when such storage is first used. The Authority may at its

option pay the interest as it becomes due or allow the interest to accumulate until the storage is used. If this latter option is exercised, the interest will be compounded annually and added to the principal amount. When any portion of the storage for future water supply is used, the amount of the Project investment cost allocated thereto plus interest applicable to such portion as provided above will be due and payable on the date of first use of water from such portion. The said amount due shall be paid within the life of the Project in not to exceed 50 consecutive annual payments, the first of which shall be due and payable within 30 days after the date of first use of water from such portion. Annual payments thereafter for said portion will be due and payable on the anniversary date of said first use of water. Except for the first payment, which will be applied solely to the retirement of the said amount due, all payments shall include accrued interest on the unpaid balance at the rate provided above. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the investment cost allocated to such portion within the repayment period. Payment schedules for the storage provided for future water supply demands will be furnished by the Contracting Officer when use of such storage is started, and if based on estimated costs will be subject to revision, as provided in Article 6, until actual costs are known.

(3) The Authority shall have the right at any time it so elects to prepay the indebtedness under this Article 5a, in whole or in part, with accrued interest thereon to the date of such prepayment.

b. Major capital replacement cost. The Authority will be required to pay to the Government the cost for any major capital replacement of specific water supply facilities. In addition, the Authority shall pay to the Government the share of the costs of joint use major capital replacement items allocated to the water supply storage being used. As the storage provided for future water supply demands is used, the share of the joint use major capital replacement items costs, which the Authority will be required to pay in addition to the major capital replacement costs of the specific water supply facilities, will be increased commensurate with the percentage of the total water supply storage being used up to a total of 26.921 percent of such costs. Payment shall be made either in lump sum on demand at the time such costs are incurred or annually with interest on the unpaid balance. If paid annually, the Authority's share shall be paid within the life of the Project in not to exceed 25 consecutive annual payments beginning on the next anniversary date established in accordance with the provisions of Article 5a(2) above following the date demand is made for payment of said major capital replacement costs. Annual payments thereafter will be due and payable on said anniversary date. All payments shall include accrued interest on the unpaid balance at the rate determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which the major capital replacement is initiated. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred costs within the repayment period.

c. Annual operation and maintenance expense.

(1) The Authority will be required to pay to the Government the annual experienced operation and maintenance expense of specific water supply facilities. In addition, the Authority shall pay to the Government the share of the annual experienced joint use operation and maintenance expense of the Project allocated to the water supply storage being used. As the storage provided for future water supply demands is used, the share of the annual experienced joint use operation and maintenance expense, which the Authority will be required to pay in addition to the operation and maintenance expense of the specific water supply facilities, will be increased commensurate with the percentage of the total water supply storage being used up to a total of 45.069 percent of such expense. The first payment for operation and maintenance expense will be due and payable in advance within 30 days after first use of the water supply storage space, will be for the period beginning on the date of said first use and ending on 30 September following, and will amount to the sum of the first payment, P_s, for specific water supply facilities expense and the first payment, P_j, for joint use expense computed as shown in parts B and C, respectively, of section IV of Exhibit A. Annual payments thereafter for the first portion of the water supply storage placed in use, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will be the sum of payments P_s and P_j computed consecutively as shown in parts B and C, respectively, of section IV of Exhibit A. When each and any additional portion of the future water supply storage is placed in use, the first payment of the additional amount of the joint use operation and maintenance expense required to be paid for such storage use will be due and payable in advance within 30 days after first use of such storage, will be for the period beginning on the date of said first use and ending on 30 September following, and will amount to the first payment, P_j, computed as shown in part C of section IV of Exhibit A. Annual payments thereafter, for each Government fiscal year ending 30 September, will be due and payable in advance on 2 January following the close of the prior Government fiscal year and will amount to payments P_j computed consecutively as shown in part C of section IV of Exhibit A.

(2) For the purposes of this contract and repayment requirements by the Brazos River Authority, costs associated with sedimentation resuryeys and surveys and monumentation shall be considered as operation and maintenance expense, and those construction costs that are capitalized and funded with Government O&M general funds shall be considered as project investment costs and shall be subject to repayment percentages as set forth in Article 5a. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred expense within the repayment period.

d. Charges for delinquent payments. If the Authority shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used

for overdue payments due under the provisions of Articles 5a, 5b, and 5c above shall be that determined by the Secretary of the Treasury on the basis of the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which each period of delinquency occurs. The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue (31 to 60 days after the anniversary date), one month's interest shall be charged. This provision shall not be construed as giving the Authority a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the Authority.

ARTICLE 6. Construction cost adjustments. All construction cost dollar amounts in this contract, including those in the Exhibits, are tentative only, based on the Government's best estimates. They will be adjusted upward or downward by the Contracting Officer when final construction costs become known, and the contract will be modified to reflect the adjustments.

ARTICLE 7. Duration of contract. This contract shall be effective when approved by the Secretary of the Army and shall continue in full force and effect for the life of the Project.

ARTICLE 8. Permanent rights to storage. Upon completion of payments by the Authority as provided in Article 5a herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The Authority shall continue payment, as provided in Article 5c, of the annual operation and maintenance costs allocated to water supply.

b. The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. Such costs will be established by the Contracting Officer, and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5b for major replacement costs and will be made a part of this contract.

c. Upon completion of payments by the Authority as provided in Article 5a herein, the Contracting Officer shall redetermine the storage space for municipal and industrial water supply, taking into account such equitable reallocation of lake storage capacities among the purposes served by the Project as may be necessary due to sedimentation. Such findings, and the storage space allocated to municipal and industrial water supply, shall be defined and described in an exhibit which will be made a part of this contract. Following the same principle, such reallocation of lake storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the

exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the Authority under this contract shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate contract, or supplemental agreement, providing for;

(1) continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) terms which will protect the public interest; and

(3) effective absolvement of the Government by the Authority from all liability in connection with such continued operation.

ARTICLE 9. Release of claims. The Authority shall hold and save the Government, including its officers, agents, and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the Authority or as a result of the construction, operation, or maintenance of the features or appurtenances owned and operated by the Authority, provided, that this shall not be construed as obligating the Authority to hold and save the Government harmless from damages or liability resulting from the sole negligence of the Government or its officers, agents, or employees and not involving negligence on the part of the Authority or its officers, agents or employees.

ARTICLE 10. Assignment. The Authority shall not transfer or assign this contract or any rights acquired hereunder, nor sub-allot said water supply storage space or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this contract, without the approval of the Secretary of the Army, provided, that unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the Authority and furnished to any third party or parties, nor any method of allocation thereof.

ARTICLE 11. Officials not to benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise herefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 12. Covenant against contingent fees. The Authority warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority

for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to add to the contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13. Environmental quality. During any construction, operation, and maintenance by the Authority of any facilities, specific action will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to (1) reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases and smoke from temporary heaters; (2) reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion; (3) minimization of noise levels; (4) onsite and offsite disposal of waste and spoil; and (5) prevention of landscape defacement and damage.

ARTICLE 14. Federal and State laws.

a. In acting under its rights and obligations hereunder, the Authority agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); and Title 29, Code of Federal Regulations, Part 3.

b. The Authority furnishes as part of this contract an assurance (Exhibit C) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

ARTICLE 15. Definitions.

a. Joint use costs. The costs of features used for any two or more Project purposes.

b. Project investment costs. The initial cost of the Project, including: land acquisition; construction; interest during construction on the value of land, labor, and materials used for planning and construction of the Project.

c. Specific costs. The costs of Project features normally serving only one particular Project purpose.

d. Interest during construction. An amount of interest which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available to the Authority for water storage.

ARTICLE 16. Approval. This contract is subject to the written approval of the Secretary of the Army, and it shall not be binding until so approved.

IN WITNESS WHEREOF, the parties have executed this contract as of the day and year first above written,

APPROVED:

THE UNITED STATES OF AMERICA

By _____
Donald J. Palladino
Colonel, CE
Contracting Officer

Date 22 January 1980

_____
Secretary of the Army

Date 24 April 1981

BRAZOS RIVER AUTHORITY OF TEXAS

By _____
Glynn A. Williams
President

I, Hugh W. Dobbs, certify that I am the Secretary of the Brazos River Authority of Texas, named as Authority herein; that Glynn A. Williams who signed this contract on behalf of the Authority was then President of the Brazos River Authority of Texas; that said contract was duly signed for and on behalf of the Brazos River Authority of Texas by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Brazos River Authority of Texas, this 21st day of January, 1980.

_____
Hugh W. Dobbs
Secretary, Brazos River Authority of Texas

CORPORATE SEAL

PROCTOR RESERVOIR
SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, entered into this 29th day of September, 2011, by and between THE DEPARTMENT OF THE ARMY (hereinafter called the "Government") represented by the U.S. Army Engineer, Fort Worth District (hereinafter called the "District Engineer") and BRAZOS RIVER AUTHORITY, an agency of the State of Texas (hereinafter called the "Authority"), represented by its General Manager;

WITNESSETH THAT:

WHEREAS, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (hereinafter called the "ARRA"), was enacted to preserve and create jobs and promote economic recovery; assist those most impacted by the recession; provide investments needed to increase economic efficiency; invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases;

WHEREAS, Contract No. DA-41-443-CIVENG-60-313 (hereinafter the "Contract) was entered into on 21 December 1959, between the Government and the Authority, to provide the Authority the right to use the storage space in the Proctor Reservoir on Leon River, Texas (hereinafter called the "Project") below elevation 1162.0 feet above mean sea level, and included a provision for payment by the Authority of 9.195 percent of the cost of major capital replacements;

WHEREAS, Modification No. 1 to the Contract was entered into on 1 November 1965, to divide the water supply storage space into 20 percent for present water supply and 80 percent for future water supply;

WHEREAS, the Authority has requested that the Government further modify the Contract to allow payments by the User of its share of the costs of repair, rehabilitation and replacement (RR&R) work, which is funded or will be funded by the ARRA, to be made annually within the life of the Project in not to exceed 30 consecutive annual installments;

WHEREAS, the Authority also has requested that the Government further modify the Contract to evidence the conversion of the Authority's right to the permanent use of water supply storage space in the Project as prescribed in the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390c-f);

WHEREAS, the Water Supply Act of 1958, as amended, specifies the interest rate that shall apply to repayments by State or local interests and requires the recalculation of such interest rate at five-year intervals; and

WHEREAS, the Authority as shown in Exhibit "A", attached to and made a part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement.

NOW, THEREFORE, the Government and the Authority agree to modify the said contract in the following particulars but in no others:

I. Add the following paragraph to Article 5 of the Contract—

(7) Notwithstanding the provisions of this Article, the method of payment for repair, rehabilitation, and replacement (RR&R) work, to include major capital replacements, funded by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115, shall be pursuant to Article 18 of this Contract.

II. Change Article 6 of the Contract to read—

This contract shall become effective as of the date of approval by the Secretary of the Army or his duly authorized representative and shall continue in full force and effect for the life of the Project.

III. Delete Article 7 of the Contract and substitute in lieu thereof—

ARTICLE 7. PERMANENT RIGHTS TO STORAGE.- Upon completion of payments by the Authority, as provided in paragraphs a.(1), b.(1), b.(2), e. and f. of Article 5 herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The Authority shall continue payment of annual operation and maintenance costs allocated to water supply as described in Article 5.

b. The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. The District Engineer will establish such costs and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5 for reconstruction, rehabilitation, and replacement costs, and be made a part of this agreement.

c. Upon completion of payments by the Authority as provided in paragraphs a.(1), b.(1), b.(2), e. and f. of Article 5 herein, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance applicable instructions. Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the Authority under this agreement shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement or additional supplemental agreement providing for:

(1) continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) terms which will protect the public interest; and,

(3) effective absolvement of the Government by the Authority from all liability in connection with such continued operation.

IV. Delete Article 18 of the Contract and substitute in lieu thereof—

ARTICLE 18. REIMBURSEMENT OF RR&R COSTS FUNDED BY THE ARRA.

a. This Article applies solely and exclusively to RR&R work funded wholly or in part by the ARRA (hereinafter called "RR&R-ARRA work").

b. The Authority will be required to pay 100 percent of the cost of RR&R-ARRA work allocated to specific water supply facilities. In addition, the Authority will be required to pay 9.195 percent of the cost of RR&R-ARRA work allocated to joint-use Project features. Payment of the costs of RR&R-ARRA work specified in this paragraph may be made by any of the following methods:

(1) In increments, without interest, as financial obligations are incurred by the Government during the performance of RR&R-ARRA work;

(2) In lump sum, with interest, upon the completion of RR&R-ARRA work;

(3) Amortized, with interest, in accordance with the provisions of this Article.

c. Interest on unpaid balances shall begin to accrue with the initial expenditure of Federal funds by the Government. The interest rate to be used for purposes of computing interest on unpaid balances will be the yield rate, adjusted at five-year intervals, as determined by the Secretary of the Treasury on the basis set forth in Section 932 of the Water Resources Development Act of 1986, P.L. 99-662. The fiscal year 2011 interest rate is 4.250 percent.

d. The following terms and conditions shall apply to the amortization of the unpaid balance of the costs of RR&R-ARRA work:

(1) The Authority's share of the costs of RR&R-ARRA work shall be paid within the life of the Project in not to exceed 30 years from the date of completion of RR&R-ARRA work. The payments shall be in equal consecutive annual installments, adjusted at 5-year intervals in accordance with paragraph c. of this Article.

(2) The first payment shall be due and payable within 30 days after the Authority is notified, in writing, by the District Engineer that the RR&R-ARRA work has been completed. Annual installments thereafter will be due and payable on the anniversary date of the date of notification. Except for the first payment, which will be applied solely to the retirement of principal, all installments shall include accrued interest on the unpaid balance at the rate provided in paragraph c. of this Article. The last annual installment shall be adjusted upward or downward to assure repayment of all of the costs of RR&R-ARRA work allocated to the Authority within the life of the Project or 30 years from the first payment, whichever is less.

(3) The District Engineer shall provide an amortization schedule to the Authority at the time of the notification specified in paragraph d.(2) of this Article. The District Engineer shall adjust the schedule at five-year intervals in accordance with paragraph c. of this Article and provide it to the Authority no later than 30 days prior to the date on which the next installment payment is due.

(4) The Authority shall have the right to prepay the indebtedness under this Article, in whole or in part, at any time, with accrued interest thereon to the date of such prepayment.

e. For purposes of this Article, the term "RR&R-ARRA work" shall mean capital improvements to the Project, the costs of which are funded wholly or in part by the ARRA, that represent costly, infrequent work intended to ensure the continued satisfactory operation of the Project. The term does not include the operation or routine maintenance of the Project."

IN WITNESS WHEREOF, the parties have executed this supplemental agreement as of the day and year first above written.

THE DEPARTMENT OF THE ARMY

Richard J. Muraski, Jr.
Colonel, U.S. Army
District Engineer

DATE: 29 Sept 2011

BRAZOS RIVER AUTHORITY

Phil Ford
General Manager

DATE: 16 Sep 2011

SOMERVILLE RESERVOIR
SUPPLEMENTAL AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, entered into this 29th day of Sept, 2011, by and between THE DEPARTMENT OF THE ARMY (hereinafter called the "Government") represented by the U.S. Army Engineer, Fort Worth District (hereinafter called the "District Engineer") and BRAZOS RIVER AUTHORITY, an agency of the State of Texas (hereinafter called the "Authority"), represented by its General Manager;

WITNESSETH THAT:

WHEREAS, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 (hereinafter called the "ARRA"), was enacted to preserve and create jobs and promote economic recovery; assist those most impacted by the recession; provide investments needed to increase economic efficiency; invest in transportation, environmental protection and other infrastructure that will provide long-term economic benefits; and stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases;

WHEREAS, Contract No. DA-41-443-CIVENG-62-1043 (hereinafter the "Contract) was entered into on 9 March 1962, between the Government and the Authority, to provide the Authority the right to use the storage space in the Somerville Reservoir on Yegua Creek, Texas (hereinafter called the "Project") below elevation 238 feet above mean sea level, and included a provision for payment by the Authority of 29.88 percent of the cost of major capital replacements;

WHEREAS, Modification No. 1 to the Contract was entered into on 21 June 1973, to designate 5 percent of the contracted storage space for present use and 95 percent for future use, and use actual construction costs instead of estimated costs in determining the first costs of present-use and future-use storage;

WHEREAS, the Authority has requested that the Government modify the Contract to allow payments by the Authority of its share of the costs of repair, rehabilitation and replacement (RR&R) work, which is funded or will be funded by the ARRA, to be made annually within the life of the Project in not to exceed 30 consecutive annual installments;

WHEREAS, the Water Supply Act of 1958, as amended, specifies the interest rate that shall apply to repayments by State or local interests and requires the recalculation of such interest rate at five-year intervals; and

WHEREAS, the Authority as shown in Exhibit "A", attached to and made a part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement.

NOW, THEREFORE, the Government and the Authority agree to modify the said contract in the following particulars but in no others:

I. Add the following paragraph to Article 5 of the Contract—

e. Notwithstanding the provisions of this Article, the method of payment for repair, rehabilitation, and replacement (RR&R) work, to include major capital replacements, funded by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115, shall be pursuant to Article 20 of this Contract.

II. Delete Article 19 of the Contract and substitute in lieu thereof—

ARTICLE 19. REIMBURSEMENT OF RR&R COSTS FUNDED BY THE ARRA.

a. This Article applies solely and exclusively to RR&R work funded wholly or in part by the ARRA (hereinafter called "RR&R-ARRA work").

b. The Authority will be required to pay 100 percent of the cost of RR&R-ARRA work allocated to specific water supply facilities. In addition, the Authority will be required to pay 29.880 percent of the cost of RR&R-ARRA work allocated to joint-use Project features. Payment of the costs of RR&R-ARRA work specified in this paragraph may be made by any of the following methods:

(1) In increments, without interest, as financial obligations are incurred by the Government during the performance of RR&R-ARRA work;

(2) In lump sum, with interest, upon the completion of RR&R-ARRA work;

(3) Amortized, with interest, in accordance with the provisions of this Article.

c. Interest on unpaid balances shall begin to accrue with the initial expenditure of Federal funds by the Government. The interest rate to be used for purposes of computing interest on unpaid balances will be the yield rate, adjusted at five-year intervals, as determined by the Secretary of the Treasury on the basis set forth in Section 932 of the Water Resources Development Act of 1986, P.L. 99-662. The fiscal year 2011 interest rate is 4.250 percent.

d. The following terms and conditions shall apply to the amortization of the unpaid balance of the costs of RR&R-ARRA work:

(1) The Authority's share of the costs of RR&R-ARRA work shall be paid within the life of the Project in not to exceed 30 years from the date of completion of RR&R-ARRA work. The payments shall be in equal consecutive annual installments, adjusted at 5-year intervals in accordance with paragraph c. of this Article.

(2) The first payment shall be due and payable within 30 days after the Authority is notified, in writing, by the District Engineer that the RR&R-ARRA work has been completed. Annual installments thereafter will be due and payable on the anniversary date of the date of notification. Except for the first payment, which will be applied solely to the retirement of principal, all installments shall include accrued interest on the unpaid balance at the rate provided in paragraph c. of this Article. The last annual installment shall be adjusted upward or

downward to assure repayment of all of the costs of RR&R-ARRA work allocated to the Authority within the life of the Project or 30 years from the first payment, whichever is less.

(3) The District Engineer shall provide an amortization schedule to the Authority at the time of the notification specified in paragraph d.(2) of this Article. The District Engineer shall adjust the schedule at five-year intervals in accordance with paragraph c. of this Article and provide it to the Authority no later than 30 days prior to the date on which the next installment payment is due.

(4) The Authority shall have the right to prepay the indebtedness under this Article, in whole or in part, at any time, with accrued interest thereon to the date of such prepayment.

e. For purposes of this Article, the term "RR&R-ARRA work" shall mean capital improvements to the Project, the costs of which are funded wholly or in part by the ARRA, that represent costly, infrequent work intended to ensure the continued satisfactory operation of the Project. The term does not include the operation or routine maintenance of the Project."

IN WITNESS WHEREOF, the parties have executed this supplemental agreement as of the day and year first above written.

THE DEPARTMENT OF THE ARMY

Richard J. Muraski, Jr.
Colonel, U.S. Army
District Engineer

DATE: 29 Sept 2011

BRAZOS RIVER AUTHORITY

Phil Ford
General Manager

DATE: 16 Sep 2011

CONTRACTOR'S COPY

Contract No. DA-41-443-CIVENG-62-1044

as amended by Federal Water Pollution Control Act, Amendments of 1961, Public Law 87-88; 75 Stat 204.

CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE BRAZOS RIVER AUTHORITY FOR WATER STORAGE SPACE IN STILLHOUSE HOLLOW RESERVOIR

THIS CONTRACT, entered into this 9th day of March 1962, by and between the United States of America (hereinafter called the Government) represented by the Contracting Officer executing this contract, and the Brazos River Authority, an agency of the State of Texas with its offices and seat of Government in the city of Waco, McLennan County, Texas (hereinafter called the Authority), WITNESSETH THAT:

WHEREAS, construction of the Stillhouse Hollow Reservoir on the Lampasas River in Bell County, Texas (hereinafter called the Project) was authorized by the Flood Control Act approved 3 September 1954 (Public Law No. 780, 83d Congress, 2d Session) substantially in accordance with the recommendations of the Chief of Engineers in House Document No. 535 (81st Congress, 2d Session); and

WHEREAS, the Authority is a duly authorized State agency with powers to control, store, preserve, use, distribute, and sell the waters of the Brazos River and its tributaries, including the aforementioned Lampasas River, for such uses and purposes as set forth in the Act of the Texas Legislature creating such Authority and acts amendatory thereto; and,

WHEREAS, the Government is authorized by the Water Supply Act of 1958 (Title III of the Act approved 3 July 1958, Public Law 85-500, 85th Congress, 2d Session), to include storage in any reservoir project to be constructed by the Corps of Engineers to impound water for present or anticipated future demand or need for municipal or industrial water; and,

WHEREAS, storage space has been included in the Project for municipal and industrial water below elevation 622.0 feet above mean sea level; and,

WHEREAS, the Authority desires to utilize the storage space below elevation 572.0 feet above mean sea level (hereinafter called Storage Space No. 1) as a source of present water supply, as set forth in Article 1; and,

WHEREAS, the Authority desires to utilize the storage space between elevations 572.0 feet above mean sea level and 622.0 feet above mean sea level (hereinafter called Storage Space No. 2) for future water supply, as set forth in Article 1; and

WHEREAS, the cost of such future storage space does not exceed 30 percent of the total estimated construction costs of the Project; and,

Incl 1

WHEREAS, the Authority hereby agrees to fulfill the local interest requirements of the Water Supply Act of 1958, as amended.

NOW, THEREFORE, the parties do mutually agree as follows:

ARTICLE 1. WATER STORAGE SPACE.- The Authority shall have the right to utilize Storage Space No. 1 for a present water supply for municipal and industrial use, and Storage Space No. 2 for a future water supply for municipal and industrial use, as deemed necessary by the Authority to impound water in the Project and make such diversions as granted to the Authority by law or by the Board of Water Engineers for the State of Texas or its successors to the extent that such storage will provide.

The Government shall not be responsible for diversion by others nor will it become a party to any controversies between users of the aforesaid storage spaces.

The Authority shall have the right to withdraw water from the aforesaid storage spaces; or to order releases therefrom to be made by the Government at any time so long as sufficient water is available within the aforesaid storage spaces to permit direct releases through the flood-control conduit located in the main embankment, provided, that such releases when combined with local runoff below the dam will not cause flooding.

The Authority shall have the right to construct installations or facilities for the purpose of diversions or withdrawals from the Project above elevation 515.0 feet above mean sea level, subject to the approval of the Contracting Officer as to design and location; the cost of such installations or facilities or any modifications thereof, shall be borne by the Authority.

The Authority hereby agrees that releases or withdrawals which would lower the water level below elevation 532.0 feet above mean sea level will not be made unless specifically approved by the Contracting Officer.

The Government reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property.

The term "deliberate impoundment," as used in this contract, shall mean the date upon which closure is made and the Project becomes operative for storage of water for any of the purposes contained in the authorizing Act.

ARTICLE 2. METERING.- For the purpose of maintaining an accurate record of water resources at the Project, the Authority agrees to install suitable meters or metering devices satisfactory to the Contracting Officer, without cost to the Government, at such times as the Authority may withdraw

water from the Project by any means other than through the flood-control conduit located in the main embankment. The Authority shall furnish the Government periodically, at least monthly, a record of all such withdrawals from the Project.

ARTICLE 3. FEDERAL AND STATE LAWS.- The Authority shall utilize such storage space in a manner consistent with Federal and State laws.

ARTICLE 4. REGULATION OF THE USE OF WATER.- The regulation of the use of water stored in the aforesaid storage spaces shall be the responsibility of the Authority and shall not be considered a part of this contract.

ARTICLE 5. CONSIDERATION AND PAYMENT.- In consideration of the payments provided in this contract to be paid by the Authority to the Government, it is agreed that the Government will provide storage space in the Project as provided in Article 1. In consideration of the Government's providing the aforesaid storage spaces to the Authority it is agreed that the Authority shall pay the following sums to the Government:

(1) $901,930 which is the estimated cost, including interest during construction, of providing Storage Space No. 1, said cost being 4.490 percent of the total estimated first cost (exclusive of the cost of recreation facilities) of the joint-use facilities, plus interest during construction. The sum of $901,930 and interest thereon, shall be paid in fifty (50) consecutive annual installments in the amount of $32,466.05 each, beginning on the first day of January following the date of initiation of deliberate impoundment, and annually thereafter on the aforesaid date of each year until fifty (50) equal consecutive yearly payments have been made. Except for the first installment, which shall be applied solely to reduction of the principal, all installments shall include accrued interest at the rate of two and seven hundred forty-two thousandths percent (2.742%) per annum on the unpaid balance. In the event water is first used prior to the first day of January following the date of deliberate impoundment, the accrual of interest shall be commenced on the date when water is first used and the initial payment shall be increased by the amount of interest accrued from the date of first use to the date of initial payment.

(2) $6,009,500 which is the estimated cost, including interest during construction, of providing Storage Space No. 2, said cost being 29.918 percent of the total estimated first cost (exclusive of the cost of recreation facilities) of the joint-use facilities, plus interest during construction. The sum of $6,009,500 and interest thereon shall be paid in forty (40) consecutive annual installments in the amount of $242,602.14 each, beginning on the first day of January 10 years after the date of initiation of deliberate impoundment, and annually thereafter on the aforesaid date of each year until forty (40) equal consecutive yearly payments have been made. Except for the

first installment, which shall be applied solely to reduction of the principal, all installments shall include accrued interest at the rate of two and seven hundred forty-two thousandths percent (2.742%) per annum on the unpaid balance.

The Authority shall have the right if it so elects to make additional principal payments so as to discharge the aforesaid indebtedness on the present water supply storage space prior to the fiftieth (50th) year after the date of the first annual installment. The Authority shall also have the right if it so elects to make additional principal payments so as to discharge the aforesaid indebtedness on the future water supply storage space prior to the fiftieth (50th) year after the date of the first annual installment. Any additional number of principal payments in the amounts and order designated in column three (payment to principal) of Exhibit "A" and column four (payment to principal) of Exhibit "B" may be made at the same time the annual installments of $32,466.05 (present water supply) and $242,602.14 (future water supply) are made. Payment by the Authority of such additional principal payments shall relieve the Authority of the interest charges corresponding to such additional principal payments as shown in columns two and three (payment to interest) of Exhibits "A" and "B", respectively. Such additional principal payments shall not relieve the Authority from payment of the subsequent annual installments as set forth in the preceding paragraphs.

The aforesaid payments are more specifically set forth in Exhibits "A" and "B" attached hereto and made a part hereof, and the last payment of Items (1) and (2) above shall be adjusted upward or downward when due to assure the repayment of all capital costs within the contract period.

(3) 34.408 percent of the cost of sedimentation resurveys when incurred.

(4) 34.408 percent of the cost of major capital replacements. Provided this amount does not exceed $10,000 it will be paid when incurred. In the event this amount does exceed $10,000 it will be paid when incurred or, at the option of the Authority, in five (5) equal yearly installments with the first payment due when the expense is incurred and annually thereafter on the anniversary date of each year until five (5) equal yearly payments have been made. Except for the first installment, which shall be applied solely to reduction of the incurred cost, all installments shall include accrued interest at the rate of two and seven hundred forty-two thousandths percent (2.742%) per annum on the unpaid balance. The last payment due shall be adjusted upward or downward to assure the repayment of 34.408 percent of the major capital replacements including accrued interest within 4 years.

In the event water is first used from the future storage space prior to the first day of January 10 years after the date of initiation of deliberate impoundment, the initial payment provided in (2) above shall be

due and payable on the date of first use of water from the said future storage space with annual payments thereafter on the anniversary date of the first use of said storage space.

In the event the actual first cost of providing the water supply storage space in the Project exceeds the presently estimated first cost, the aforesaid annual payments shall be increased to reflect the actual first cost of providing said storage spaces, including the applicable interest during construction, as determined by the Contracting Officer. In the event such first cost of providing the said water supply storage spaces is less than the presently estimated first cost the aforesaid annual payments shall be decreased to reflect the actual first cost, including the applicable interest during construction, as determined by the Contracting Officer.

In the event the annual payments are increased or decreased, as provided above, an adjustment, as determined by the Contracting Officer, of payments made prior to the determination of the final Project cost shall be made in the first payment due after such costs are determined. At the time the final Project costs are determined, Exhibits "A" and "B" shall be modified to reflect the increased or decreased annual payments and such modification shall form a part of this contract.

(5) 32.072 percent of the annual experienced cost of ordinary operation and maintenance, exclusive of operation and maintenance cost for land management and public utilization. The total cost for ordinary operation and maintenance of the water supply storage space is estimated to be $17,800 and shall be paid in the manner set forth in Section (6) and (7) of this Article 5.

(6) $2,400 which is the estimated cost of ordinary operation and maintenance for the present water supply storage space, said cost being 4.324 percent of the annual experienced cost of ordinary operation and maintenance, exclusive of operation and maintenance cost for land management and public utilization. The first payment will be due and payable on the first day of January following the date of initiation of deliberate impoundment. Annual payments will be due and payable in advance on the first day of January thereafter and will be equal to 4.324 percent of the actual experienced cost of ordinary operation and maintenance for the preceding Government fiscal year. The second payment shall be increased or decreased in an amount to reflect the difference between the first payment and 4.324 percent of the actual experienced cost of ordinary operation and maintenance for the preceding fiscal year.

In the event water is first used from the said storage space prior to the first day of January following the initiation of deliberate impoundment, the estimated initial annual payment of $2,400 for operation and maintenance shall be due and payable on the date of first use. Annual payments thereafter

will be due and payable in advance on the anniversary date of the first use of said storage space and will be equal to 4.324 percent of the actual cost of ordinary operation and maintenance for the preceding Government fiscal year, except that payments due before the first complete fiscal year of operation will be based on the estimated annual operation and maintenance cost. The first payment following the first complete fiscal year of operation shall be increased or decreased in an amount to reflect the difference between the prior payments and 4.324 percent of the actual experienced cost of ordinary operation and maintenance for the period from the date water is first used to the ending date of the first complete fiscal year of operation.

(7) $15,400 which is the estimated cost of operation and maintenance for the future water supply storage space, said cost being 27.748 percent of the annual experienced cost of ordinary operation and maintenance, exclusive of operation and maintenance cost for land management and public utilization. The first payment will be due and payable on the first day of January 10 years after the date of initiation of deliberate impoundment. Annual payments will be due and payable in advance on the first day of January thereafter and will be equal to 27.748 percent of the actual experienced cost of ordinary operation and maintenance for the preceding Government fiscal year. The second payment shall be increased or decreased in an amount to reflect the difference between the first payment and 27.748 percent of the actual experienced cost of ordinary operation and maintenance for the preceding fiscal year.

In the event water is first used from the said storage space prior to the first day of January 10 years after the initiation of deliberate impoundment, the estimated initial annual payment of $15,400 for operation and maintenance shall be due and payable on the date of first use. Annual payments thereafter will be due and payable in advance on the anniversary date of the first use of said storage space and will be equal to 27.748 percent of the actual cost of ordinary operation and maintenance for the preceding Government fiscal year, except that payments due before the first complete fiscal year of operation will be based on the estimated annual operation and maintenance cost. The first payment following the first complete fiscal year of operation shall be increased or decreased in an amount to reflect the difference between the prior payments and 27.748 percent of the actual experienced cost of ordinary operation and maintenance for the period from the date water is first used to the ending date of the first complete fiscal year of operation.

Records of cost of operation and maintenance of the Project shall be available for inspection and examination by the Authority.

The extent of operation and maintenance of the Project shall be determined by the Contracting Officer and all records and accounting shall be maintained by the Contracting Officer. In the event the Authority should require additional operation and maintenance for the water supply storage over and above that deemed necessary by the Contracting Officer, the Authority shall bear the entire cost of such additional expense.

In the event of default in the payment of costs contained in Article 5(1), (2), (3), (4), (6), and (7), the amount of such payments shall be increased by an amount equal to interest on such overdue payments at the rate of two and seven hundred forty-two thousandths percent (2.742%) per annum thereon, compounded annually, and such amount equal to interest shall be charged from the date such payments are due until paid.

ARTICLE 6. CONTRACT MODIFICATION.- Fish and Wildlife is scheduled to be made a project purpose. If such results in a reduction in costs to the Authority the costs allocated to the storage space to be utilized by the Authority as stated in Article 1 shall be redetermined by the Contracting Officer and the contract shall be modified accordingly. If such does not result in a reduction in costs to the Authority the contract shall remain the same.

ARTICLE 7. PERIOD OF CONTRACT.- This contract shall become effective as of the date of approval by the Secretary of the Army, or his duly authorized representative, and shall continue in full force and effect until fifty (50) years after the date of the first annual installment as set forth in Article 5, or the life of the Project, whichever is less.

ARTICLE 8. RENEWALS.- Upon the expiration of the period as prescribed in Article 7, above, the Authority shall have the right, subject to required approvals of appropriate authorities, to negotiate for continued use of storage space then available for water storage purposes. The terms of the renewal contract shall be subject to mutual agreement of the contractual parties at the time. It is understood and agreed that in determining the allocable charges to be specified in the renewal contract, due consideration will be given to the fact that the payments prescribed herein and any other expenses which are attributable to the Authority may have been paid. It is further understood and agreed that consideration will be given to any expenditures made or expected to be made by the Government which have not been recovered during the contract period.

ARTICLE 9. DEFAULT.- In the event the Authority refuses or fails to comply with the provisions of this contract with respect to payments and transfer and assignment, the Government reserves the right to terminate this contract.

ARTICLE 10. OPERATION AND MAINTENANCE.- The Government shall operate and maintain the Project owned by the Government. The Authority shall have the right to make withdrawals of water for its purposes as needed in accordance with Article 1. The Authority shall be responsible for operation and maintenance of all features and appurtenances which may be provided and owned by the Authority. In the event the Government should suspend operation and maintenance of the Project, during the period of this contract, due to lack of appropriated funds, then and in that event the Authority shall be

privileged and shall have the right to enter upon the premises and operate the same for its own use and benefit in supplying itself with water to the extent provided in this contract.

ARTICLE 11. RIGHTS-OF-WAY.- The grant of an easement for right-of-way over, across, in and upon Government-owned lands, under the control of the Secretary of the Army, required for transmission of water from point of withdrawal, shall be by separate instrument in a form satisfactory to the Secretary of the Army without additional cost to the Authority, under the authority, and in accordance with, the provisions of 10 U.S.C. 2669.

ARTICLE 12. RELEASE OF CLAIMS.- The Authority shall hold and save the Government including its officers, agents, and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the Authority, or as a result of the construction, operation, or maintenance of the features or appurtenances owned and operated by the Authority.

ARTICLE 13. TRANSFER OR ASSIGNMENT.- The Authority shall not transfer or assign this contract nor any rights acquired thereunder, nor suballot said water supply storage space or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this contract, without approval of the Secretary of the Army; provided, that this restriction shall not be construed to apply to any water which may be obtained from the water supply storage space by the Authority and furnished to any third party or parties nor any method of allocation thereof.

ARTICLE 14. OFFICIALS NOT TO BENEFIT.- No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 15. COVENANT AGAINST CONTINGENT FEES.- The Authority warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to add to the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 16. DISPUTES.- (a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Authority. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Authority mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the agency involved. The decision of the head of the agency or his duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged: Provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Authority shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Authority shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

ARTICLE 17. APPROVAL OF CONTRACT.- This contract shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

ARTICLE 18. DEFINITIONS.- (a) The term "head of the agency" or "Secretary" as used herein means the Secretary of the Army; and the term "his duly authorized representative" in Article 16 means the Chief of Engineers, Department of the Army, or an individual or board designated by him.

(b) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government, and includes a duly appointed successor or authorized representative.

ARTICLE 19. ALTERATIONS.- The following alterations have been made in the provisions of this contract:

None.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

APPROVED:

Assistant Secretary of the Army
(Financial Management)

Date: APR 13 1962

THE UNITED STATES OF AMERICA

By _____
(Contracting Officer)
R. P. WEST
Colonel, CE
Contracting Officer

BRAZOS RIVER AUTHORITY

By _____, President

P. O. Drawer 7555, Waco, Texas
(Post Office Address)

ATTEST:

Secretary, Brazos River Authority
C. G. Lee

APPROVED AS TO FORM:

Attorney, Brazos River Authority
David B. Kultgen

Contract No. DA-41-443-CIVENG-62-1044

I, C. G. Lee, certify that I am the Secretary of the Brazos River Authority herein, that J. HOWARD FOX, who signed this contract on behalf of the Authority was then President of said Brazos River Authority; that said contract was duly signed for and on behalf of the Brazos River Authority by authority of its governing body and is within the scope of its legal powers.

In witness whereof, I have hereunto affixed my hand and the seal of said Brazos River Authority, this 4th day of March 1962.

C. G. Lee

Secretary, Brazos River Authority
C. G. Lee

CORPORATE SEAL

Contract No. DACW63-82-C-0091

CONTRACT BETWEEN THE UNITED STATES OF AMERICA AND THE BRAZOS RIVER AUTHORITY OF TEXAS FOR WATER STORAGE SPACE IN WHITNEY LAKE, TEXAS

THIS CONTRACT, entered into this 82 JUN 03 day of , 19 , by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government") represented by the Contracting Officer executing this contract, and the Brazos River Authority of Texas, an agency of the State of Texas, (hereinafter called the "Authority");

WITNESSETH THAT:

WHEREAS, the Flood Control Act of 1941 (Public Law 228, 77th Congress), authorized the construction, operation, and maintenance of Whitney Lake on the Brazos River, Texas, (hereinafter called the "Project"); and

WHEREAS, Public Law 85-230, approved 30 August 1957, authorized the Secretary of Army, acting through the Chief of Engineers, to allocate 50,000 acre-feet of water supply storage in the Project for municipal and industrial use; and

WHEREAS, the Authority desires to contract with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b-f); and

WHEREAS, the Authority is empowered to contract with the Government and is vested with all the necessary powers for accomplishment of the purposes of this contract, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) (as amended);

NOW, THEREFORE, the Government and the Authority agree as follows:

ARTICLE 1 - Water Storage Space.

(a) Project Construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the Authority.

(b) Rights of the Authority.

(1) The Authority shall have the right to utilize an undivided 22.017 percent (estimated to contain 50,000 acre-feet after adjustment for sediment deposits) of the usable storage space in the Project between elevations 520.0 feet above mean sea level and 533.0 feet above mean sea level, which usable

conservation storage space is estimated to contain 227,100 acre-feet after adjustment for sediment deposits. This undivided 22.017 percent of the total usable storage space between elevations 520.0 and 533.0 is to be used to impound water for present demand or need for municipal and industrial water supply.

(2) The Authority shall have the right to withdraw water from the lake, or to order releases to be made by the Government through the outlet works in the Dam, subject to the provisions of Article 1(c) and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the Contracting Officer as to design and location. The grant of an easement for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, without additional cost to the Authority, under the authority of and in accordance with the provisions of 10 U.S.C. 2669 and such other authorities as may be necessary. Subject to the conditions of such easement, the Authority shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges granted under this contract.

(c) Rights Reserved. The Government reserves the right to lower the water in the Project to elevation 533.0 feet above mean sea level during such periods of time as are deemed necessary, in its sole discretion, for flood control purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property, including the right not to make downstream releases during such periods of time as are deemed necessary, in its sole discretion, to inspect, maintain, or repair the Project.

(d) Quality or Availability of Water. The Authority recognizes that this contract provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor, or for the treatment of the water.

(e) Sedimentation Surveys.

(1) Sedimentation surveys will be made by the Contracting Officer during the term of this contract at intervals not to exceed fifteen (15) years unless otherwise agreed to in writing by both parties. When, in the opinion of the Contracting Officer, the findings of such survey indicate any project purpose will be affected by unanticipated sedimentation distribution, there shall be an equitable redistribution of the sediment reserve storage space among the purposes served by the Project including municipal and industrial water supply. The total available remaining storage space in the Project will then be divided among the various Project features in the same ratio as was initially utilized. Adjusted pool elevations will be rounded to the nearest one-half foot. Such findings and the storage space allocated to municipal and industrial water supply shall be defined and described as an exhibit which will be made a part of this contract and the reservoir regulation manual will be modified accordingly.

(2) The Government assumes no responsiblity for deviations from estimated rates of sedimentation, or the distribution thereof. Such deviations may cause unequal distribution of sediment reserve storage greater than estimated, and/or encroachment on the total storage at the project.

ARTICLE 2 - Regulation of and Right to Use of Water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the Authority. The Authority has the full responsibility to acquire in accordance with State laws and regulations, and, if necessary, to establish or defend, any and all water rights needed for utilization of the storage provided under this contract. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the Authority except as such controversies may affect the operations of the Government.

ARTICLE 3 - Operation and Maintenance. The Government shall operate and maintain the Project and the Authority shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5. The Authority shall be responsible for operation and maintenance of all installations and facilities which it may construct for the diversion or withdrawal of water, and shall bear all costs of construction, operation, and maintenance of such installations and facilities.

ARTICLE 4 - Measurement of Withdrawals and Releases. The Authority agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the Contracting Officer for the measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The Authority shall furnish to the Government monthly statements of all such withdrawals. Prior to the construction of any facilities for withdrawal of water from the Project, the Authority will obtain the Contracting Officer's approval of the design, location, and installation of the facilities including the meters or measuring devices. Such devices shall be available for inspection by Government representatives at all reasonable times. Releases from the water supply storage space through the Project outlet works shall be made under arrangements approved by the Contracting Officer and shall be subject to Article 1(c). The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5 - Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the Authority shall pay the following sums to the Government:

(a) Project Investment Costs.

(1) The Authority shall repay to the Government, at the times and with interest on the unpaid balance as hereinafter specified, the amount stated below which, as shown in Exhibit "A" attached to and made a part of this contract, constitute the entire actual amount of the construction costs, including interest during construction, allocated to the water storage right acquired by the Authority under this contract. The interest rate used for

computing interest during construction was determined by the Secretary of the Treasury as of the beginning of the Government fiscal year in which construction of the Project was initiated, on the basis set forth in the Water Supply Act of 1958, as amended. For the Project, construction of which was initiated in FY 1947, this interest rate is 2.500 percent. The interest rate to be used for computing interest on the unpaid balance will be determined by the Secretary of the Treasury as of the beginning of the Government fiscal year in which the contract is approved by the Assistant Secretary of the Army on the basis set forth in the Water Supply Act of 1958, as amended. Such interest rate at the time of negotiation of this contract, FY 1982, is 9.352 percent. Should the contract not be approved in FY 1982, the amounts due herein will be adjusted to reflect the application of the appropriate rate. The Authority shall repay:

3.21626 percent of the total Project joint-use construction costs, including interest during construction, which reflects the total amount of Project investment costs allocated to water supply, computed as	$1,181,440.86

(2) The Project investment cost allocated to the storage space indicated in Article 1(b)(1) as being provided for present demand is $1,181,440.86, on the basis of the costs presented in Exhibit "A". The amount of the Project investment costs allocated to the storage for present demand shall be paid within the life of the Project in not to exceed 50 consecutive annual installments, the first of which shall be due and payable within 30 days from the date of approval of this contract by the Assistant Secretary of the Army (Civil Works). Annual installments thereafter will be due and payable on the anniversary date of the date of approval of this contract. Except for the first payment which will be applied solely to the retirement of principal, all installments shall include accrued interest on the unpaid balance at the rate provided above. The last annual installment shall be adjusted upward or downward when due to assure repayment of all of the investment costs allocated to the storage for present demand within 50 years.

(3) A schedule of annual payments for the storage provided for present demand is attached as Exhibit "B" of this contract.

(b) Major Replacement Cost.

(1) Present Use Storage. The Authority will be required to pay 3.21626 percent of the cost of joint-use major replacement items.

(2) Payment. Payment of costs, including interest during construction, shall be made either incrementally during construction, in lump sum upon completion of construction, or annually with interest on the unpaid balance. If paid annually the Authority's share shall be paid within the life of the Project in not to exceed 25 consecutive annual installments with the first payment to be made with the first annual payment as set forth in Article 5(a)(2) on the Project investment costs becoming due after the date said major replacement costs are incurred. The first annual payment shall include interest on the investment cost accruing until the payment date. Annual payments thereafter will be due and payable on the anniversary of this repayment date. All annual

payments shall include accrued interest on the unpaid balance at the interest rate as determined by the Secretary of the Treasury on the basis as set forth in the Water Supply Act of 1958, as amended, for use in the Government fiscal year in which the major capital replacement is initiated. The last annual payment shall be adjusted upward or downward when due to assure repayment of all the incurred costs within the repayment period.

(c) Annual Operation and Maintenance (O&M) Expense.

(1) Present Use Storage. The Authority will be required to pay 3.21626 percent of the annual experienced joint-use O&M expense of the Project.

(2) Payment. Payments for O&M expense are due and payable in advance on the date for payment of project investment costs as set forth in Article 5(a)(2) and shall be based on O&M expense for the Project in the Government fiscal year most recently ended. O&M expense for a portion of a year shall be prorated on the basis of the actual experienced joint-use O&M expense for that Government fiscal year.

(d) Major Rehabilitation and Dam Safety Assurance Program Costs. For costs associated with major rehabilitation programs, the percentage of joint-use cost which the Authority will be required to pay will be in accordance with Article 5(c) for present use storage. For costs associated with dam safety assurance programs, the percentage of joint-use cost which the Authority will be required to pay will be in accordance with Article 5(a) for present use storage. Payments for the costs associated with both programs shall be in accordance with Article 5(b)(2).

(e) The Authority shall have the right at any time it so elects to prepay the indebtedness under this Article, in whole or in part, with accrued interest thereon to the date of such prepayment.

(f) Delinquent Payments. If the Authority shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5(a), 5(b), 5(c), and 5(d) above shall be that determined by the Department of Treasury's Treasury Fiscal Requirements Manual (1 TFRM 6-8000, "Cash Management"). The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue after a 15 day grace period from the anniversary date of the date of notification, one month's interest shall be charged. Thereafter a month's interest will be charged for any portion of each succeeding month that the payment is delinquent. This provision shall not be construed as giving the Authority a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the Authority.

ARTICLE 6 - Duration of Contract. This contract shall become effective when approved by the Assistant Secretary of the Army (Civil Works) and shall continue in full force and effect for the life of the Project.

ARTICLE 7 - Permanent Rights to Storage. Upon completion of payments by the Authority, as provided in Article 5(a) herein, the Authority shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

(a) The Authority shall continue payment of the annual operation and maintenance costs allocated to water supply.

(b) The Authority shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. Such costs will be established by the Contracting Officer and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5(b)(2) for Major Replacement Costs, and be made a part of this contract.

(c) Upon completion of payments by the Authority as provided in Article 5(a), the Contracting Officer shall redetermine the storage space for municipal and industrial water supply in accordance with the provision of Article 1(e). Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

(d) The permanent rights of the Authority under this contract shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate contract, or additional supplemental agreement, providing for:

(1) Continued operation by the Authority of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2) Terms which will protect the public interest; and

(3) Effective absolvement of the Government by the Authority from all liability in connection with such continued operation.

ARTICLE 8 - Release of Claims. The Authority shall hold and save the Government, including its officers, agents, and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the Authority or as a result of the construction, operation, or maintenance of the water supply facilites and appurtenances thereto owned and operated by the Authority except for damages due to the sole fault or negligence of the United States or its contractors.

ARTICLE 9 - Assignment. The Authority shall not transfer or assign this contract or any rights acquired thereunder, nor sub-allot said water supply storage space or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this contract, without the approval of the Secretary of the Army, provided that, unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the Authority and furnished to any third party or parties, nor any method of allocation thereof.

ARTICLE 10 - Officials Not to Benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

ARTICLE 11 - Covenant Against Contingent Fees. The Authority warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Authority for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to add to the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 12 - Environmental Quality. During any construction, operation, and maintenance by the Authority of any facilities, specific actions will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to (1) reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases, and of smoke from temporary heaters; (2) reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion; (3) minimization of noise levels; (4) onsite and offsite disposal of waste and spoil; and (5) prevention of landscape defacement and damage.

ARTICLE 13 - Federal and State Laws.

(a) In acting under its rights and obligations hereunder, the Authority agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); Title 29, Code of Federal Regulations, Part 3; and Section 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646).

(b) The Authority furnishes, as part of this contract, an assurance (Exhibit "C") that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive

5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

(c) Any discharges of water or pollutants into a navigable stream or tributary thereof resulting from the Authority's facilities and operations undertaken under this contract shall be performed only in accordance with applicable Federal, State, and local laws and regulations.

ARTICLE 14 - Definitions.

(a) Project investment costs - The cost of the Project, including: land acquisition; construction; interest during construction on the value of land, labor, and materials used for planning and construction of the Project.

(b) Interest during construction - An amount of interest which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available for water storage.

(c) Specific costs - The costs of Project features normally serving only one particular project purpose.

(d) Joint-use costs - The costs of features used for any two or more Project purposes.

(e) Annual operation and maintenance (O&M) expense - Annual expenses funded under the O&M, General account. These expenses include the daily project O&M costs as well as those O&M costs which are capitalized, and includes sedimentation survey costs.

(f) Major replacement cost - Costs funded under the Construction, General account but not associated with initial Project investment costs.

(g) Fiscal Year - Refers to the Government's fiscal year. This year begins on 1 October and ends on 30 September.

(h) Life of the Project - This is the physical life of the Project.

(i) Major Rehabilitation - This program is to facilitate accomplishment of significant, costly, infrequent rehabilitation work at the Project without unduly distorting the Operation and Maintenance, General budget.

(j) Dam Safety Assurance Program - This program is to provide for modification of the completed Project to rectify potential safety hazards in light of present day standards, technology, and circumstances.

ARTICLE 15 - Approval of Contract. This contract is subject to the written approval of the Assistant Secretary of the Army (Civil Works) or his duly authorized representative and shall not be binding until so approved.

IN WITNESS WHEREOF, the parties have executed this contract as of the day and year first above written.

APPROVED:

William R. Gianelli

Assistant Secretary of the Army
(Civil Works)

DATE: 3 NOV 1982

THE UNITED STATES OF AMERICA

By _____
Donald J. Palladino
Colonel, CE
Contracting Officer

82 JUN 03

BRAZOS RIVER AUTHORITY OF TEXAS

By _____
Glynn A. Williams
President

I, Harry Trippet, certify that I am the Secretary of the Brazos River Authority of Texas, named as Authority herein; that Glynn A. Williams who signed this contract on behalf of the Authority was then President of the Brazos River Authority of Texas; that said contract was duly signed for and on behalf of the Brazos River Authority of Texas by authority of its governing body and is within the scope of its legal powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of said Brazos River Authority of Texas, this 10th day of May, 1982.

Harry Trippet
Secretary, Brazos River Authority
of Texas

CORPORATE SEAL