

**APPLICATION FOR:
TEXAS WATER DEVELOPMENT BOARD
SWIFT PROGRAM**

BRAZOSPORT WATER AUTHORITY
***BRACKISH GROUNDWATER REVERSE OSMOSIS WATER
TREATMENT PLANT AND WELLS***

JUNE 5, 2015

**Prepared by:
Susan Roth Consulting, LLC**

**APPLICATION FOR FINANCIAL ASSISTANCE
FOR WATER AND WASTEWATER INFRASTRUCTURE PROJECTS**

This application is comprehensive, covering all loan and grant assistance applications for water and wastewater infrastructure financing through the various Texas Water Development Board (TWDB) programs. The format of the application is intended to expedite the review process for both the applicant and TWDB staff. This application can be used by political subdivisions, including water supply corporations.

Please submit one double-sided original and one indexed, electronic copy, via electronic storage media such as CD or flash drive using MS Word, Excel and/or Adobe Acrobat.

Please submit your application to:

Texas Water Development Board
Water Supply and Infrastructure-Regional Water Planning and Development
P O Box 13231
1700 N. Congress Avenue, 5th Floor
Austin, Texas 78711-3231
(78701 for courier deliveries)

A complete application consists of all of the applicable information and forms requested in this document. When preparing this application please review the Application and all Guidance and Forms, listed at the end.

For more information, please contact your Regional Project Implementation Team at:

http://www.twdb.texas.gov/financial/programs/swift/regional_project_teams.asp

Thank you.

TWDB Use Only

Name of Applicant: _____

Date application received: _____

Date administratively complete: _____

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

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Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part A: General Information

1. The legal authority under which the applicant was created and operates.
 - a) TYPE A GENERAL-LAW MUNICIPALITY (Texas Local Gov't Code Sec. 5.001)
 - b) TYPE B GENERAL-LAW MUNICIPALITY (Texas Local Gov't Code Sec. 5.002)
 - c) TYPE C GENERAL-LAW MUNICIPALITY (Texas Local Gov't Code Sec. 5.003)
 - d) HOME-RULE MUNICIPALITY (Texas Local Gov't Code Sec. 5.004)
 - e) SPECIAL-LAW MUNICIPALITY (Texas Local Gov't Code Sec. 5.005)
 - f) NONPROFIT ORGANIZATION (Business Organization Code Chapter 22)
 - g) NONPROFIT WATER SUPPLY OR SEWER SERVICE CORP. (Texas Water Code Chapter 67)
 - h) ALL DISTRICTS (Texas Water Code Chapter 49)
 - i) OTHER (attach)

2. Applicant Name and Contact Information:

Name:	Brazosport Water Authority
County:	Brazoria County
Physical Address:	1251 FM 2004 Lake Jackson, TX 77566
Mailing Address:	1251 FM 2004 Lake Jackson, TX 77566
Phone:	(979) 297-2715
Fax:	(979) 297-8933
Website:	www.brazosportwaterauthority.org

3. Brief description of the project: Construct a 6.0 MGD reverse osmosis water treatment plant at the site of the current BWA surface water treatment plant to be fed by three brackish groundwater wells in order to address water supply shortages due to availability and cost of water considerations.

4. Applicant's Officers and Members:

<u>Name</u>	<u>Office Held</u>
Juan Longoria	President
Jesse Knight	Vice-President
Joe Damian	Secretary
Ellis Feiner	Assistant Secretary
Stoney Burke	Director
Carl Morrison	Director
Johnny Ray Norris	Director

5. Applicant's **primary contact person** for day-to-day project implementation.

Name:	Susan Roth, P.E.
Title:	President; Susan Roth Consulting, LLC
Address:	4111 Tablerock Drive, Austin, TX 78731
Phone:	(512) 796-6692
Fax:	(512) 231-9851
Email:	susan@srothconsulting.com

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6. Applicant's Consultants (Attach copies of all draft and/or executed contracts for consultant services to be used by the Applicant in applying for financial assistance or constructing the proposed project.):

a) Applicant Engineer N/A

Firm Name:	CDM Smith Inc.
Contact:	Allen Woelke, P.E.
Address:	12357-A Riata Trace Pkwy. Ste. 210, Austin, TX 78727
Phone:	(512) 346-1100
Fax:	(512) 345-1483
Email:	woelkead@cdmsmith.com

b) Bond Counsel N/A

Firm Name:	Andrews & Kurth, LLP
Contact:	Thomas A. Sage
Address:	600 Travis Street, Ste. 4200, Houston, TX 77002
Phone:	(713) 220-3833
Fax:	(713) 220-4285
Email:	tomsage@andrewskurth.com

c) Financial Advisor N/A

Firm Name:	First Southwest Company
Contact:	Joe Morrow
Address:	700 Milam Street, Ste. 500, Houston, TX 77002
Phone:	(713) 654-8690
Fax:	(713) 654-8658
Email:	joe.morrow@firstsw.com

d) Certified Public Accountant (or other appropriate rep) N/A

Firm Name:	Sanderson Knox & Co., LLP
Contact:	Curtis Craig
Address:	130 Industrial Blvd., Ste. 130, Sugar Land, TX 77478
Phone:	(281) 242-3232
Fax:	(281) 242-3252
Email:	ccraig@sktx.com

e) Legal Counsel (if other than Bond Counsel) N/A

Firm Name:	Mauro & Cordoba, PLLC
Contact:	Jason Cordoba
Address:	208 Parking Way Street, Lake Jackson, TX 77566
Phone:	(979) 297-2854
Fax:	(979) 299-6440
Email:	jason@maurolaw.com

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

f) Any other consultant representing the Applicant before the Board N/A

Firm Name:	
Contact:	
Address:	
Phone:	
Fax:	
Email:	

7. List the counties within the Applicant's service area. Southern Brazoria County including the cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Richwood and Oyster Creek and two units of the Texas Department of Criminal Justice.

8. Identify the Applicant's total service area population: 84,643 (7 cities+TDCJ units)

9. Applicant is requesting funding from which programs? Check all that apply.

	PROGRAM	AMOUNT REQUESTED
a) <input type="checkbox"/>	Drinking Water State Revolving Fund (DWSRF)	\$ _____
b) <input type="checkbox"/>	Clean Water State Revolving Fund (CWSRF)	\$ _____
c) <input type="checkbox"/>	Texas Water Development Fund (DFund)	\$ _____
d) <input type="checkbox"/>	State Participation	\$ _____
e) <input type="checkbox"/>	Rural Water Assistance Fund (RWAFF)	\$ _____
f) <input checked="" type="checkbox"/>	State Water Implementation Fund for Texas (SWIFT)	\$ <u>28,300,000.00</u>
g) <input type="checkbox"/>	Economically Distressed Areas Program (EDAP)	\$ _____
h) <input type="checkbox"/>	If other please explain: _____	\$ _____

10. Other Funding Sources: Provide a list of any other funding source(s) being utilized to complete the project, including Applicant's local contribution, if any, or commitments applied for and/or received from any other funding agency for this project or any aspect of this project. **Provide commitment letters if available. Additional funding sources must be included within the Project Budget (TWDB-1201).**

Funding Source	Type of Funds (Loan/Grant)	Amount (\$)	Date Applied for Funding	Anticipated or Funding Secured Date
Total Funding from All Sources		\$		

Comments: N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

11. Applicant is requesting funding for which phase(s)? Check all that apply.

- Planning
- Acquisition
- Design
- Construction

12. Is Applicant requesting funding to refinance existing debt?

- Yes If yes, attach a copy of the document securing the debt to be refinanced.
- Attached document**
- No

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part B: Legal Information

13. Cite the legal authority under which the Applicant can issue the proposed debt including the authority to make a proposed pledge of revenues. Article XVI, Section 59 of the Texas Constitution; 1985 Tex.Laws., Reg. Sess., Ch. 499 at 3063; and Chapter 49 of the Texas Water Code.

14. What type of pledge will be used to repay the proposed debt?

- Systems Revenue
- Taxes
- Combination of systems revenues and taxes
- Other (Contract Revenue, etc.)

15. Provide the full legal name of the security for the proposed debt issue(s).

The "Brazosport Water Authority Water Supply System Revenue Bonds, Series 2015B" will be payable as to principal and interest solely from, and equally and ratably secured, together with the Parity Bonds, by a first lien on the Net Revenues of the Authority's System.

16. Describe the pledge being offered and any existing rate covenants.

The "Brazosport Water Authority Water Supply System Revenue Bonds, Series 2015B" will be payable as to principal and interest solely from, and equally and ratably secured, together with the Parity Bonds, by a first lien on the Net Revenues of the Authority's System. The Net Revenues are defined as the Revenues of the System available after deducting Operation and Maintenance expenses. Revenues include all income, receipts, proceeds and other moneys received by or on behalf of the Authority from or in connection with its ownership, leasing or operation of the System, including all interest or other income derived from the investment of moneys held pursuant to the Parity Bond resolutions and paid or required to be paid in the Reserve Fund, all amounts transferred from the Rate Stabilization Fund to the Revenue Fund, and all revenues received from Participating Customers and other customers of the Authority's System, but excluding (i) contractual payments received as debt service or capital costs components and pledged by the Authority for the security or payment of any Special Project Bonds, (ii) the proceeds of any bonds issued or other authorized borrowings by the Authority and income there from unless otherwise provided, (iii) insurance proceeds other than loss of use or business interruption insurance proceeds, (iv) sales and other taxes collected by the Authority on behalf of the State or any other taxing entity; (v) any amounts deposited relating to benefits for employees of the Authority and any interest or other investment income derived from such amounts; (vi) deposits subject to refund until the deposits have become the property of the Authority, (vii) any income, fees, charges, receipts, profits or other money derived by the Authority from its ownership or operation of any separate utility system, (viii) any gifts, grants, donations or other moneys received by the Authority from any state or federal agency or other person if the gifts, grants, donations or other moneys are subject to any limitation or reservation.

Existing rate covenants require the Authority to fix, prescribe and collect rates and charges sufficient to satisfy each of the following requirements: (a) Net Revenues shall be at least equal to the amount of all deposits required by the outstanding bond resolutions, (b) Revenues and other amounts available for such purposes shall be sufficient to pay (i) the principal (including any scheduled mandatory redemption), premium, if any, and interest on the Parity Bonds, (ii) all Operation and Maintenance Expenses and all taxes, assessments or other governmental charges lawfully imposed on the Authority's System or the Revenues therefore, or payments in lieu thereof, payable by the Authority, (iii) the amount, if any, to be paid during the fiscal year into the Reserve Fund, the Operating Reserve Account or the Rate Stabilization Fund, (iv) the costs of the Authority of the prevention or correction of any unusual loss or

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

damage and of major repairs, renewals and replacements of capital additions, betterments, improvements and extensions less than part, if any, of such costs as is provided for by insurance or by amounts available therefore from the sale of Bonds, (v) all other charges or obligations against the Revenues of whatever nature; and (c) Net Revenues for each fiscal year shall be equal to at least 105% of the principal of (including any scheduled mandatory redemption), premium, if any, and interest on the Parity Bonds payable during such fiscal year.

The reserve fund requirement for Parity Bonds is the lesser of (i) 10% of the "issue price" of the Parity Bonds, (ii) 1.25 times the average Annual Principal and Interest Requirements of the Parity Bonds, or (iii) the maximum Annual Principal and Interest Requirements of the Parity Bonds. The Authority expressly reserves the right to satisfy all or any part of the reserve requirement by obtaining for the benefit of the reserve fund one or more reserve fund surety policies.

The Authority is also required by maintain a Rate Stabilization Fund of \$500,000 in funds and investments. At the end of each fiscal year, all Net Revenues in excess of the those necessary to make the required deposits in the Debt Service Fund and the Reserve Fund shall be deposited into the Rate Stabilization Fund in amounts necessary to maintain a balance of \$500,000.

The Authority may issue Additional Parity Bonds payable from and secured by a first lien on the Net Revenues of the System if (a) the Additional Parity Bonds mature on, and interest is payable on, the same days of the year as outstanding bonds; (b) the Debt Service Fund and the Reserve Fund each contains the amount of money then required to be on deposit therein; and (c) for either the preceding fiscal year or a 12 consecutive calendar month period ending no more than 90 days prior to adoption of the resolution authorizing such Additional Parity Bonds, Net Revenues were equal to at least 105% of the average annual principal and interest requirements on all Parity Bonds then proposed to be issued, as certified by the Authority's General Manager or by an independent certified public accountant or firm of independent certified public accountants; or (d) if the Authority cannot meet the test described in (c) above, but a change in the rates and charges applicable to the System becomes effective at least 60 days prior to the adoption of the resolution authorizing Additional Parity Bonds and the General Manager certifies that, had such change in rates and charges been effective for the preceding fiscal year or 12 consecutive calendar month period ending no more than 90 days prior to the adoption of said resolution, the Net Revenues for such period would have met the test described in (c).

The Authority reserves the right to issue and refinance bonds payable from the Net Revenues, the payment of which will be subordinate to payment of all Parity Bonds. The Authority also reserves to issue Special Project Bonds payable from and secured by a lien on and pledge of certain contractual payments allocated to debt service payments or the cost of financing specific capital items or real or personal property acquired or constructed for the purpose of providing services to any persons, including Participating Customers. Such Special Project Bonds will not be payable form the Net Revenues of the System and may only be issued if the President and Secretary of the Board execute a certificate to the effect that the Authority is not in default as to any covenant, condition or obligation in any resolution authorizing Parity Bonds.

17. Attach the resolution from the governing body requesting financial assistance.
TWDB-0201A (<http://www.twdb.texas.gov/financial/instructions/>)
 Attached Resolution

18. Attach the Application Affidavit
TWDB-0201 (<http://www.twdb.texas.gov/financial/instructions/>)
 Attached Applicant Affidavit

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

19. Attach the Certificate of Secretary
TWDB-201B (<http://www.twdb.texas.gov/financial/instructions/>)
 Attached Certificate of Secretary
20. Is the applicant a Water Supply Corporation (WSC)?
 Yes If yes, attach each of the following:
 Articles of Incorporation
 Certificate of Incorporation from the Texas Secretary of State evidencing that the current Articles of Incorporation are on file with the Secretary
 By-laws and any amendments
 Certificate of Status from the Texas Secretary of State (i.e. Certificate of Existence)
 Certificate of Account Status from the Texas Comptroller of Public Accounts (certifies that the WSC is exempt from the franchise tax and that the WSC is in good standing).
 No
21. Is the applicant proposing to issue revenue bonds?
 Yes If yes, attach copies of the most recent resolution/ordinance(s) authorizing any outstanding parity debt. This is essential to insure outstanding bond covenants are consistent with covenants that might be required for TWDB financing.
 Attached resolution/ordinance(s)
 No
22. Does the applicant possess a Certificate of Convenience and Necessity (CCN)?
 Yes If yes, attach a copy of the CCN and service area map showing the areas the applicant is allowed to provide water or wastewater services.
 Attached CCN and service area map
 No If no, indicate the status of the CCN. _____
 N/A
23. Has the applicant been the subject of any enforcement action by the Texas Commission on Environmental Quality (TCEQ), the Environmental Protection Agency (EPA), or any other entity within the past three years?
 Yes If yes, attach a brief description of every enforcement action within the past three years and action(s) to address requirements.
 Attached
 No
24. Are any facilities to be constructed or the area to be served within the service area of a municipality or other public utility?
 Yes If yes, has the applicant obtained an affidavit stating that the utility does not object to the construction and operation of the services and facilities in its service area?
 If yes, attach a copy of the affidavit.
 Attached affidavit
 If no, provide an explanation as to why not. _____

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

No

25. If the assistance requested is more than \$500,000 a Water Conservation Plan (WCP) is required. The WCP cannot be more than **FIVE** years old and must have been adopted by the applicant. Has the applicant adopted a Board-approved WCP? (Check one and attach requested information, if any.)

- Yes Enter date of Applicant's WCP adoption: July 22, 2014
- No If no, attach a copy of a draft Water Conservation Plan and Drought Contingency Plan prepared in accordance with the TWDB WCP Checklist (<http://www.twdb.state.tx.us/financial/instructions/doc/TWDB-1968.pdf>)
- Attached Draft WCP and Drought Contingency Plan**
- Attached Utility Profile TWDB-1965**
- <http://www.twdb.state.tx.us/financial/instructions/doc/TWDB-1965.pdf>
- N/A (Request is \$500,000 or less per Water Code §§ 15.106(c), 17.125(c), 17.277(c), and 17.857(c))

Note: If the applicant will utilize the project financed by the TWDB to furnish services to another entity that in turn will furnish services to the ultimate consumer, the requirements for the WCP may be met through contractual agreements between the applicant and the other entity providing for establishment of a water conservation plan. The provision requiring a WCP shall be included in the contract at the earliest of: the original execution, renewal or substantial amendment of that contract, or by other appropriate measures.

26. Does the applicant provide retail water services?

- Yes If yes, has the applicant already submitted to the TWDB the annual water use survey of groundwater and surface water for the last **THREE** years?
- Yes
- No If no, please download survey forms and attach a copy of the completed water use surveys to the application.
- <http://www.twdb.texas.gov/waterplanning/waterusesurvey/index.asp>
- Attached Water Use Survey**
- No

27. Is the applicant a retail public utility that provides potable water?

- Yes If yes, has the applicant already submitted the most recently required water loss audit to the TWDB?
- Yes
- No If no, and if applying for a water supply project, please complete the online TWDB Water Audit worksheet found at <http://www.twdb.texas.gov/conservation/resources/waterloss-resources.asp> and attach a copy to the application.
- Attached TWDB Water Audit worksheet**
- No

28. Does the Applicant provide wastewater services?

- Yes
- No

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part C: Financial Information

Regional or wholesale providers, complete questions 29-31.

Retail providers, complete questions 32-34.

29. List top **TEN** customers of the system by annual usage in gallons and percentage of total usage, including whether any are in bankruptcy.

Customer Name	Annual Usage (gal)	Percent of Usage	Bankruptcy (Y/N)
City of Lake Jackson	557,451	20.36%	N
City of Freeport	529,177	20.36%	N
City of Angleton	642,065	18.33%	N
Dow Chemical	335,398	14.05%	N
City of Clute	281,058	10.18%	N
TX Dept. of Criminal Justice	285,727	9.95%	N
City of Brazoria	104,606	3.05%	N
City of Richwood	85,623	2.39%	N
City of Oyster Creek	12,983	0.97%	N
Other	5,674	0.34%	N

Comments: 'Other' category represents water sold by BWA to the Brazoria County Boat Launch and to industries through fire hydrants.

30. List the top TEN customers of the system by gross revenues and percent of total revenues, including whether any are in bankruptcy

Customer Name	Annual Revenue(\$)	Percent of Revenue	Bankruptcy (Y/N)
City of Lake Jackson	1,350,500	20.36%	N
City of Freeport	1,350,500	20.36%	N
City of Angleton	1,215,450	18.33%	N
Dow Chemical	832,038	14.05%	N
City of Clute	675,250	10.18%	N
TX Dept. of Criminal Justice	659,921	9.95%	N
City of Brazoria	202,575	3.05%	N
City of Richwood	158,684	2.39%	N
City of Oyster Creek	64,149	0.97%	N
Other	22,530	0.34%	N

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

31. Provide a summary of the wholesale contracts with customers (**Reference attached contracts**)

Contract Type	Minimum annual amount	Usage fee per 1,000 gallons	Annual Operations and Maintenance	Annual Capital Costs	Annual Debt Service	Other

32. List top **TEN** customers of the water and/or wastewater system by annual revenue with corresponding usage and percentage of total use, including whether any are in bankruptcy.

a. **WATER N/A**

Customer Name	Annual Usage (gal)	Percent of Total Water Revenue	Bankruptcy (Y/N)

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

b. **WASTEWATER N/A**

Customer Name	Annual Usage (gal)	Percent of Total Wastewater Revenue	Bankruptcy (Y/N)

33. Current Average Residential Usage and Rate Information **N/A**

Service	Date of Last Rate Increase	Avg. Monthly Usage (gallons)	Avg. Monthly Bill (\$)	Avg. Monthly Increase Per Customer(\$)	Projected Monthly Increase Necessary (\$)
Water					
Wastewater					

34. Provide the number of customers for each of the past five years. **N/A**

Year	Number of Customers
20	
20	
20	
20	
20	

All applicants complete questions 35-51 of the financial section, as applicable.

35. Disclose all issues that may affect the project or the applicant's ability to issue and/or repay debt (such as anticipated lawsuits, judgments, bankruptcies, major customer closings, etc.).
There are no issues that may affect the ability to issue or repay the debt that are known at this time.

36. Has the applicant ever defaulted on any debt?
 Yes If yes, disclose all circumstances surrounding prior default(s). _____
 No

37. Does the applicant have taxing authority?
 Yes
 No

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

38. Provide the last five-years of data showing total taxable assessed valuation including net ad valorem taxes levied, corresponding tax rate (detailing debt service and general purposes), and tax collection rate.

Fiscal Year Ending	Net Taxable Assessed Value (\$)	Tax Rate (\$)	General Fund (\$)	Interest & Sinking Fund (\$)	Tax Levy (\$)	Percentage Current Collections	Percentage Total Collections
2010	20,196,058,098	0.3232	0.2887	0.0345	85,996,752	98.58%	98.58%
2011	19,478,496,302	0.3623	0.3193	0.0430	85,056,000	98.70%	98.70%
2012	19,551,182,564	0.3666	0.3236	0.0430	89,443,000	95.70%	95.70%
2013	20,360,831,992	0.3666	0.3236	0.0430	91,984,000	98.82%	99.44%
2014	21,231,704,591	0.4920	0.3986	0.0334	104,459,987	99.10%	99.10%

Comments: Brazoria County Value and Collection history reported.

39. Attach the last five-years of tax assessed values delineated by Classification (Residential, Commercial and Industrial). **If applicant does not have taxing authority, provide the assessed values of the county.**

- a) **2010 attached**
- b) **2011 attached**
- c) **2012 attached**
- d) **2013 attached**
- e) **2014 attached**

40. Attach the direct and overlapping tax rate table:
 Attached tax rate table

41. Provide the current top **TEN** taxpayers showing percentage of ownership to total assessed valuation. State if any are in bankruptcy and explain anticipated prospective impacts in the Comments blank, below. If any of these have changed in the past three years, please provide information on the changes to the top ten.

Taxpayer Name	Assessed Value	Percent of Total	Bankruptcy (Y/N)
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Comments: The Authority does not have powers to levy an ad valorem tax.

42. Provide the maximum tax rate permitted by law per \$100 of property value. N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

43. Does the applicant collect sales tax?

Yes Provide the sales tax collection history for the past five years.

Fiscal Year Ending	Total Collections
20	
20	
20	
20	
20	

No

44. Indicate the tax status of the proposed loan?

Tax-Exempt

Taxable

45. Proforma (**Select one of the four listed below**) Please be sure the proforma reflects the schedule requested, including multi-phased funding options.

a. System revenues are anticipated to be used to repay the proposed debt. Attach a proforma indicating the following information for each year the debt is outstanding:

- projected gross revenues
- operating and maintenance expenditures
- outstanding and proposed debt service requirements
- net revenues available for debt service and coverage of current and proposed debt paid from revenues

b. Taxes are anticipated to be used to repay the proposed debt. Attach a pro forma indicating the following information for each year the debt is outstanding:

- outstanding and proposed debt service requirements
- the tax rate necessary to repay current and proposed debt paid from taxes
- list the assumed collection rate and tax base used to prepare the schedule

c. Combination of system revenues and taxes to be used to repay the proposed debt. Attach a pro forma indicating the following information for each year the debt is outstanding:

- projected gross revenues, operating and maintenance expenditures, net revenues available for debt service
- outstanding and proposed debt service requirements
- the tax rate necessary to pay the current and proposed debt
- list the assumed collection rate and tax base used to prepare the schedule

d. Another type of pledge will be used to repay the proposed debt. Attach a pro forma with information for each year the debt is outstanding, which includes projected revenues, annual expenditures, outstanding debt requirements, and revenues available for debt service.

Attached

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

46. Attach a **FIVE** year comparative system operating statement (not condensed) including audited prior years and an unaudited year-to-date statement. Unaudited year-to-date statement must reflect the financial status for a period not exceeding the latest six months.

Attached Operating Statement.

47. Attach **ONE** copy of an annual audit of financial statements, including the management letter, for the preceding fiscal year prepared by a certified public accountant or firm of accountants and, if the last annual audit was more than 6 months ago, then, provide interim financial information.

Attached Annual Audit

Attached Management Letter

If applicable, attached interim financial information

48. Does the applicant have any outstanding debt? (Check all that apply)

Yes, General obligation debt

Yes, Revenue debt

Yes, Authorized but unissued debt

No

49. Attach a listing of total outstanding debt and identify the debt holder. Segregate by type (General Obligation or Revenue) and present a consolidated schedule for each, showing total annual requirements. Note any authorized but unissued debt.

a. General Obligation Debt:

Yes

Attached schedule. The schedule should also identify the debt holder.

No

b. Revenue:

Yes

Attached schedule. The schedule should also identify the debt holder.

No

c. Authorized by Unissued Debt:

Yes

Attached schedule. The schedule should also identify the debt holder.

No

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

50. List the ten largest employers of the Applicant's service area:

Name	Number of Employees
The Dow Chemical Group	4,200
Infinity Group	2,694
Alvin ISD	2,546
Texas Department of Criminal Justice	2,361
Pearland ISD	2,269
Brazosport ISD	1,575
Zachary Construction Company	1,393
Brazoria County	1,147
Conoco Phillips	900
Miken Specialties	825

Comments (example, any anticipated changes to the tax base, employers etc.) Information reported for Brazoria County.

51. Provide any current bond ratings with date received.

	Standard & Poor's	Date Received	Moody's	Date Received	Fitch	Date Received
G.O.	N/A	N/A	N/A	N/A	N/A	N/A
Revenue	A+	June 13, 2013	N/A	N/A	N/A	N/A

52. Is the project intended to allow the applicant to provide or receive water or sewer services to or from another entity?

- Yes. If yes, the applicant must attach, at a minimum, the proposed agreement, contract, or other documentation establishing the service relationship, with the final and binding agreements provided prior to loan closing.
- Attached**
- No.

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part D: Project Information

53. Description of Project Need (for example, is the project needed to address a current compliance issue, avoid potential compliance issues, extend service, expand capacity, etc.):
Proposed project is needed to address water supply shortages due to availability and factors in the cost of water considerations.

54. Description of Project, including a bulleted list of project elements/components, and alternatives considered (including existing facilities):

See attachment of project summary

A complete preliminary engineering feasibility data must include:

- a. A description and purpose of the project, including existing facilities.
- Note: CWSRF and DWSRF must address issues scored in Intended Use Plan submittal

Attached

- b. **If project is for Construction only, then attach** the appropriate Engineering Feasibility Report:

a) **Water** (TWDB-0555 at

<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0555.pdf>)

Attached

b) **Wastewater** (TWDB-0556 at

<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0556.pdf>)

Attached

- c. DWSRF applicants must complete a Projected Draw Schedule **N/A**
(TWDB-1202 at <http://www.twdb.texas.gov/financial/instructions/doc/TWDB-1202.xls>)

55. Water Made Available (For projects requesting a construction component):

a. *New supply* 3,000 (acre-feet/year) \$28,300,000.00 (\$) *capital cost*

- The **increase** in the total annual volume of water supply that will be made available to the recipient(s) by the proposed project.
- Water Plan project examples: new groundwater wells, reservoir development, pipelines to sources.

b. *New Conservation savings* _____ (acre-feet/year) _____ (\$) *capital cost*

- Annual volume of anticipated water savings resulting from implementation of the proposed conservation project including water loss) and other conservation activities,
- Water Plan project examples: municipal conservation, advanced Water Conservation, on-farm conservation, brush control, irrigation conservation.

c. *New Reuse supply* _____ (acre-feet/year) _____ (\$) *capital cost*

- Increase in the annual volume of (direct or indirect) reuse water supply that will be made available to the recipient(s) by the proposed project.
- Water Plan project examples: direct reuse, non-potable reuse, recycled water programs.

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

d. Maintenance of Current Supply _____ (acre-feet/year) _____ (\$) capital cost

- o Volume of recipients' current supplies that will be maintained by implementing the proposed project
- o Water Plan project examples: None. Not a water plan project. (Examples of these type projects: treatment rehabilitation, system storage facilities, system upgrades).

56. Project Location:

Project located within the City of Lake Jackson in Brazoria County. The reverse osmosis water treatment plant and two brackish groundwater wells will be constructed at the site of the current BWA surface water treatment plant; the third brackish groundwater well will be constructed nearby on parkland owned by the City of Lake Jackson (reference both attached maps).

Attach a map of the service area and drawings as necessary to locate and describe the project. The map should show the project footprint and major project components.

Attached

57. Attach the Census tract numbers in which the applicant's service area is within. The Census tracts within your area may be found at:

<http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>.

Please follow these steps:

- Select Advanced Search.
- Select the Geographies button located below Topics (left side of page).
- On the top of the window select the Name tab.
- In the text box, type "All Census Tracts within____" (Fill in the blank with the name of a County Subdivision or a Place.) Select "Go".
- If your town is a County Subdivision, select the geography labeled "All Census Tracts (or parts) within City, County, State" from the Geography Results. If your town is a place select the geography labeled "All Census Tracts (or parts) full-or-partially within City, State" from the Geography Results.
- Close the Geographies Search window.
- Use the Topics on the left side of the page to further refine your search or to select a table(s) from your search results.

Attached Census tracts

58. Project Schedule:

- a) Requested loan closing date.
For planning, design and permitting activities, BWA anticipates closing on the first funding request in September 2015. For acquisition and construction activities, BWA anticipates closing on the second funding request in September 2016.
- b) Estimated date to submit environmental planning documents.
February 1, 2016;
- c) Estimated date to submit engineering planning documents.
March 1, 2016
- d) Estimated date for completion of design.
September 1, 2016
- e) Estimated Construction start date for first contract.
January 2017
- f) Estimated Construction end date for last contract.

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

December 2018

59. **Attach** a copy of current and future populations and projected water use or wastewater flows. Include entities to be served.
 Attached
60. Attach the most current itemized project cost estimate (include all costs and funding sources). Utilize the budget format provided (TWDB-1201 at <http://www.twdb.texas.gov/financial/instructions/> . If applying for pre-construction costs only (i.e., P, A, D) then itemize only the relevant portions in the attached budget template
 Attached
61. Attach the appropriate Project Information Form:
 Wastewater: Attached a completed Wastewater Project Information Form WRD-253a <http://www.twdb.texas.gov/financial/instructions/index.asp>
 Water: Attached a completed Water Project Information Form WRD-253d <http://www.twdb.texas.gov/financial/instructions/index.asp>
62. If the project is for Construction only, wastewater projects that involve the construction of a new plant or the expansion of an existing plant and/or associated facilities, attach evidence that an application for a new Texas Pollution Discharge Elimination System Permit or amendment to an existing permit related to the proposed project has been filed with the Texas Commission on Environmental Quality (TCEQ). Final permit authorization must be obtained from the TCEQ before funds can be released for construction activities.
 Attached
 No. Provide explanation: N/A
63. If this project will result in: (a) an increase by the applicant in the use of groundwater, (b) drilling a new water well, or (c) an increase by the applicant in use of surface water, then the applicant must demonstrate that it has acquired – by contract, ownership or lease – the necessary property rights, groundwater permits, and/or surface water rights sufficient for the project before funds can be released for construction.
- a) Does the applicant currently own all the property rights, groundwater permits and surface water rights needed for this project?
 Yes If yes, please attach the completed, appropriate form.
1. WRD 208A (<http://www.twdb.texas.gov/financial/instructions/index.asp>) (Surface Water)
 Attached
2. WRD 208B (<http://www.twdb.texas.gov/financial/instructions/index.asp>) (Groundwater)
 Attached
 No
Note: Well has to be completed within 12 months of receiving permit; permit application will be submitted to BCGCD after BWA closes on TWDB funding.
 N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

- b) If all property rights, groundwater permits, and surface water rights, needed for this project have not yet been acquired, identify the rights and/or permits that will need to be acquired and provide the anticipated date by which the applicant expects to have acquired such rights and/or permits.

Type of Permit Water Right	Entity from which the permit or right must be acquired	Acquired by lease or full ownership	Expected acquisition date	Permit / Water Right ID No.
Well Permit	Brazoria County Groundwater Conservation District	2 wells (full ownership); 1 well (lease)	September 2015	N/A

- c) List any major permits not identified elsewhere that are necessary for completion of project. Also, list any more necessary minor permits that may involve particular difficulty due to the nature of the proposed project.

Permit	Issuing Entity	Permit Acquired (Y/N)
Nationwide Permit for pipeline construction (pre-construction notice)	Corps of Engineers	N

64. Has the applicant obtained all necessary land and easements for the project?

- Yes. If yes, attach the site certificate (ED-101 at <http://www.twdb.texas.gov/financial/instructions/index.asp>)
 Attached

- No. If no, **fill out the table below** and describe the land or easements that will need to be acquired, provide the anticipated date by which the applicant expects to have the land or easements, and indicate if funding from TWDB is to be used for the acquisition.

Description of Land or Easement Permit	Entity from which the permit or right must be acquired	Acquired by lease or full ownership	Expected acquisition date	To Be Funded by TWDB (Yes/No)
Well No.3 Site	City of Lake Jackson (parkland)	Lease	March 1, 2016	Yes

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

65. Has a Categorical Exclusion (CE), Determination of No Effect (DNE), Finding of No Significant Impact (FONSI), Record of Decision (ROD), or any other environmental determination been issued for this project?
- Yes
 - Attach a copy of the finding.
 - No
66. Is the project potentially eligible for a Categorical Exclusion (CE)/ Determination of No Effect (DNE) because it involves only minor rehabilitation or the functional replacement of existing equipment?
- Yes
 - No
67. Are there potentially adverse environmental or social impacts that may require mitigation or extensive regulatory agency or public coordination (e.g. known impacts to properties eligible for listing on the National Register of Historic Places; potentially significant public controversy; need for an individual permit from the U.S. Army Corps of Engineers)?
- Yes
 - If yes, attach additional information
 - No

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part E: State Water Implementation Fund for Texas (SWIFT) Applicants Only:

68. Identify the type of SWIFT funding (If more than one funding option is being requested indicate the amount of funding for each):

- | | | |
|-------------------------------------|---------------------|-----------------|
| <input type="checkbox"/> | Deferred | \$ |
| <input checked="" type="checkbox"/> | Low Interest Loan | \$28,300,000.00 |
| <input type="checkbox"/> | Board Participation | \$ |

69. For multi-year funding request or phased commitments, provide a schedule reflecting the closing dates for each loan requested.

Attached (See below)

For planning, design and permitting activities, BWA anticipates closing on the first funding request in September 2015. For acquisition and construction activities, BWA anticipates closing on the second funding request in September 2016.

70. **Notice to SWIFT Applicants:** Texas Water Code Sec. 15.435(h) requires all recipients of financial assistance from the SWIFT to acknowledge any applicable legal obligations in federal law, related to contracting with disadvantaged business enterprises, and state law, related to contracting with historically underutilized businesses. Checking the boxes below serves as this acknowledgement.

As an applicant for financial assistance from SWIFT, I acknowledge that this project must comply with any applicable legal obligations in federal law related to contracting with disadvantaged business enterprises.

As an applicant for financial assistance from SWIFT, I acknowledge that this project must comply with applicable legal obligations in state law (Texas Government Code Chapter 2161 and Texas Administrative Code Chapter 20, Subchapter B) related to contracting with historically underutilized businesses.

71. Provide drafts of the following documents:

a. Proposed Bond Ordinance

Attached

b. Private Placement Memorandum

Attached

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part F: Economically Distressed Programs (EDAP) Applicants Only: NOT APPLICABLE

In accordance with TWDB Rules (31 TAC Chapter 363), an application for EDAP will **not** be considered until the County has adopted and is enforcing the Model Subdivision Rules (MSRs) Texas Water Code § 16.343. If the proposed project is within a municipality or its extraterritorial jurisdiction (ETJ), or if the applicant is a municipality, the municipality must also have adopted and be enforcing MSRs.

72. Describe procedures for collecting monthly customer bills (include procedures for collection of delinquent accounts)

73. Is financing being requested for a **wastewater** project?
 Yes If yes, does the applicant have the required resolution/ordinance establishing a mandatory hookup policy?
 Yes. If yes, attach a copy of the resolution/ordinance.
 Attached
 No. If no, explain _____
 No
74. Required documentation for the project area for Preliminary EDAP Eligibility (31 TAC Chapter 363)
 Attached documentation of inadequacy of water and/or wastewater services.
 Attached documentation regarding the financial resources of the residential users in the EDAP area. Census data or documentation regarding median household income should be provided.
 Attached documentation demonstrating existence of a residence in the project area prior to **June 1, 2005**. This could include tax records of residence, dated aerial maps, or, other documentation demonstrating existence of a residence.
75. Has the Department of State Health Services issued a determination stating a public health nuisance exists in the project area?
 Yes If yes, attach a copy of the determination.
 Attached
 No If no determination exists, attach documentation demonstrating a public health nuisance exists in the project area. (*Photographs may be submitted, but they **must** be labeled with location and date when taken. If the soil types are mentioned in the project area as an issue, include soil profile maps*) *This documentation will be used by TWDB staff to request a determination from the Department of State Health Services*
 Attached
76. Is this project providing new service?
 Yes If yes, attach plats of the affected subdivisions.
 Attached
 No
77. Attach an EDAP Facility Engineering Plan/Scope of Services report that complies with the requirements of WRD-023A. <http://www.twdb.texas.gov/financial/instructions/index.asp>
 Attached

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part G: CWSRF/DWSRF Applicants Only NOT APPLICABLE

Only applicants applying for funding from the CWSRF and DWSRF Programs must complete this section.

Pursuant to Federal Funding Accountability and Transparency Act (FFATA) the applicant is required to obtain a DUNS number that will represent a universal identifier for all federal funding assistance. DUNS numbers can be obtained from Dun and Bradstreet at <http://fedgov.dnb.com/webform/>

78. Applicant's Data Universal Number System (DUNS) Number:
DUNS _____

Pursuant to Federal Funding Accountability and Transparency Act (FFATA) the applicant is required to register with System for Award Management (SAM) and maintain current registration at all times during which the Board loan agreement is active or under consideration by the Board. Register at: <https://sam.gov>.

79. The applicant has registered and will maintain current SAM registration at all times during which a federal subaward is active or under consideration by the Board.
 Yes
 No

80. Federal Awards information:

1. Did applicant receive over 80% of their revenue from Federal Awards last year?

Yes
 No

2. Did applicant receive over \$25 million in Federal Awards last year?

Yes
 No

3. Public does not have access to executive compensation information via SEC or IRS reports?

Yes
 No

81. If applicant checked **YES** to **ALL** three boxes in 3 above, applicant is required to disclose the name and compensation of the five most highly compensated officers.

Officer's Name	Officer's Compensation (\$)

82. Complete form WRD 213 (<http://www.twdb.texas.gov/financial/instructions/index.asp>) - Certification Regarding Lobbying

Attached Yes
 No
 N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

83. If applying for CWSRF Equivalency or DWSRF, **attach** the Certification Regarding Debarment, Suspension and Other Responsibility. SRF-404
(<http://www.twdb.texas.gov/financial/instructions/doc/SRF-404.pdf>)

Attached Yes
 No
 N/A

84. If applying for CWSRF Equivalency or DWSRF, **attach** the Assurances – Construction Programs. EPA-424D (<http://www.twdb.texas.gov/financial/doc/EPA-424D.pdf>)

Attached Yes
 No
 N/A

85. The applicant must comply with the Davis-Bacon Act regarding prevailing wage rates. The applicant acknowledges that they are aware of, and will abide by, the Davis-Bacon Act requirements.

Yes
 No

Further information on the Davis-Bacon requirement is available through the TWDB Guidance document, DB-0156 (<http://www.twdb.texas.gov/financial/instructions/index.asp>)

All project costs funded by the TWDB through CWSRF Equivalency or DWSRF must comply with the federal Disadvantaged Business Enterprise (DBE) program rules and requirements. The federal DBE program requires a good faith effort to contract with DBE's for all procurements including: professional and non-professional consulting services, equipment, supplies and construction to be funded by federal equivalency dollars. Guidance and forms are found at:

TWDB-0210 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0210.pdf>)

86. **At a minimum, you must complete and attach** the Applicant Affirmative Steps Certification and Goals. This form is required to obtain a financial assistance commitment.

TWDB-0215 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0215.pdf>)

Attached Yes
 No

87. If you have already solicited contractors, complete and attach the Affirmative Steps Solicitation Report. This form is required prior to loan closing and release of any funds; therefore, if this question is not applicable at this time, select N/A.

TWDB-216 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0216.pdf>)

Attached Yes
 No
 N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

88. If you have awarded contracts to contractors, complete and attach the Loan/Grant Participation Summary. This form must be submitted for review prior to loan closing and release of funds. This form is required prior to loan closing and release of any funds; therefore, if this question is not applicable at this time, select N/A.

TWDB-0373 (<http://www.twdb.texas.gov/financial/doc/TWDB-0373.pdf>)

Attached Yes
 No
 N/A

89. All Contractors that have been awarded will need to complete and attach the Prime Contractor Affirmative Steps Certification and Goals This form is required prior to loan closing and release of any funds; therefore, if this question is not applicable at this time, select N/A.

TWDB-217 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0217.pdf>)

Attached Yes
 No
 N/A

90. **All CWSRF applicants** must be a Designated Management Agency (DMA) for wastewater collection and treatment. Please complete and attach DMA resolutions. WRD-210 (<http://www.twdb.texas.gov/financial/doc/WRD-210.pdf>) is an example of this type of resolution.

Attached
 N/A

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part H: Documentation of "Green" Projects and Project Components **NOT APPLICABLE**
CWSRF and DWSRF Applicants Only

All SRF applicants must complete this section if green benefits are all or part of the project (more than an incidental benefit). Project is defined as the entire project or a stand-alone component of the project. This section is required so that the TWDB may determine whether the project qualifies as "green" pursuant to Environmental Protection Agency (EPA) Guidance.

A project (or project component) is "green" if the primary purpose qualifies under EPA Guidance as one of the following:

- a. Green Infrastructure,
- b. Water Efficiency-related,
- c. Energy Efficiency-related, or
- d. Environmentally Innovative.

You must use the Green Project Reserve guidance to complete this section. Current guidance may be found at: **Green Project Reserve: Guidance for determining project eligibility**
TWDB-0161 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0161.pdf>)

91. Does your project or a component of your project qualify as Green, per EPA guidance?
 Yes
 No

If Yes, Please complete the remainder of Section G.

92. Type of Green Project
 Water Efficiency Energy Efficiency Green Infrastructure Environmentally Innovative

93. The correct worksheets must be completed.
Green Project Reserve: CWSRF Green Project Worksheets
TWDB-0162 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0162.pdf>)
Attached Yes
 No
 N/A

- Green Project Reserve: DWSRF Green Project Worksheets**
TWDB-0163 (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0163.pdf>)
Attached Yes
 No
 N/A

TWDB will make the final determination whether your project (or project component) meets federal criteria as "green". You may be required to submit a **business case, utilizing the Green guidance**

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part I: Summary of attachments to application

Following is a list of the documents that may be necessary in order to process this application. While not all of the listed information below may be required for all projects, an applicant should review the application carefully because incomplete applications will not be processed until all of this information has been provided. In addition, please make sure your entity system name appears on every attachment. **Label each attachment with the number of the pertinent application section (i.e. "Part B5").**

Check list for your convenience

Part A

- No. 6
- No. 12

General Information

Draft or executed consulting contracts (engineering, financial advisor, bond counsel)
Existing security document for refinancing

Part B

- No. 17
- No. 18
- No. 19
- No. 20

Legal

Resolution (TWDB-0201A)
Application Affidavit (TWDB-0201)
Certificate of Secretary (TWDB-201B)
Water Supply Corporations

- Articles of Incorporation
- Certificate of incorporation from the Texas Secretary of State
- By-laws and any amendments
- Certificate of status from the Texas Secretary of State
- Certificate of account status from Texas Comptroller

- No. 21
- No. 22
- No. 23
- No. 24
- No. 25
- No. 26

Resolution/ordinance authorizing the issuance of parity debt
Certificate of Convenience & Necessity
Enforcement Actions
Affidavit of No Objection
Two copies of the Water Conservation Plan (TWDB-1968 and TWDB-1965)
Water use surveys

- No. 27

Water Loss Audit
<http://www.twdb.texas.gov/waterplanning/waterusesurvey/index.asp>
<http://www.twdb.texas.gov/conservation/resources/waterloss-resources.asp>

Part C

- No. 39
- No. 40
- No. 45
- No. 46
- No. 47
- No. 49
- No. 52

Financial

Assessed Values by Classifications
Direct and Overlapping Tax Table
Proforma for each year of debt outstanding
Five year comparative system operating statement.
Annual audit and management letter
Outstanding debt schedule
Service provider contracts

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part D

Project Information

- No. 54a Preliminary Engineering Feasibility Data (PEFD)
- No. 54b Engineering Feasibility Report
 - Water (TWDB-0555)
 - Wastewater (TWDB-0556)
- No. 54c Project Draw Schedule (TWDB-1202)
- No. 56 Project Map
- No. 57 Census Tract(s)
- No. 59 Current and future populations and projected water use or wastewater flows
- No. 60 Project Cost Estimate Budget (TWDB-1201)
- No. 61 Wastewater Project Information Form (WRD-253a)
Water Project Information Form (WRD-253d)
- No. 62 Texas Pollution Discharge Elimination System Permit
- No. 63 If applicant has property rights and permits
 - a. WRD-208A (Surface Water)
 - b. WRD-208B (Groundwater)
- No. 63c Additional Permits
- No. 64 Site certificate, evidencing land ownership for the project. (ED-101)
- No. 65 Categorical Exclusion (CE), Finding of No Significant Impact (FONSI), Record of Decision or any other supporting document
- No. 67 Social or environmental issues

Part E

State Water Implementation Fund for Texas

- No. 69 Multi-year/phased commitment schedule
- No. 71a Draft Bond Ordinance
- No. 71b Private Placement Memorandum

Part F

Economically Distressed Areas Program

- No. 73 Resolution/ordinance establishing a mandatory hookup policy
- No. 74 EDAP applicants
 - Inadequacy documentation
 - Financial resources documentation
 - Existence of residences prior to 06/01/2005
- No. 75 Public health nuisance
- No. 76 Plats
- No. 77 EDAP Planning Phase – Facility Engineering Plan/Scope of Services (WRD-023A)

Part G

CWSRF/DWSRF Applicants Only

- No. 82 Lobbying Activities (WRD-213)
- No. 83 Certification Regarding Debarment, Suspension and Other Responsibility Requirements. (SRF-404)
- No. 84 Assurances – Construction Programs (EPA-424D)
Disadvantaged Business Requirements Guidance (TWDB-0210)
- No. 86 Affirmative Steps Certification and Goals (TWDB-0215)
- No. 87 Affirmative Steps Solicitation Report (TWDB-216)
- No. 88 Loan/ Grant Participation Summary (TWDB-0373)
- No. 89 Prime Contractor Affirmative Steps Certification and Goals (TWDB-217)
- No. 90 Designated Management Agency (WRD-210)

Part H

Green Projects

- No. 93 Guidance (TWDB-0161)
CWSRF Green Project Worksheets (TWDB-0162)
DWSRF Green Project Worksheets (TWDB-0163)

Please label each attachment with the number of the pertinent application section (i.e. "Part D5")

Part J: Guidance and Forms

Part A

General Information

CWSRF – 31 TAC 375

DWSRF – 31 TAC 371

EDAP and SWIFT - 31 TAC 363

For more information visit, <http://www.twdb.texas.gov/about/rules/index.asp>.

Part D

Project Information

[State Programs - 31 TAC 363](#)

[Drinking Water State Revolving Fund - 31 TAC 371](#)

[Clean Water State Revolving Fund / Equivalency - 31 TAC 375](#)

[Clean Water State Revolving Fund / Non-Equivalency - 31 TAC 375](#)

Guidelines for Environmental Assessment, Clean Water Non-Equivalency (ED-001A)

Clean Water EID Instructions (SRF-099)

Guidelines for Environmental Assessment, State Participation, DFund, RWAf and WIF,
(ED-001B)

Guidelines for Environmental Assessment, EDAP (ED-001C)

Drinking Water EID Instructions (DW-001)

Part H

Green Projects and Project Components

Green Project Reserve: Guidance for determining project eligibility
(TWDB-0161)

**ATTACHMENTS –
PART A**

June 18, 2014

Board of Directors
Brazosport Water Authority
1251 FM 2004
Lake Jackson, Texas 77566

Re: *Engagement Letter*

Ladies and Gentlemen:

This letter, when accepted by you, will constitute our agreement to serve as bond counsel to the Brazosport Water Authority (“BWA”) in connection with the issuance, from time to time, of Bonds, Notes or other obligations (the “Bonds”).

We agree that our services as bond counsel will include the following:

- 1) Attendance at all meetings of the BWA as required or requested in connection with the planning and authorization of the Bonds, including consultation of federal income tax matters;
- 2) Attendance at all meetings as required or requested in connection with BWA’s Bonds, any election requirements related thereto, and all meetings and telephone conferences with staff;
- 3) Consultation with the BWA and BWA’s financial advisors regarding any application to the Texas Water Development Board, underwriters or other purchasers of BWA’s debt and preparation of all legal documents required therefor;
- 4) Preparation of any resolution of the BWA authorizing issuance of the Bonds, together with all other legal documents comprising the transcript of proceedings for authorization and issuance of the Bonds;
- 5) Preparation of and submission to the Attorney General of Texas of a transcript of proceedings for the Bonds to obtain the approval of the Attorney General and registration of the Bonds by the Comptroller of Public Accounts of Texas;

- 6) Preparation and filing of legal documents required under federal income tax law for the Bonds, and the preparation of and delivery to the BWA of a Letter of Instructions with respect to the federal income tax treatment of Bond proceeds;
- 7) Supervision of the printing of the Bonds and their delivery to the purchasers; and
- 8) If appropriate, the delivery at closing of our approving opinion as to the validity of the Bonds under Texas law and the exclusion of interest on the Bonds from gross income of the holders under federal income tax law.

For the services outlined above, our fee will be \$3.50 per \$1,000 of the principal amount of the Bonds actually sold and delivered and will be payable from the Bond proceeds. In addition, we will charge an additional \$10,000 for any bonds issued to the Texas Water Development Board. Our fee, therefore, is contingent on the actual sale and delivery of the Bonds.

In addition to our fees, the BWA shall be charged for ordinary and reasonable actual out-of-pocket costs and disbursements incurred on your behalf, without a mark-up, such as deposition and transcript costs, filing and court fees, witness fees, court reporter fees, and charges made by outside experts or consultants. We will not profit on disbursements incurred on your behalf. Disbursements shall not include charges we consider to be normal overhead such as administration, accounting work, secretarial work, word processing, library usage or local telephone expenses. All approved disbursements will be charged at our actual cost, without any charge for overhead or any premium. Set forth are specific (but not all inclusive) examples of our policy:

Duplicating: We will charge for necessary photocopying, printing or electronic scanning at a rate not exceeding twenty cents per page. Color impressions will be charged at a rate not exceeding one dollar per page. Where it would be less costly to use the services of an outside vendor for bulk copying, electronic scanning, etc. that technique will be used, unless specific concerns about speed, confidentiality, or reliability dictate the use of the AK's own facilities.

Telephone: We do not charge for local telephone calls. For domestic toll calls, we will charge \$0.07 per minute. International calls will be billed at our cost, without overhead adjustment.

Facsimile: We will not charge for local or in-coming transmissions. We will charge for necessary outgoing telecopies at a rate not exceeding one dollar per page. This amount includes all telephone line charges.

Local Messenger Services: We will charge only for actual charges billed to the Firm for deliveries that are necessary in the interest of dispatch and reliability.

Computer Legal Research: We understand that LEXIS®, WESTLAW®, etc. can be expensive, and should be used efficiently. Computer assisted research is of value to our client if it results in a reduction in the amount of time spent in research or if it is used for researching an

issue that cannot otherwise be researched economically. The reasonable and prudent use of LEXIS® or WESTLAW® to assist in research projects will be charged on the basis of our actual cost of conducting the research.

Other Disbursements: The Firm's general policy is to forward statements for third party vendors, e.g. court reporters, experts, copying services, which are over \$500.00, directly to the client. To the extent that efficiency and convenience dictate, such disbursements will be paid by the Firm on your behalf and included with other disbursements and expenses on the Firm's statement. Major anticipated disbursements shall be approved in advance by you.

Postage/Express and Overnight Delivery: Standard mail services shall be used whenever possible. Written correspondence and documents shall be planned and completed so as to avoid unnecessary use of express mail and delivery services at extra cost. Charges for certified registered, insured, other special handling or express mail shall be billed at the actual cost incurred.

Travel Time and Expenses: The client will reimburse domestic air travel charges at the available coach rate unless otherwise approved in advance. Business class, where available, shall be charged for foreign travel. Expenses for lodging, restaurants and other transportation shall be incurred in a reasonable and prudent manner. If travel time is devoted to working for one or more clients in addition to you, your statement shall reflect only that portion of travel time and expense attributable to your matter. In circumstances where use of a personal automobile is required, we will charge the applicable IRS rate per mile.

The services outlined above do not include such matters as services as disclosure counsel in connection with the Bonds, work on post-closing federal tax or disclosure issues, obtaining IRS rulings or clarifications of federal tax law, presentations to rating agencies or bond insurers, or "blue sky" or securities registration services. We will be pleased to provide legal services in connection with any matters not included in paragraphs 1 through 8 above, but we believe that such additional services, if requested by the BWA, should be performed on mutually agreeable terms, to be set forth in a separate letter of engagement.

June 18, 2014

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If this agreement meets with your approval, please take appropriate action to approve this agreement and return one executed copy to the undersigned.

Very truly yours,

/s/ Thomas Sage

FINANCIAL ADVISORY AGREEMENT

This Financial Advisory Agreement (the "Agreement") is made and entered into by and between Brazosport Water Authority, a Texas conservation and reclamation district formed under Article 16, Section 59 of the Texas Constitution (the "Issuer") and First Southwest Company, LLC ("FirstSouthwest") effective as of the date executed by the Issuer as set forth on the signature page hereof.

WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of FirstSouthwest to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereinafter referred to collectively as the "Debt Instruments") from time to time during the period in which this Agreement shall be effective; and

WHEREAS, FirstSouthwest is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and FirstSouthwest, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

SECTION I DESCRIPTION OF SERVICES

Upon the request of an authorized representative of the Issuer, FirstSouthwest agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to FirstSouthwest the compensation as provided in Section V hereof.

- A. Financial Planning. At the direction of Issuer, FirstSouthwest shall:
 - 1. Survey and Analysis. Conduct a survey of the financial resources of the Issuer to

determine the extent of its capacity to authorize, issue and service any Debt Instruments contemplated. This survey will include an analysis of any existing debt structure as compared with the existing and projected sources of revenues which may be pledged to secure payment of debt service and, where appropriate, will include a study of the trend of the assessed valuation, taxing power and present and future taxing requirements of the Issuer. In the event revenues of existing or projected facilities operated by the Issuer are to be pledged to repayment of the Debt Instruments then under consideration, the survey will take into account any outstanding indebtedness payable from the revenues thereof, additional revenues to be available from any proposed rate increases and additional revenues, as projected by consulting engineers employed by the Issuer, resulting from improvements to be financed by the Debt Instruments under consideration.

2. Future Financings. Consider and analyze future financing needs as projected by the Issuer's staff and consulting engineers or other experts, if any, employed by the Issuer.

3. Recommendations for Debt Instruments. On the basis of the information developed by the survey described above, and other information and experience available, submit to the Issuer recommendations regarding the Debt Instruments under consideration, including such elements as the date of issue, interest payment dates, schedule of principal maturities, options of prior payment, security provisions, and such other provisions as may be appropriate in order to make the issue attractive to investors while achieving the objectives of the Issuer. All recommendations will be consistent with the goal of designing the Debt Instruments to be sold on terms which are advantageous to the Issuer, including the lowest interest cost consistent with all other considerations.

4. Market Information. Advise the Issuer of our interpretation of current bond market conditions, other related forthcoming bond issues and general information, with economic data, which might normally be expected to influence interest rates or bidding conditions so that the date of sale of the Debt Instruments may be set at a favorable time.

5. Elections. In the event it is necessary to hold an election to authorize the Debt Instruments then under consideration, FirstSouthwest will assist in coordinating the assembly of such data as may be required for the preparation of necessary petitions, orders, resolutions, ordinances, notices and certificates in connection with the election, including assistance in the transmission of such data to a firm of bond attorneys ("Bond Counsel") retained by the Issuer.

B. Debt Management and Financial Implementation. At the direction of Issuer, FirstSouthwest shall:

1. Method of Sale. Evaluate the particular financing being contemplated, giving consideration to the complexity, market acceptance, rating, size and structure in order to make a recommendation as to an appropriate method of sale, and:

a. If the Debt Instruments are to be sold by an advertised competitive sale, FirstSouthwest will:

(1) Supervise the sale of the Debt Instruments;

(2) Disseminate information to prospective bidders, organize such informational meetings as may be necessary, and facilitate prospective bidders' efforts in making timely submission of proper bids;

(3) Assist the staff of the Issuer in coordinating the receipt of bids, the safekeeping of good faith checks and the tabulation and comparison of submitted bids; and

(4) Advise the Issuer regarding the best bid and provide advice regarding acceptance or rejection of the bids.

b. If the Debt Instruments are to be sold by negotiated sale, FirstSouthwest will:

(1) Recommend for Issuer's final approval and acceptance one or more investment banking firms as managers of an underwriting syndicate for the purpose of negotiating the purchase of the Debt Instruments.

(2) Cooperate with and assist any selected managing underwriter and their counsel in connection with their efforts to prepare any Official Statement or Offering Memorandum. FirstSouthwest will cooperate with and assist the underwriters in the preparation of a bond purchase contract, an underwriters agreement and other related documents. The costs incurred in such efforts, including the printing of the documents, will be paid in accordance with the terms of the Issuer's agreement with the underwriters, but shall not be or become an obligation of FirstSouthwest, except to the extent specifically provided otherwise in this Agreement or assumed in writing by FirstSouthwest.

(3) Assist the staff of the Issuer in the safekeeping of any good faith checks, to the extent there are any such, and provide a cost comparison, for both expenses and interest which are suggested by the underwriters, to the then current market.

(4) Advise the Issuer as to the fairness of the price offered by the underwriters.

2. Offering Documents. Coordinate the preparation of the notice of sale and bidding instructions, official statement, official bid form and such other documents as may be required and submit all such documents to the Issuer for examination, approval and certification. After such examination, approval and certification, FirstSouthwest shall provide the Issuer with a supply of all such documents sufficient to its needs and distribute by mail or, where appropriate, by electronic delivery, sets of the same to prospective purchasers of the Debt Instruments. Also, FirstSouthwest shall provide copies of the final Official Statement to the purchaser of the Debt Instruments in accordance with the Notice of Sale and Bidding Instructions.

3. Credit Ratings. Make recommendations to the Issuer as to the advisability of obtaining a credit rating, or ratings, for the Debt Instruments and, when directed by the Issuer, coordinate the preparation of such information as may be appropriate for submission to the rating agency, or agencies. In those cases where the advisability of personal presentation of information to the rating agency, or agencies, may be indicated, FirstSouthwest will arrange for such personal presentations, utilizing such composition of representatives from the Issuer as may be finally approved or directed by the Issuer.

4. Trustee, Paying Agent, Registrar. Upon request, counsel with the Issuer in the selection of a Trustee and/or Paying Agent/Registrar for the Debt Instruments, and assist in the negotiation of agreements pertinent to these services and the fees incident thereto.

5. Financial Publications. When appropriate, advise financial publications of the forthcoming sale of the Debt Instruments and provide them with all pertinent information.

6. Consultants. After consulting with and receiving directions from the Issuer, arrange for such reports and opinions of recognized independent consultants as may be appropriate for the successful marketing of the Debt Instruments.

7. Auditors. In the event formal verification by an independent auditor of any calculations

incident to the Debt Instruments is required, make arrangements for such services.

8. Issuer Meetings. Attend meetings of the governing body of the Issuer, its staff, representatives or committees as requested at all times when FirstSouthwest may be of assistance or service and the subject of financing is to be discussed.

9. Printing. To the extent authorized by the Issuer, coordinate all work incident to printing of the offering documents and the Debt Instruments.

10. Bond Counsel. Maintain liaison with Bond Counsel in the preparation of all legal documents pertaining to the authorization, sale and issuance of the Debt Instruments.

11. Changes in Laws. Provide to the Issuer copies of proposed or enacted changes in federal and state laws, rules and regulations having, or expected to have, a significant effect on the bond market of which FirstSouthwest becomes aware in the ordinary course of its business, it being understood that FirstSouthwest does not and may not act as an attorney for, or provide legal advice or services to, the Issuer.

12. Delivery of Debt Instruments. As soon as a bid for the Debt Instruments is accepted by the Issuer, coordinate the efforts of all concerned to the end that the Debt Instruments may be delivered and paid for as expeditiously as possible and assist the Issuer in the preparation or verification of final closing figures incident to the delivery of the Debt Instruments.

13. Debt Service Schedule; Authorizing Resolution. After the closing of the sale and delivery of the Debt Instruments, deliver to the Issuer a schedule of annual debt service requirements for the Debt Instruments and, in coordination with Bond Counsel, assure that the paying agent/registrar and/or trustee has been provided with a copy of the authorizing ordinance, order or resolution.

SECTION II OTHER AVAILABLE SERVICES

In addition to the services set forth and described in Section I herein above, FirstSouthwest agrees to make available to Issuer the following services, when so requested by the Issuer and subject to the written agreement by Issuer and FirstSouthwest regarding the compensation, if any, to be paid for such services, it being understood and agreed that the services set forth in this Section II shall require further agreement as to the compensation to be received by FirstSouthwest for such services:

1. Investment of Funds. From time to time, as an incident to the other services provided hereunder as financial advisor, FirstSouthwest may purchase such investments as may be directed and authorized by Issuer to be purchased, it being understood that FirstSouthwest will be compensated in the normal and customary manner for each such transaction. In any instance wherein FirstSouthwest may become entitled to receive fees or other compensation in any form from a third party with respect to these investment activities on behalf of Issuer, we will disclose to Issuer the nature and, to the extent such is known, the amount of any such compensation so that Issuer may consider the information in making its investment decision. It is understood and agreed that FirstSouthwest is a duly licensed broker/dealer and is affiliated with First Southwest Asset Management, Inc. (“FirstSouthwest Asset Management”), a duly registered investment advisor. Issuer may, from time to time, utilize the broker/dealer services of FirstSouthwest and/or the investment advisory services of FirstSouthwest Asset Management with respect to matters which do not involve or affect the financial advisory services referenced in this Agreement. The terms and conditions of the engagement of FirstSouthwest and/or FirstSouthwest Asset Management to provide such services shall be determined by mutual agreement at the time such services are requested.
2. Exercising Calls and Refunding. Provide advice and assistance with regard to exercising any call and/or refunding of any outstanding Debt Instruments.
3. Capital Improvements Programs. Provide advice and assistance in the development of any capital improvements programs of the Issuer.
4. Long-Range Planning. Provide advice and assistance in the development of other long-range financing plans of the Issuer.
5. Post-Sale Services. Subsequent to the sale and delivery of Debt Instruments, review the transaction and transaction documentation with legal counsel for the Issuer, Bond Counsel, auditors and other experts and consultants retained by the Issuer and assist in developing appropriate responses to legal processes, audit procedures, inquiries, internal reviews and similar matters.

SECTION III

TERM OF AGREEMENT

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section IV of this Agreement, shall remain in effect thereafter for a period of five (5) years from such date. Unless FirstSouthwest or Issuer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement will be automatically renewed

on the fifth anniversary of the date hereof for an additional one (1) year period and thereafter will be automatically renewed on each anniversary date for successive one (1) year periods.

SECTION IV TERMINATION

This Agreement may be terminated with or without cause by the Issuer or FirstSouthwest upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate, specifying in such notice the effective date of such termination. In the event of such termination, it is understood and agreed that only the amounts due FirstSouthwest for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

SECTION V COMPENSATION AND EXPENSE REIMBURSEMENT


The fees due to FirstSouthwest for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt Instruments during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between Issuer and FirstSouthwest, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which FirstSouthwest is entitled to reimbursement, shall become due and payable concurrently with the delivery of the Debt Instruments to the purchaser.

SECTION VI MISCELLANEOUS

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas.
2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and FirstSouthwest, their respective successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
3. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or

modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.

FIRST SOUTHWEST COMPANY, LLC

By:  _____
Joe Morrow
Senior Vice President

BRAZOSPORT WATER AUTHORITY

By: _____
Title: _____
Date: _____

ATTEST:

Secretary

APPENDIX A

The fees due FirstSouthwest will not exceed those contained in our customary fee schedule as listed below.

\$11,000	for the first	\$ 1,000,000	of bonds issued
plus \$ 4.00 per \$1,000	for the next	\$ 4,000,000	of bonds issued
plus \$ 2.00 per \$1,000	for the next	\$ 5,000,000	of bonds issued
plus \$ 1.00 per \$1,000	for the next	\$ 40,000,000	of bonds issued
plus \$.75 per \$1,000	thereafter		

The above charges shall be multiplied by 1.25 times for the completion of an application to a federal or state government agency or for the issuance of revenue bonds or refunding bonds, reflecting the additional services required.

The charges for ancillary services, including computer structuring and official statement printing, shall be levied only for those services which are reasonably necessary in completing the transaction and which are reasonable in amount, unless such charges were incurred at the specific direction of the Issuer.

The payment of charges for financial advisory services described in Section I of the foregoing Agreement shall be contingent upon the delivery of bonds and shall be due at the time that bonds are delivered. The payment of charges for services described in Section II of the foregoing Agreement shall be due and payable in accordance with the mutual agreement therefor between FirstSouthwest and Issuer.

The Issuer shall be responsible for the following expenses, if and when applicable, whether they are charged to the Issuer directly as expenses or charged to the Issuer by FirstSouthwest as reimbursable expenses:

- Bond counsel
- Bond printing
- Bond ratings
- Computer structuring
- Credit enhancement
- CPA fees for refunding
- Official statement preparation and printing
- Paying agent/registrar/trustee
- Travel expenses
- Underwriter and underwriters counsel
- Miscellaneous, including copy, delivery, and phone charges

The payment of reimbursable expenses that FirstSouthwest has assumed on behalf of the Issuer shall NOT be contingent upon the delivery of bonds and shall be due at the time that services are rendered and payable upon receipt of an invoice therefor submitted by FirstSouthwest.

**STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND ENGINEER**

THIS IS AN AGREEMENT made as of the ____ day of _____, 2015 between Brazosport Water Authority, a Texas Conservation and Reclamation District formed under Section 59, Article 16 of the Texas Constitution ("OWNER") and CDM Smith Inc. ("ENGINEER").

OWNER intends to design, bid and build a 6 MGD Brackish Groundwater Reverse Osmosis Water Treatment Facility and three Brackish Groundwater Wells, including the ancillary structural, architectural, electrical and instrumentation improvements on the existing plant site in Brazoria County, Texas (the "Project"). The OWNER intends to finance the design and construction using Texas Water Development Board SWIFT financing.

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance or furnishing of services by ENGINEER with respect to the Project and the payment for those services by OWNER as set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in Article 1 below. This Agreement will become effective on the date first above written.

ARTICLE 1 – SCOPE OF SERVICES

1.1 ENGINEER agrees to perform for OWNER services as described in Exhibit A (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

ARTICLE 2 – TIMES FOR RENDERING SERVICES

2.1 The specific time period for the performance of ENGINEER's Services are set forth in Exhibit A.

2.2 If the specific periods of time for rendering services or specific dates by which services are to be completed are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to adjustment by written agreement signed by both parties. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance and compensation for ENGINEER's services shall be adjusted by written agreement signed by both parties.

2.3 If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three (3) months through no fault of ENGINEER, ENGINEER shall be entitled to adjustment of rates and amounts of compensation provided for elsewhere in this Agreement by written agreement signed by both parties to reflect the reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised

ARTICLE 3 – OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER and shall bear all costs incident thereto:

3.1 Pay the ENGINEER in accordance with the terms of this Agreement.

3.2 OWNER designates General Manager Ronnie Woodruff as OWNER's representative

with respect to the services to be performed or furnished by ENGINEER under this Agreement. Said person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and make decisions with respect to ENGINEER's services for the Project.

- 3.3 Provide all criteria and full information as to OWNER's requirements for the Project, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and, as applicable to the Services, any other data relative to design or construction of the Project, all of which ENGINEER shall be entitled to rely upon.
- 3.5 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any defect or non conformance in ENGINEER's Services or in the work of any Contractor.
- 3.6 Bear all costs incident to compliance with the requirements of this Article 3.

ARTICLE 4 – ENGINEER'S RESPONSIBILITIES

ENGINEER shall do the following in the performance of this agreement:

- 4.1 Complete the Services set forth in Exhibit A.
- 4.2 Provide a Texas Pollutant Discharge Elimination System ("TPDES") permit application in accordance with Exhibit A and that complies with TCEQ rules and regulations.
- 4.3 Provide written notice and obtain written consent from OWNER for any material deviation from the written terms of this Agreement and the cost associated therewith before commencing said work.
- 4.4 In the event the TPDES permit application is rejected by the TCEQ due to no fault of the ENGINEER, ENGINEER agrees to perform any reasonable requirements by the TCEQ and/or OWNER in order to obtain approval of the TPDES permit application. Said requirements shall be reduced to a written agreement signed by both parties, prior to work commencing, wherein OWNER shall agree to pay ENGINEER for the reasonable costs for said work.
- 4.5 Within a reasonable time of request by Owner, ENGINEER agrees to produce information and documentation required by the TWDB regarding the design, construction and status of the Project.

ARTICLE 5 – PAYMENTS TO ENGINEER FOR SERVICES

5.5.1 Methods of Payment for Services of ENGINEER.

- 5.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement and as described in Exhibit A.
- 5.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. Invoices are due and payable within thirty (30) days of receipt.
- 5.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within as set forth herein, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said day unless such delay results from OWNER providing written notice questioning an invoice; and, in addition, ENGINEER may, after giving seven (7) days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

ARTICLE 6 – GENERAL CONDITIONS

6.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality.

6.2 Opinions of Probable Construction Cost

ENGINEER's opinions of probable Construction Cost, as applicable to the Services, provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, or when the Project will be constructed ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator.

6.3 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms thereof through no fault of the

terminating party. In the event of any termination, ENGINEER will be paid for all services rendered and reimbursable expenses incurred to the date of termination and, in addition, all reimbursable expenses directly attributable to termination.

6.4 Use of Documents

6.4.1 All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

6.4.2 OWNER may rely upon that data or information set forth on paper (also known as hard copies) that the OWNER receives from the ENGINEER by mail, hand delivery, or facsimile, are the items that the ENGINEER intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by the ENGINEER to the OWNER are furnished only for convenience, not reliance by the OWNER. Any conclusion or information obtained or derived from such electronic files will be at the OWNER's sole risk. In all cases, the original hard copy of the documents takes precedence over the electronic files.

6.4.3 Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the OWNER agrees that it will perform acceptance tests or procedures within 60 days, after which the OWNER shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the ENGINEER.

6.4.4 When transferring documents in electronic media format, the ENGINEER makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the ENGINEER.

6.4.5 OWNER may make and retain copies of documents for information and reference in connection with use on the Project by OWNER. ENGINEER grants OWNER a license to use the Documents on the Project, extensions of the Project, and other projects of OWNER, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants; (3) such limited license to OWNER shall not create any rights in third parties.

6.4.6 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an amount to be agreed upon by OWNER and ENGINEER in writing.

6.5 Controlling Law

This Agreement is to be governed by the law and exclusive venue of this agreement shall be Brazoria County, Texas as this agreement is fully performable in Texas.

6.6 Mutual Waiver of Consequential Damages

Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.

6.7 Successors and Assigns

6.7.1. OWNER and ENGINEER are hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.8.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

6.8.2. Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

6.8.3. Unless expressly provided otherwise in this Agreement:

6.8.3.1. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Contractor, Subcontractor, Supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.

6.8.3.2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

6.9 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

6.10 Severability

Any provision or part of the Agreement held to be void or unenforceable under any Texas or federal law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or

part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.11 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, written notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon written agreement of the parties, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

6.12 Environmental Site Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern, as defined in Article 7. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern as defined in Article 7, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an adjustment in its compensation or in the time of completion as agreed to by OWNER in writing, or both; or (2) terminating this Agreement for cause on 30 days' notice.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, so defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

6.13 Insurance

ENGINEER shall procure and maintain the insurance set forth in this section from from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. ENGINEER shall list OWNER as an additional insured on ENGINEER's general liability insurance policy. ENGINEER shall also require any all of its contractors to

purchase and maintain insurance in accordance with this section and naming ENGINEER as an additional insured.

The ENGINEER's limits of liability for insurance required by by this section shall include the following policy coverages and the following limits:

- (i) Workmen's Compensation Statutory
- (ii) Comprehensive General Liability, including Contractual Liability \$1,000,000 combined single limit, each occurrence; deductible not to exceed \$25,000
- (iii) Comprehensive Automobile Liability \$1,000,000 combined single limit, each occurrence
- (iv) Professional Liability Amount equal to estimated cost of Project but not less than \$3,000,000 per claim
- (v) Umbrella Liability \$5,000,000 which follows form and responds to the underlying terms and conditions of the Comprehensive General Liability and Comprehensive Auto Liability

6.14 Indemnification

TO THE FULLEST EXTENT PERMITTED BY LAW, ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, COSTS, LOSSES, JUDGMENTS, DEMANDS, AND DAMAGES RELATED TO THE DEATH OR BODILY INJURY OF AN EMPLOYEE OR SUBCONTRACTOR OF BWA CAUSED IN WHOLE OR IN PART BY THE NEGLIGENT ACTS OR OMISSIONS OF ENGINEER OR ENGINEER'S EMPLOYEES, AGENTS, INDEPENDENT CONTRACTORS AND WHETHER CAUSED BY THE JOINT OR CONTRIBUTORY NEGLIGENT ACTS OR OMISSIONS OF OWNER, OWNER'S OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS AND AGENTS IN THE PERFORMANCE AND FURNISHING OF ENGINEER'S SERVICES UNDER THIS AGREEMENT.

6.15 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or

veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

6.16 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

6.17 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.18 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

6.19 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

6.20 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "*defective*" will be used in this Agreement as defined in the Standard General Conditions.

6.21 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

6.22 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction subject to Section 6.5 above. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

ARTICLE 7 – DEFINITIONS

7.1 Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

7.1.1 Services

The services to be performed for or furnished to OWNER by ENGINEER described in this Agreement.

7.1.2 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed herein.

7.1.3 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq, (“CERCLA”); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation

and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

7.1.4 Construction Cost

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs. This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

7.1.5 Documents

As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.

7.1.6 Contractor

The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.

7.1.7 ENGINEER's Subcontractor.

A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.

7.1.8 Reimbursable Expenses.

The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit A.

7.1.9 Resident Project Representative - •

The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project

Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").

7.1.10 Standard General Conditions - •

The Standard General Conditions of the Construction Contract (No.) of the Engineers Joint Contract Documents Committee ("EJCDC"), but only to the extent those conditions do not conflict with this agreement. The final form of the EJCDC will be agreed to by the OWNER and ENGINEER.

7.1.11 Total Project Costs-•

The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

Exhibit A - Engineer's Services, Owner's Responsibilities, Time for Performance, Method of Payment, and Special Provisions.

This Agreement (consisting of Pages 1 to 9 inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

8.2 Independent Contractor

ENGINEER acknowledges that relationship between OWNER and ENGINEER is that of independent contractor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

ENGINEER:

By: Ronnie Woodruff
Title: General Manager
Date: _____
Address for giving notices:
1251 FM 2004
Lake Jackson, TX 77566

With Copy to:
Mauro & Cordoba, PLLC
Attn: Jason M. Cordoba
208 Parking Way
Lake Jackson, Texas 77566

By: Allen D. Woelke
Title: Vice President
Date: _____
Address for giving notices:
12357-A Riata Trace Parkway
Suite 210
Austin, TX 78727

**EXHIBIT A
TO AGREEMENT BETWEEN
OWNER AND ENGINEER
(STUDY, REPORT, DESIGN AND CONSTRUCTION SERVICES)**

This is an exhibit attached to and made a part of the Agreement dated _____, 2015, between Brazosport Water Authority (OWNER) and CDM Smith Inc. (ENGINEER) for professional services.

1.1 ENGINEER'S SERVICES

1.2 Study and Report Phase

Upon this Agreement becoming effective, ENGINEER shall::

- 1.2.1 Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.
- 1.2.2 Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services which are not part of ENGINEER's Services, and assist OWNER in obtaining such data and services.
- 1.2.3 Identify and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project specified by ENGINEER with whom consultation is to be undertaken in connection with the Project.
- 1.2.4 Evaluate various alternate solutions available to OWNER as described herein, and, after consultation with OWNER, recommend to OWNER those solutions which in ENGINEER's judgment best meet OWNER's requirements for the Project.
- 1.2.5 Prepare a report (the "Report") which will contain the statement of OWNER's requirements for the Project and, as appropriate, will contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the considerations involved and those alternate solutions available to OWNER which ENGINEER recommends. This Report will be accompanied by ENGINEER's opinion of Total Project Costs for each solution which is so recommended for the Project, including the following: opinion of probable Construction Cost, allowances for contingencies including costs of design professional and related services based on information furnished by OWNER for allowances and other items and services included within the definition of Total Project Costs.
- 1.2.6 Furnish the Report to and review it with OWNER.
- 1.2.7 Revise the Report in response to OWNER's comments, as appropriate, and furnish final copies of the Report in the number set forth herein.
- 1.2.8 Submit the Report within the stipulated period indicated herein.

- 1.2.9 ENGINEER's Services under the Study and Report Phase will be considered complete at the earlier of (1) the date when the Report has been accepted by OWNER or (2) thirty days after the date when such Report is delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to review the portions of the Project specified by ENGINEER, if such approval is to be obtained during the Study and Report Phase.

The duties and responsibilities of ENGINEER during the Study and Report Phase as set forth in this paragraph 1.1 are amended and supplemented as follows:

Well and Pilot Plant Acquisition

1. Conceptual evaluation of water quality, quantity and operational requirements to determine groundwater withdrawal and well design criteria
2. Prepare permit application and submit to the Brazoria County Groundwater Conservation District for construction of a well that will be used for the pilot testing and will be converted into a production well (pilot/production well)
3. Prepare plans and specifications for the pilot/production well
4. Submit plans to TCEQ for conditional approval of pilot/production well
5. Assist the Owner in obtaining bids for the pilot/production well
6. Review submittals and provide other general services during construction of the pilot/production well
7. Submit results of well testing to TCEQ to obtain approval of production well
8. Prepare plans and specifications for RO pilot plant
9. Assist the Owner in obtaining bids for the RO pilot plant

Pilot Testing

1. Conduct 60 to 90 days of pilot testing on pilot/production well and RO pilot plant
2. Evaluate results of pilot testing and incorporate into the design of the RO WTP
3. Prepare preliminary engineering design for 6 mgd/expandable to 10 mgd Brackish Groundwater RO Water Treatment Plant
 - a. Preliminary engineering report
 - b. Geotechnical investigation of proposed RO facility, wells and pipelines
 - c. Surveying
 - d. 30% plans and specifications
 - e. Permit applications for regulatory agencies
 - f. Meetings and agency coordination
 - g. Distribution System modeling showing impacts of new RO system
4. Prepare opinion of probable construction cost for the RO WTP

1.3 Design Phase

- 1.3.1 Prepare for incorporation in the Contract Documents final Drawings showing the scope, extent and character of the work to be performed and furnished by Contractor and Specifications (which will be prepared, where appropriate, in general conformance with the standards of the Construction Specifications Institute).
- 1.3.2 Provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to review or approve the final design of the Project, and assist OWNER in consultations with appropriate authorities.

- 1.3.3 Advise OWNER of any adjustments to the opinion of probable Construction Cost and any adjustments to Total Project Costs known to ENGINEER as a result of changes in scope, extent or character or design requirements of the Project.
- 1.3.4 Prepare for review and approval by OWNER, its legal counsel and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.
- 1.3.5 Furnish five copies of the above documents, Drawings and Specifications to and review them with OWNER.
- 1.3.6 ENGINEER's services under the Design Phase will be considered complete at the earlier of (1) the date when the submittals have been accepted by OWNER or (2) thirty days after the date when such submittals are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER, if such approval is to be obtained during the Design Phase.

The duties and responsibilities of ENGINEER during the Design Phase are amended and supplemented as follows:

- 1. Prepare permit application and submit to the Brazoria County Groundwater Conservation District for construction of two production wells
- 2. Prepare plans and specifications for
 - a. Two production wells
 - b. Three Brackish Groundwater well pump systems
 - c. Piping from the brackish groundwater wells to the RO WTP
 - d. 6 mgd/expandable to 10 mgd Brackish Groundwater Reverse Osmosis Water Treatment Facility.
 - i. 60, 90 and 100% plan submittals
 - ii. Design review meetings
 - iii. OPCC costs
 - e. Appurtenant electrical, instrumentation, HVAC, plumbing and civil site improvements
- 3. Submit plans for the water treatment improvements to TWDB/TCEQ for review and approval
- 4. Submit plans for the two production wells to TCEQ for conditional approval
- 5. Assist the Owner in obtaining bids for construction of the wells and the brackish groundwater RO WTP
 - a. Prepared Final OPCC
 - b. Prepare Addenda
 - c. Evaluate bidder qualifications

1.4 Bidding or Negotiating Phase

After acceptance by OWNER of the ENGINEER's Drawings, Specifications and other Design Phase documentation (including the most recent opinion of probable Construction Cost), and upon written authorization to proceed, ENGINEER shall:

- 1.4.1 Assist OWNER in advertising for and obtaining bids or negotiating proposals for the contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process deposits for Bidding Documents.

- 1.4.2 Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
- 1.4.3 Consult with OWNER as to the acceptability of subcontractors, suppliers and other persons and entities proposed by Contractor for those portions of the work as to which such acceptability is required by the Bidding Documents.
- 1.4.4 Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.
- 1.4.5 The Bidding or Negotiating Phase will terminate and the Services to be performed or furnished thereunder will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

The duties and responsibilities of ENGINEER during the Bidding or Negotiating Phase as set forth in this paragraph 1.3 are amended and supplemented as follows:

ENGINEER will prepare a letter recommending award of the Contract.

ENGINEER will prepare a letter notifying the contractor of the award of the Contract.

ENGINEER will assist the OWNER in preparation of the executed construction contracts and will coordinate with the TWDB for award of the Contract.

ENGINEER will coordinate with the TWDB regarding the notice to proceed and will prepare a notice to proceed letter notifying the contractor that they may proceed with the Contract and establishing the completion dates of the work.

1.5 Construction Phase
During the Construction Phase:

1.5.1 General Administration of Construction Contract.
ENGINEER shall consult with and advise OWNER and act as OWNER's representative as provided in the Standard General Conditions. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said Standard General Conditions shall not be modified, except to the extent provided herein or in a writing signed by both parties. All of OWNER's instructions to Contractor will be issued through ENGINEER who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said Standard General Conditions except as otherwise provided in writing.

1.5.2 Visits to Site and Observation of Construction.
In connection with observations of the work of Contractor while in progress:

1.5.2.1 ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work. In addition, ENGINEER shall provide the services of a Resident Project Representative at the site to assist ENGINEER and to provide more continuous observations of such work. The furnishing of such Resident Project Representative services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this paragraph 1.4. Such visits and observations by ENGINEER and the Resident

Project Representative are not intended to be exhaustive or to extend to every aspect of the work in progress, or to involve detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling and similar methods of general observation of the work based on ENGINEER's exercise of professional judgment as assisted by the Resident Project Representative. Based on information obtained during such visits and such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep OWNER informed of the progress of the work. The responsibilities of ENGINEER contained in this paragraph are expressly subject to the limitations set forth in paragraph 1.4.2.2 and other express or general limitations in this Agreement and elsewhere.

1.5.2.2 The purpose of ENGINEER's visits to and representation by the Resident Project Representative at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

1.5.2.3 Duties, Responsibilities and Authority of the Resident Project Representative are set forth in Exhibit B.

1.5.3 Defective Work.

During such visits and on the basis of such observations, ENGINEER shall have authority to disapprove of or reject Contractor's work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

1.5.4 Clarifications and Interpretations; Field Orders.

ENGINEER shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

1.5.5 Change Orders and Work Change Directives.

ENGINEER shall recommend Change Orders and Work Change Directives to OWNER as appropriate, and shall prepare Change Orders and Work Change Directives as required.

- 1.5.6 Shop Drawings
ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.
- 1.5.7 Substitutes
ENGINEER shall evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor. However, services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the construction contract in evaluating and determining the acceptability of a substitute which is appropriate for the Project or an excessive number of substitutes will only be performed pursuant to an amendment to this Agreement for additional compensation.
- 1.5.8 Inspections and Tests.
ENGINEER may require special inspections or tests of the work, and shall receive and review all certificates of inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
- 1.5.9 Disagreements between OWNER and Contractor
ENGINEER shall render the initial decisions on all claims of OWNER and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- 1.5.10 Applications for Payment.
Based on ENGINEER's on-site observations as an experienced and qualified design professional and on review of Applications for Payment and the accompanying data and schedules:
- 1.5.10.1 ENGINEER shall determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, the work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph 1.4.10.1 are expressly subject to the limitations

set forth in paragraph 1.4.10.2 and other express or general limitations in this Agreement and elsewhere.

1.5.10.2 By recommending any payment ENGINEER shall not thereby be deemed to have represented that on-site observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER's recommendation of any payment (including final payment) will impose on ENGINEER responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any liens, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

1.5.11 Contractor's Completion Documents.

ENGINEER shall receive, review and transmit to OWNER with written comments maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of

insurance required by the Contract Documents, certificates of inspection, tests and approvals, and marked-up record documents (including Shop Drawings, Samples and other data approved as provided under paragraph 1.4.6 and marked-up record Drawings) which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. ENGINEER's review of such documents will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

1.5.12 Substantial Completion

Following notice from Contractor that Contractor considers the entire work ready for its intended use, ENGINEER and OWNER, accompanied by Contractor, shall conduct an inspection to determine if the work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.

1.5.13 Final Notice of Acceptability of the Work.

ENGINEER shall conduct a final inspection to determine if the completed work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall indicate that the work is acceptable (subject to the provisions of paragraph 1.4.10.2) to the best of ENGINEER's knowledge, information and belief and based on the extent of the services performed and furnished by ENGINEER under this Agreement.

1.5.14 Limitation of Responsibilities.

ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the work. ENGINEER shall not be responsible for Contractor's failure to perform or furnish the work in accordance with the Contract Documents.

1.4.15. Duration of Construction Phase.

The Construction Phase will commence with the execution of the construction contract for the Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment.

The duties and responsibilities of ENGINEER during the Construction Phase as set forth in this paragraph 1.4 are amended and supplemented as follows:

1. Review submittals and provide other general services during construction of the production wells and the brackish groundwater RO WTP
2. Submit results of well testing to TCEQ to obtain approval of production wells
3. Assist Owner in startup and commissioning of the brackish groundwater production wells and brackish groundwater RO WTP
 - a. Develop Facility Operating Plan and standard operating procedures
 - b. Compile vendor O&M information in Electronic O&M manual
 - c. Training
 - d. 30 day Operation Optimization
4. Project Management

2.1 OWNER'S RESPONSIBILITIES

2.2 Furnish to ENGINEER, as requested by ENGINEER for performance of Services as required by the Contract Documents, the following:

- 2.2.1 Data prepared by or services of others, including without limitation explorations and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site, or hydrographic surveys;

- 2.2.2 The services of an independent testing laboratory to perform all inspections, tests and approvals of samples, materials and equipment;
- 2.2.3 Appropriate professional interpretation of all of the foregoing;
- 2.2.4 Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the site and adjacent areas;
- 2.2.5 Field surveys for design purposes and property, boundary, easement, right-of-way, topographic and utility surveys or data, including relevant reference points;
- 2.2.6 Property descriptions;
- 2.2.7 Zoning, deed and other land use restrictions; and
- 2.2.8 Other special data or consultations not covered in Article 2.

OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Agreement.

- 2.3 Provide, as required by the Contract Documents, engineering surveys and staking to enable Contractor to proceed with the layout of the work, and other special field surveys.
- 2.4 Provide access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
- 2.5 Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.
- 2.6 Provide approvals and permits from all governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER and such approvals and consents from others as may be necessary for completion of such portions of the Project.
- 2.7 Provide, as may be required for the Project:
 - 2.7.1 Accounting, bond and financial advisory, independent cost estimating and insurance counseling services;
 - 2.7.2 Such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project, including any that may be raised by Contractor; and
 - 2.7.3 Such auditing services as OWNER may require to ascertain how or for what purpose Contractor has used the moneys paid on account of the Contract Price.
- 2.8 Provide such inspection or monitoring services by an individual or entity other than ENGINEER as OWNER may desire to verify:
 - 2.8.1 That Contractor is complying with any law, rule, regulation, ordinance, code or order applicable

to Contractor's performing and furnishing the work; or

- 2.8.2 That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

ENGINEER does not undertake in this Agreement to perform the services referred to in 2.7.1 and 2.7.2 above. The identity of any individual or entity employed to perform such services and the scope of such services will be disclosed to ENGINEER.

- 2.9 Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, Construction Management, Cost Estimating, Project Peer Review, Value Engineering, and Constructability Review. If OWNER designates a person or entity other than, or in addition to, ENGINEER to represent OWNER at the site, OWNER shall define and set forth in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin, the duties, responsibilities and limitations of authority of such other party and the relation thereof to the duties, responsibilities and authority of ENGINEER.
- 2.10 Prior to the commencement of the Construction Phase, notify ENGINEER of any variations in the language of the Notice of Acceptability of Work, or of any notice or certification other than such Notice that ENGINEER will be requested to provide to OWNER or third parties in connection with the financing or completion of the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification and OWNER shall authorize such Special Services as are necessary to enable ENGINEER to provide the notice or certification requested under this paragraph.
- 2.11 If more than one prime contract is to be awarded for work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime contractors, and define and set forth the duties, responsibilities and limitations of authority of such person or entity and the relation thereof to the duties, responsibilities and authority of ENGINEER in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin.
- 2.12 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 2.1, 2.2 and 2.4 through 2.11, inclusive) and other costs so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.
- 2.13 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and Substantial Completion and final payment inspections.
- 2.14 Provide labor and safety equipment to open and protect manholes and/or to operate valves and hydrants as required by the ENGINEER.
- 2.15 Bear all costs incident to compliance with the requirements of the OWNER's Responsibilities.

3.0 TIME PERIOD FOR PERFORMANCE

The time periods for the performance of ENGINEER's services as set forth in Article 2 of said Agreement are as follows:

Study and Report Phase	180 calendar days
Design Phase	270 calendar days
Bidding Phase	90 calendar days
Construction Phase	500 calendar days

4.0 METHOD OF PAYMENT

The method of payment for Services rendered by ENGINEER shall be as set forth below:

In a total sum amount not to exceed \$_____. The ENGINEER will invoice the OWNER monthly based on the percent complete in each phase as itemized below.

- Study and Report Phase
- Design Phase
- Bidding Phase
- Construction Phase

5.0 SPECIAL PROVISIONS

OWNER has established the following special provisions and/or other considerations or requirements in respect of the Assignment:

**ATTACHMENTS –
PART B**

RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

THE STATE OF TEXAS §
COUNTY OF BRAZORIA §
BRAZOSPORT WATER AUTHORITY §

WHEREAS, the Brazosport Water Authority (the "Authority") has determined it is necessary and feasible to secure additional sources of water to supply treated water to service the inhabitants of the Authority's customers and future customers;

WHEREAS, the Authority deems it necessary to apply to the Texas Water Development Board for financial assistance; and

WHEREAS, in accordance with the rules and regulations of the Texas Water Development Board, the Board of Directors is required to adopt a resolution requesting financial assistance from the Texas Water Development Board, which resolution shall accompany such application;

WHEREAS, it is hereby officially found and determined that public notice of the time, place, and purpose of said meeting was given, all as required by Texas Government Code, Chapter 551.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRAZOSPORT WATER AUTHORITY:

1. An application is hereby approved and authorized to be filed with the Texas Water Development Board seeking multiyear financial assistance in an amount not to exceed \$28,300,000, in one or more installments, to provide for the costs of the design, construction and equipment of a brackish groundwater reverse osmosis treatment plant, wells and collection lines.

2. That Authority General Manager Ronald Woodruff is hereby designated the authorized representative of the Authority for the purpose of furnishing such information and executing such documents as may be required in connection with the preparing and filing of such application for financial assistance and with complying with the rules of the Texas Water Development Board.

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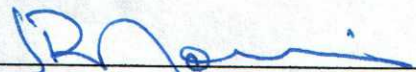
PASSED AND ADOPTED this 26th day of May, 2015.

BRAZOSPORT WATER AUTHORITY



President, Board of Directors

ATTEST



Secretary, Board of Directors

APPLICATION AFFIDAVIT

**THE STATE OF TEXAS
COUNTY OF BRAZORIA
BRAZOSPORT WATER AUTHORITY**

§
§
§

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared Ronald Woodruff as the Authorized Representative of the Brazosport Water Authority (the "Authority"), who being by me duly sworn, upon oath says that:

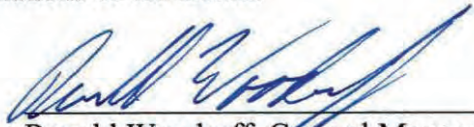
1. the decision by the Authority to request financial assistance from the Texas Water Development Board ("Board") was made in a public meeting held in accordance with the Open Meetings Act (Government Code, §551.001, et seq.) and after providing all such notice as required by such Act as is applicable to the Authority;

2. the information submitted in the application is true and correct according to my best knowledge and belief;

3. the Authority has no pending, threatened, or outstanding judgments, orders, fines, penalties, taxes, assessment or other enforcement or compliance issue of any kind or nature by the Environmental Protection Agency, Texas Commission on Environmental Quality, Texas Comptroller, Texas Secretary of State, or any other federal, state or local government, except for the following (if no such outstanding compliance issues, write in "none"): none.

4. the Authority warrants compliance with the representations made in the application in the event that the Board provides the financial assistance; and


5. the Authority will comply with all applicable federal laws, rules, and regulations as well as the laws of this state and the rules and regulations of the Board.



Ronald Woodruff, General Manager

SUBSCRIBED AND SWORN TO BEFORE ME this 19th day of May, 2014.

[Notary Seal] 



Notary Public
My Commission expires: July 10, 2016

CERTIFICATE FOR RESOLUTION

STATE OF TEXAS §
COUNTY OF BRAZORIA §
BRAZOSPORT WATER AUTHORITY §

I, the undersigned, Secretary of the Brazosport Water Authority (the "Authority"), hereby certify as follows:

1. That on the 10th day of April, 2014, a special meeting of the Board of Directors of the Authority was held at the regular meeting place thereof within the Authority; the duly constituted members of the Board of Directors being as follows:

Juan Longoria, III	President
Jessie Knight	Vice President
Joe Damian	Secretary
Ellis Feiner	Director
Johnny Ray Norris	Director
Stoney Burke	Director
Carl Morrison	Director

and all of such persons were present except the following: Joe Damian, thus constituting a quorum. Among other business considered at said meeting, the attached resolution entitled:

"RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD; AUTHORIZING THE FILING OF AN APPLICATION FOR ASSISTANCE; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH"

(the "Resolution") was duly introduced and submitted to the Board of Directors for passage and adoption. It was then duly moved and seconded that the Resolution be adopted; and, after due discussion, such motion, carrying with it the adoption of the Resolution, prevailed and carried by the following vote:

AYES: 6 NAYS: 0 ABSTENTIONS: 0

2. That the attached resolution is a true and correct copy of the original on file in the official records of the Brazosport Water Authority; the duly qualified and acting members of the Brazosport Water Authority on the date of the aforesaid meeting are those persons shown above and, according to the records of my office, advance notice of the time, place and purpose of said meeting was given to each member of the Board of Directors; and that said meeting, and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the above entitled resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551 of the Texas Government Code.

IN WITNESS WHEREOF, I have hereunto signed my name officially and affixed the seal of said Authority, this the 10th day of April, 2014.

BRAZOSPORT WATER AUTHORITY


President, Board of Directors

(SEAL)

RESOLUTION AUTHORIZING THE ISSUANCE OF BRAZOSPORT WATER AUTHORITY WATER SUPPLY SYSTEM REVENUE REFUNDING BONDS, SERIES 2013; MAKING PROVISION FOR THE PAYMENT OF THE INTEREST THEREON AND THE PRINCIPAL THEREOF; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Board of Directors of the Brazosport Water Authority (the "Authority") has heretofore issued its Water Supply System Revenue and Refunding Bonds, Series 2003 (the "Refunded Bonds"); and

WHEREAS, the Authority desires to refund the Refunded Bonds in advance of their maturities; and

WHEREAS, Chapter 1207, Texas Government Code, authorizes the Authority to issue refunding bonds for the purpose of refunding the Refunded Bonds in advance of their maturities, and to accomplish such refunding by depositing directly with a paying agent for the Refunded Bonds (or other qualified escrow agent), the proceeds of such refunding bonds, together with other available funds, in an amount sufficient to provide for the payment or redemption of the Refunded Bonds, and provides that such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Bonds; and

WHEREAS, the Authority desires to authorize the execution of an escrow agreement and provide for the deposit of proceeds of the refunding bonds herein authorized, together with other funds, to pay the Refunded Bonds; and

WHEREAS, upon the issuance of the refunding bonds herein authorized and the deposit of funds referred to above, the Refunded Bonds shall no longer be regarded as being outstanding, except for the purpose of being paid pursuant to such deposit, and the pledges, liens, trusts and all other covenants, provisions, terms and conditions of the resolution authorizing the issuance of the Refunded Bonds shall be, with respect to the Refunded Bonds, discharged, terminated and defeased; NOW THEREFORE

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRAZOSPORT WATER AUTHORITY:

ARTICLE I
STATUTORY AUTHORITY, RECITALS AND FINDINGS

SECTION 1.01 CREATION OF AUTHORITY. Pursuant to the provisions of Section 59 of Article XVI, as amended, of the Texas Constitution, the Brazosport Water Authority (the "Authority") was created by 1985 Tex. Laws, Reg. Sess., Ch. 449 at 3063, as a conservation and reclamation district, a body politic and corporate and a governmental agency of the State of Texas, and the creation thereof was duly and lawfully confirmed at an election held for such purposes on September 14, 1985, as required by law.

The Authority is authorized to conserve, store, transport, treat and purify, distribute, sell, and deliver treated surface water to customers situated within or without the Authority and to

acquire all properties and facilities necessary or useful for such purposes, and for any and all of such purposes to enter into contracts with Persons and corporations, both public and private, and political subdivisions of the State for such periods of time and on such terms and conditions as its Board of Directors may deem desirable.

SECTION 1.02 AUTHORIZATION. The Bonds shall be issued in fully registered form in the aggregate principle amount of \$7,205,000 for the purpose of refunding the Refunded Bonds, under it in strict conformity with the Constitution and Laws of the State of Texas, particularly Chapter 1207, Texas Government Code, and paying the costs of issuing the Bonds.

SECTION 1.03 FINDINGS. It is hereby found and determined that the matters and facts set out in the preamble to this Resolution are true and correct.

It is hereby found and determined that the refunding contemplated in this Resolution will benefit the Authority by providing a present value savings in the debt service payable by the Authority, that such benefit is sufficient consideration for the refunding of the Refunded Bonds, and that the issuance of the refunding bonds is in the best interests of the Authority.

ARTICLE II DEFINITIONS AND INTERPRETATIONS

SECTION 2.01 DEFINITIONS. Unless otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 2.01 shall have the respective meanings specified for all purposes of this Resolution (except Article Five) and any resolution amendatory or supplemental hereto:

“Act” Chapter 1207, Texas Government Code.

“Additional Parity Bonds” The additional parity revenue bonds which the Authority expressly reserves the right to issue in Section 15.01 of this Resolution.

“Annual Principal and Interest Requirements” As of any particular time of determination, the aggregate amount of principal and interest scheduled to come due during the remainder of the then current Fiscal Year and any future Fiscal Year on the Parity Bonds then Outstanding, but excluding for any such Fiscal Year funded interest on the Parity Bonds or funded principal of the Parity Bonds deposited in the Debt Service Fund and available during such Fiscal Year and excluding capitalized interest, if any, deposited into the Debt Service Fund pursuant to a resolution authorizing Parity Bonds. Annual Principal and Interest Requirements shall be calculated on the assumption that no Bonds Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of scheduled principal maturities or scheduled mandatory redemption of such Bonds.

“Authority” Brazosport Water Authority and any other public agency succeeding to the powers, rights, privileges and functions of such Authority.

“Authorized Investments” Any obligation, bond or security authorized by Texas law as an authorized investment for the Authority.

“Blanket Issuer Letter of Representations” The Blanket Issuer Letter of Representations between the Authority, the Registrar and DTC.

“Board” The Board of Directors of the Authority.

“Bond Purchase Agreement” The agreement between the Authority and the Underwriter described in Section 8.01 of this Resolution.

“Bond Register” The Bond Register for the Parity Bonds as described in Section 3.08.

“Bonds” Any bond or all bonds, as the case may be, of the issue of \$7,205,000 Brazosport Water Authority Water Supply System Revenue Refunding Bonds, Series 2013, dated July 1, 2013, authorized, issued, and authenticated pursuant to this Resolution including any bonds issued in lieu of or in exchange therefor pursuant to the terms of this Resolution.

“Business Day” Any day which is not a Saturday, Sunday, a day on which banking institutions in Dallas, Texas, are authorized by law or executive order to close, or a legal holiday.

“Certified Public Accountant” Any certified public accountant or certified public accountants or accounting corporation of recognized experience and qualifications selected by the Authority.

“Code” The Internal Revenue Code of 1986, as amended.

“Debt Service Fund” The Brazosport Water Authority Water Supply System Refunding Bonds Debt Service Fund created and established in Section 7.01 of this Resolution.

“DTC” The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” Brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions.

“Escrow Agent” The Bank of New York Mellon Trust Company, N.A.

“Fiscal Year” The twelve-month fiscal year period of the Authority, which is currently the twelve-month period beginning October 1st but which may be changed from time to time.

“Funds” Those certain special Funds created under Section 7.01 of this Resolution.

“Initial Bond” The Initial Bond authorized by Article III of this Resolution.

“Interest Payment Date” The date on which interest on Bonds is due and payable and which shall be each March 1 and September 1, commencing March 1, 2014, while any Bonds are Outstanding.

“MSRB” The Municipal Securities Rulemaking Board.

"Net Revenues" The Revenues of the System available after deducting the Operation and Maintenance Expenses from Revenues.

"Operation and Maintenance Expenses" All actual operation and maintenance expenses of the System incurred by the Authority in any particular Fiscal Year or period to which the term is applicable or charges made therefor during that Fiscal Year or period, but only if such charges are made in conformity with generally accepted accounting principles, including amounts reasonably required under generally accepted accounting principles to be set aside in reserves for items of Operation and Maintenance Expenses the payment of which is not then immediately required.

Operation and Maintenance Expenses include, but are not limited to, expenses for ordinary repairs, renewals and replacements of the System, salaries and wages, employees' health, hospitalization, pension and retirement expenses, fees for services, materials and supplies, rents, administrative and general expenses, insurance expenses, legal, engineering, accounting and financial advisory fees and expenses and costs of other consulting and technical services, taxes, payments in lieu of taxes and other governmental charges, payments on take-or-pay contracts and any other current expenses or obligations required to be paid by the Authority under the provisions of this Resolution or by law, all to the extent properly allocable to the System, and the fees and expenses of the Paying Agent/Registrar.

Operation and Maintenance Expenses do not include any items included in the Project Costs for any Project or depreciation or obsolescence charges or reserves therefor, amortization of intangibles or other bookkeeping entries of a similar nature, principal amortization or interest expense, costs or charges made for capital additions, replacements, betterments, extensions or improvements to or retirements from the System which under generally accepted accounting principles are not properly chargeable to the capital account or the reserve for depreciation, and do not include losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties of the System or such property items, including taxes, which are capitalized pursuant to the then existing accounting practice of the Authority.

"Outstanding" With respect to any Parity Bonds as of the date of determination, all Bonds theretofore issued and delivered except:

- (1) Bonds theretofore cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;
- (2) Bonds for whose payment money in the necessary amount has been theretofore deposited with the Paying Agent/Registrar for the benefit of the Owners of such Bonds;
- (3) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered pursuant to this Resolution;
- (4) Bonds alleged to have been mutilated, destroyed, lost, or stolen which have been paid; or

(5) Bonds for the payment of the principal of and interest on which money or government securities or both are held in the manner and with the effect specified in Article Ten.

"Parity Bonds" The Bonds and each series of Additional Parity Bonds previously or from time to time hereafter issued, but only to the extent such Parity Bonds remain outstanding within the meaning of this Resolution.

"Participating Customers" The Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson and Richwood, and the Village of Oyster Creek, their successors or assigns so long as such entities are parties to Water Supply Contracts and any other Participating Customers hereafter designated by the Authority pursuant to Section 3.4 of the Water Supply Contracts.

"Paying Agent/Registrar" Initially, The Bank of New York Mellon Trust Company, N.A., or its successor, which is authorized to pay the principal of, interest on and any redemption price of the Parity Bonds to the Owners on behalf of the Authority and to maintain the Bond Register.

"Person" Any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other entity, however organized.

"Rate Stabilization Fund" The Brazosport Water Authority Rate Stabilization Fund created and established in Section 7.01 of this Resolution.

"Record Date" The term "Record Date" for the interest payable on any Interest Payment Date shall mean the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

"Refunded Bonds" The Authority's Water Supply System Revenue Refunding Bonds, Series 2003, maturing on September 1 in each of the years 2014 through 2018, both inclusive.

"Registered Owner or Owner" The Person in whose name any Bond is registered in the Bond Register.

"Renewal and Replacement Fund" The Brazosport Water Authority Renewal and Replacement Fund created and established in Section 7.01 of this Resolution.

"Report" The report of Grant Thornton LLP, verifying the accuracy of certain mathematical computations relating to the Bonds and the Refunded Bonds.

"Reserve Fund" The Brazosport Water Authority Water Supply System Reserve Fund created and established in Section 7.01 of this Resolution.

"Reserve Requirement" The lesser of (i) 10% of the "issue price" of the Parity Bonds, (ii) 1.25 times the average Annual Principal and Interest Requirements of the Parity Bonds, or (iii) the maximum Annual Principal and Interest Requirements of the Parity Bonds.

“Resolution” This bond resolution and all amendments thereof and supplements thereto.

“Revenue Fund” The Brazosport Water Authority Water Supply System Revenue Fund created and established in Section 7.01 of this Resolution.

“Revenues” All revenues, income, receipts, proceeds and other moneys received by or on behalf of the Authority from or in connection with its ownership, leasing or operation of the System, including all interest or other income derived from the investment of moneys held pursuant to this Resolution and paid or required to be paid into the Revenue Fund, all amounts transferred from the Rate Stabilization Fund to the Revenue Fund, and all revenues received from Participating Customers and other customers of the Authority’s System, all as determined in accordance with generally accepted accounting principles, but, notwithstanding the aforesaid, excluding (i) contractual payments or revenues received as debt service or capital cost components and pledged by the Authority for the security or payment of any series of Special Project Bonds, (ii) the proceeds of any bonds issued or other authorized borrowings by the Authority and income therefrom unless otherwise provided therein with respect to the income; (iii) insurance proceeds other than loss of use or business interruption insurance proceeds; (iv) sales and other taxes collected by the Authority on behalf of the State or any other taxing entity; (v) any amounts deposited or deposited with respect to any program or plan relating to benefits for employees of the Authority and any interest or other investment income derived from such amounts; (vi) deposits subject to refund until the deposits have become the property of the Authority, (vii) any income, fees, charges, receipts, profits or other moneys derived by the Authority from its ownership or operation of any separate utility system of the nature referred to in the last sentence of the definition of System, or (viii) any gifts, grants, donations or other moneys received by the Authority from any state or federal agency or other person if the gifts, grants, donations or other moneys are the subject of any limitation or reservation (a) imposed by the donor or grantor or (b) imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds in a manner inconsistent with the application of Revenues provided for in this Resolution, and any such grants, donations or other moneys shall be held and applied in the manner required by such limitation or reservation.

“Special Payment Date” The term “Special Payment Date” shall mean the scheduled payment date of any past due interest, which shall occur fifteen (15) days after the Special Record Date.

“Special Project Bonds” The term “Special Project Bonds” is defined in Section 16.03.

“Special Record Date” In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment will be established by the Paying Agent/Registrar.

“Stated Maturity” With respect to any Bond or any installment of interest thereon, means the date specified in such Bond as the fixed date on which the principal of such Bond or an installment of interest thereon is due and payable as set forth in this Resolution and such Bond.

“System” The existing water treatment, conveyance, storage and distribution facilities of the Authority, and, any subsequent Projects, and all other properties and assets, real, personal,

tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights, permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply and distribution system, including the agreement between the Authority and Dow Chemical U.S.A., dated as of the first day of January, 1987, as amended from time to time, and any other agreement with a supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing. System shall not include any project, properties or facilities, or any interest therein, which the Authority shall hereafter acquire and which the Authority shall designate as a special project and not a part of the System in connection with the issuance of Special Project Bonds.

"Underwriter" Raymond James & Associates, Inc.

"Water Supply Contracts" The Water Supply Contracts, dated February 20, 1987, entered into by and between the Authority and each Participating Customer, as amended from time to time, and any other water supply contract between the Authority and a Participating Customer as defined in Section 3.4 of the Water Supply Contracts.

SECTION 2.02 INTERPRETATIONS. The titles and headings of the articles and sections of this Resolution have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof this Resolution and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Parity Bonds and the validity of the pledge of Net Revenues in payment thereof.

ARTICLE III AUTHORIZATION, DESCRIPTION AND EXECUTION OF BONDS

SECTION 3.01 AMOUNT, NAME, PURPOSE AND AUTHORIZATION. The bonds of the Authority to be known and designated as Brazosport Water Authority Water Supply System Revenue Refunding Bonds, Series 2013, shall be issued in the aggregate principal amount of \$7,205,000 for the purposes of (i) refunding the Refunded Bonds; and (ii) paying expenses in connection with the issuance of the Bonds, as authorized by the Constitution and laws of the State of Texas, including in particular the Act.

SECTION 3.02 FORM, ISSUE DATE, AND DENOMINATIONS. The Bonds shall be serial bonds, issued and delivered in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be dated July 1, 2013

SECTION 3.03 INTEREST RATES, NUMBERS AND MATURITIES. The Bonds shall be initially issued bearing the numbers, in the principal amounts and bearing interest at the

rates set forth in the following schedule, and may be transferred and exchanged as set out in this Resolution. The Bonds shall mature on September 1 in each of the years and in the amounts set out in such schedule. Bonds delivered on transfer of or in exchange for other Bonds shall be numbered (with appropriate prefix) in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or integral multiples thereof and shall mature on the same date and bear interest at the same rate as the Bond or Bonds in lieu of which they are delivered.

<u>Bond Number</u>	<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
RCI-1	2014	\$ 1,330,000	3.000%	0.500%
RCI-2	2015	1,405,000	3.000	0.950
RCI-3	2016	1,445,000	3.000	1.250
RCI-4	2017	1,490,000	3.000	1.700
RCI-5	2018	1,535,000	3.000	2.000

SECTION 3.04 SALE; BOND PURCHASE AGREEMENT. The Bonds shall be sold and delivered to the Underwriters at a price of \$7,489,445.29 in the Bond Purchase Agreement to be approved by the President or the Secretary of the Board of Directors. The President or Secretary of the Board of Directors is hereby authorized and directed to execute the Bond Purchase Agreement on behalf of the Authority, and the President or Secretary of the Board of Directors and all other officers, agents and representatives of the Authority are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

SECTION 3.05 USE OF PROCEEDS. Proceeds from the sale of the Bonds shall, promptly upon receipt by the District, be applied as follows:

(i) Accrued interest in the amount of \$13,209.17 and, net premium on the Bonds in the amount of \$4,445.29, shall be deposited into the Debt Service Fund.

(ii) Net premium on the Bonds in the amount of \$95,000.00 shall be used to pay the costs of issuance.

(iii) Net premium on the Bonds in the amount of \$39,417.11 shall be used to pay the underwriters' discount.

(iv) Bond proceeds in the amount of \$7,205,000, plus \$185,000 in net premium plus, other available funds of the Authority in the amount of \$177,350.00 shall be applied to establish an escrow fund to refund the Refunded Bonds, as more fully provided in Section 8.04 of the Resolution, and, to the extent not otherwise provided for, to pay all expenses arising in connection with the issuance of the Bonds, the establishment of such escrow fund and the refunding of the Refunded Bonds. Any proceeds of the Bonds remaining after making all such deposits and payments shall be deposited into the Debt Service Fund.

SECTION 3.06 INTEREST PAYMENT DATES AND MANNER OF PAYMENT.

(a) Interest on the Bonds shall accrue from July 1, 2013, the dated date of the Bonds, and shall be payable on each March 1 and September 1 until maturity or prior redemption, with the first interest payment on March 1, 2014. The amount of interest on the Bonds payable on each Interest Payment Date shall be computed on the basis of a 360-day year of twelve 30-day months.

(b) The interest which is payable on any Bond on any Interest Payment Date shall be paid to the Person in whose name that Bond is registered at the close of business on the Record Date for such interest. All payments of interest on the Bonds shall be paid by check or draft mailed by the Paying Agent/Registrar to the Registered Owner, first-class postage prepaid, at the address of such Registered Owner as it appears in the Bond Register. Each Bond delivered under this Resolution upon transfer or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond, and each such Bond shall bear interest (as specified in this Section) so neither gain nor loss in interest shall result from such transfer, exchange or substitution.

SECTION 3.07 PAYMENT OF PRINCIPAL. The principal of each of the Bonds shall be payable without exchange or collection charges to the Owners at the maturity or prior redemption thereof in any coin or currency of the United States of America which on the respective dates of payment is legal tender for the payment of debts due the United States of America, upon the presentation and surrender of each such Bond for cancellation at the principal payment office of the Paying Agent/Registrar in Dallas, Texas.

SECTION 3.08 SPECIAL PAYMENT DATE. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a Special Record Date will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Authority. Notice of the Special Record Date and of the Special Payment Date shall be sent at least five business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered holder of a Bond appearing on the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 3.09 EXECUTION OF PARITY BONDS. The Bonds shall be signed by the President of the Board of Directors and attested by the Secretary, by their manual or facsimile signatures. Any such facsimile signatures shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers. If any officer of the Authority whose facsimile signature appears on the Bonds shall cease to be such officer before the registration of such Bonds or before the delivery of such Bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office. Minor typographical and other minor errors in the text of any Bond or minor defects in the facsimile signature of any Bond shall not affect the validity or enforceability of such Bond, if same has been duly registered by the Paying Agent/Registrar.

SECTION 3.10 REGISTRATION AND EXCHANGE OF INITIAL BOND.

(a) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Resolution unless and until there appears thereon the Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Certificate described above, the Initial Bond shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by her duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the Authority, and has been registered by the Comptroller.

(b) On the Closing Date, the Initial Bond, being a single bond representing the entire principal amount of the Bonds, payable in stated installments to the Underwriter or its designee, executed by manual or facsimile signature of the President and Secretary of the Authority, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, shall be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Registrar shall cancel the Initial Bond and deliver definitive bonds to DTC.

SECTION 3.11 REGISTRATION, TRANSFER AND EXCHANGE OF BONDS.

The Paying Agent/Registrar shall keep at its principal payment office in Dallas, Texas, a register ("Bond Register") in which, subject to such reasonable regulations as it may prescribe, it shall provide for the exchange of Bonds in accordance with the terms of this Resolution. At any time after the date of initial delivery, any Bond may be transferred or exchanged upon its presentment and surrender at the principal corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or the Registered Owner's authorized representative. Mutilated, lost, destroyed or wrongfully taken Bonds to be replaced must be presented to the Paying Agent/Registrar in accordance with Section 3.09 of this Resolution. The Paying Agent/Registrar shall register and deliver new Bonds, in accordance with the provisions of this Section, within three Business Days after receipt, in proper form, of the request to transfer, exchange or replace the Bonds. No service charge shall be made for any exchange, but the Registered Owner may be required to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the exchange of such Bond.

All Bonds duly registered and delivered in accordance with this Section shall be in denominations of \$5,000 or any multiple thereof, and shall have the same maturity date and interest rate and a like aggregate principal amount to the Bond being transferred or exchanged. Each such Bond shall be entitled to the benefits and security of this Resolution to the same extent as the Bond or Bonds in lieu of which such Bond is delivered. No Bond will be valid or obligatory unless there appears on such Bond a certificate of registration substantially in the form provided in Section 5.01(b) manually executed by an authorized representative of the Paying Agent/Registrar; such certificate shall be conclusive evidence that such Bond has been duly registered and delivered.

SECTION 3.12 MUTILATED, LOST, DESTROYED OR WRONGFULLY TAKEN BONDS. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, or in the event that any Bond is lost, apparently destroyed or wrongfully taken, the Authority, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authorize the Paying Agent/Registrar to register, authenticate and deliver to the Registered Owner a Parity Bond in accordance with Section 3.11 of this Resolution, provided that the Registered Owner shall have:

- (a) furnished to the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (b) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the Authority;
- (c) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and
- (d) met any other reasonable requirements of the Authority and the Paying Agent/Registrar.

In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Authority, in its discretion, may order the Paying Agent/Registrar to pay such Bond, instead of issuing a new Bond.

If, after the delivery of such new Bond, a bona fide purchaser of the original Bond for which such new Bond was issued, presents for payment such original Bond, the Authority and the Paying Agent/Registrar shall be entitled to recover upon such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Authority or the Paying Agent/Registrar in connection therewith.

SECTION 3.13 CANCELLATION OF BONDS. All Bonds paid or prepaid in accordance with this or any subsequent Resolution, and all Bonds for which new Bonds are issued pursuant to the terms of this Resolution, shall be cancelled and destroyed by the Paying Agent/Registrar. The Paying Agent/Registrar shall furnish a certificate of their destruction to the Authority.

SECTION 3.14 PAYING AGENT/REGISTRAR MAY OWN BONDS. The Paying Agent/Registrar, in its individual or any other capacity, may become the Owner or pledgee of the Bonds with the same rights it would have if it were not Paying Agent/Registrar.

SECTION 3.15 SUCCESSOR PAYING AGENT/REGISTRAR. The Authority covenants that at all times while any Bonds are outstanding it will provide a national or state banking association or trust company organized and doing business under the laws of the United States or any State, to act as Paying Agent/Registrar for the Bonds. The Authority reserves the right to change the Paying Agent/Registrar for the Bonds on not less than 60 days written notice

to the Paying Agent/Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Owner, by United States mail, first class postage prepaid, of any change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

Notwithstanding any other provision of this Resolution, no removal, resignation or termination of the Paying Agent/Registrar shall take effect until a successor has been appointed.

SECTION 3.16 OWNERSHIP OF BONDS. The Authority, the Paying Agent/Registrar and any other Person may treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond for the purpose of making and receiving payment of the principal thereof and interest thereon and for all other purposes, whether or not such Bond is overdue, and neither the Authority nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to any Registered Owner in accordance with this Resolution shall be valid and effective and shall discharge the liability of the Authority and the Paying Agent/Registrar to the extent of the sums paid.

SECTION 3.17 NOTICES TO OWNERS: WAIVER. Wherever this Resolution provides for notice to Owners of Bonds of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Owner of such Bonds, at the address of such Owner as it appears in the Bond Register. In any case where notice to Owners of Bonds is given by mail, neither the failure to mail such notice to any particular Owner of Bonds, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Resolution provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 3.18 BOOK-ENTRY SYSTEM.

(a) The Initial Bond shall be registered in the name of Raymond James & Associates, Inc. except as provided in Section 3.17 hereof, all other Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Authority and the Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Bonds, except as provided in this Resolution. Without limiting the immediately preceding sentence, the Authority and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person,

other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Resolution to the contrary, the Authority and the Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal of and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register as provided in this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payments of principal, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the Authority to make payments of amounts due pursuant to this Resolution. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of this Resolution with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

SECTION 3.19 SUCCESSOR SECURITIES DEPOSITORY: TRANSFER OUTSIDE BOOK-ENTRY ONLY SYSTEM. In the event that the Authority in its sole discretion, determines that the beneficial owners of the Bonds should be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the Authority shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts, as identified by DTC. In such event, the Bonds shall not longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

SECTION 3.20 PAYMENTS TO CEDE & CO. Notwithstanding any other provision of this Resolution to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Blanket Issuer Letter of Representations.

ARTICLE IV
REDEMPTION OF BONDS BEFORE MATURITY

SECTION 4.01 **REDEMPTION.** The Bonds are not subject to optional redemption prior to maturity.

ARTICLE V
FORM OF BONDS

SECTION 5.01 **FORMS.** The form of the Bonds, including the form of Registration Certificate of the Comptroller, which shall be attached or affixed to the Bonds initially issued, the form of the Registrar's Authentication Certificate, the form of Assignment, and the form of Statement of Insurance, shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Resolution.

(a) **Form of Bond.**

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF BRAZORIA

REGISTERED NUMBER

REGISTERED DENOMINATION
\$

BRAZOSPORT WATER AUTHORITY
WATER SUPPLY SYSTEM REVENUE REFUNDING BOND
SERIES 2013

INTEREST RATE: MATURITY DATE: ISSUE DATE: CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

Brazosport Water Authority, a conservation and reclamation district, a body politic and corporate, and a governmental agency of the State of Texas created under the Constitution and laws of the State of Texas, situated in Brazoria County, Texas (the "Authority") for value received, promises to pay, but solely from certain revenues as herein provided, to the Registered Owner identified above or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this Bond at the principal payment office of The Bank of New York Mellon Trust Company, N.A., in Dallas, Texas (the "Paying Agent/Registrar"), the principal amount identified above, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, and to pay, solely from such revenues, interest thereon at the rate shown above, calculated on the basis of a 360 day year of twelve 30 day months, from the later of July 1, 2013, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this bond is payable by check or draft on March 1, 2014, and each March 1 and September 1 thereafter until maturity or earlier redemption, mailed to the registered owner of record as of the

fifteenth day of the month prior to each interest payment date (the "Record Date") as shown on the books of registration kept by the Paying Agent/Registrar.

THIS BOND IS ONE OF A DULY AUTHORIZED ISSUE OF BONDS, aggregating \$7,205,000 (the "Bonds") issued for the purposes of providing funds to (i) refund the Authority's Water Supply System Revenue Bonds, Series 2003 (the "Refunded Bonds"), and (ii) pay costs of issuance of the Bonds, all as authorized by the Constitution and laws of the State of Texas, particularly Chapter 1207, Texas Government Code, and pursuant to the resolution of the Board of Directors of the Authority approved on June 25, 2013 (the "Resolution"). Each Bond of this series is in all respects on a parity with and of equal dignity with every other Bond of this series. Reference is made to the Resolution for a full statement of the rights, duties and obligations of the Authority and the rights of the Owners of the Bonds, to all the provisions of which the Owner hereof, by the acceptance of this Bond, assents. The Resolution contains provisions permitting the Authority to issue additional bonds on a parity with the Bonds of this series, subject to the conditions contained in the Resolution. The Resolution also permits the Authority to amend the Resolution, or any resolution supplemental thereto, and thereby alter the rights and obligations of the Authority and of the Owners of the Bonds under certain conditions. Reference is made to the Resolution for complete details concerning amendment of the Resolution and the manner and procedure therefor.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS A PART, are payable as to principal and interest solely from, and secured by a lien on the Net Revenues (as defined in the Resolution) of the Authority's water supply system.

THE AUTHORITY EXPRESSLY RESERVES THE RIGHT to issue additional bonds and refunding bonds which will be on a parity with and of equal dignity in all respects with the Bonds of this issue, but such bonds may be issued only pursuant to and subject to the restrictions, terms and limitations contained in the Resolution, to which reference is hereby made for complete details. The Authority also reserves the right to issue subordinate lien bonds and to issue special project bonds payable from certain revenues received from the use, ownership, operation or lease of the properties, works and facilities constructed or otherwise acquired with the proceeds of special project bonds, but which shall not be payable from the Net Revenues pledged to the payment of the series of which this Bond is a part. Reference is made to the Resolution for a full statement of the reserved right to issue special project bonds.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS A PART shall not be deemed to be a debt of the Authority or a pledge of its faith and credit, but shall be payable, as to both principal and interest, solely from, and secured solely by a pledge of and lien on the Net Revenues of the Authority's System (as defined in the Resolution). The Owner hereof shall never have the right to demand payment of this Bond from any revenues, receipts or assets of the Authority except the Net Revenues. The Authority has no taxing power.

THIS BOND MAY BE TRANSFERRED OR EXCHANGED upon presentation and surrender (or by due execution of the provisions for assignment hereon) at the principal payment office of the Paying Agent/Registrar, in Dallas, Texas, subject to the terms and conditions of the Resolution. Upon any such transfer, assignment or exchange, the Paying Agent/Registrar shall

ARTICLE IV
REDEMPTION OF BONDS BEFORE MATURITY

SECTION 4.01 REDEMPTION. [Insert redemption language if applicable.]

ARTICLE V
FORM OF BONDS

SECTION 5.01 FORMS. The form of the Bonds, including the form of Registration Certificate of the Comptroller, which shall be attached or affixed to the Bonds initially issued, the form of the Registrar's Authentication Certificate, the form of Assignment, and the form of Statement of Insurance, shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Resolution.

(a) Form of Bond.

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF BRAZORIA

REGISTERED NUMBER

REGISTERED DENOMINATION

\$ _____

BRAZOSPORT WATER AUTHORITY
WATER SUPPLY SYSTEM REVENUE REFUNDING BOND
SERIES 2013

INTEREST RATE: MATURITY DATE: ISSUE DATE: CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT: DOLLARS

Brazosport Water Authority, a conservation and reclamation district, a body politic and corporate, and a governmental agency of the State of Texas created under the Constitution and laws of the State of Texas, situated in Brazoria County, Texas (the "Authority") for value received, promises to pay, but solely from certain revenues as herein provided, to the Registered Owner identified above or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this Bond at the principal payment office of The Bank of New York Mellon Trust Company, N.A., in Dallas, Texas (the "Paying Agent/Registrar"), the principal amount identified above, in any coin or currency of the United States of America which on the date of payment is legal tender for the payment of debts due the United States of America, and to pay, solely from such revenues, interest thereon at the rate shown above, calculated on the basis of a 360 day year of twelve 30 day months, from the later of July 1, 2013, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this bond is payable by check or draft on _____, and each _____ and _____ thereafter until maturity or earlier redemption, mailed to the registered owner of record as of the

fifteenth day of the month prior to each interest payment date (the "Record Date") as shown on the books of registration kept by the Paying Agent/Registrar.

THIS BOND IS ONE OF A DULY AUTHORIZED ISSUE OF BONDS, aggregating \$ _____ (the "Bonds") issued for the purposes of providing funds to (i) refund the Authority's Water Supply System Revenue Bonds, Series 2003 (the "Refunded Bonds"), and (ii) pay costs of issuance of the Bonds, all as authorized by the Constitution and laws of the State of Texas, particularly Chapter 1207, Texas Government Code, and pursuant to the resolution of the Board of Directors of the Authority approved on June 25, 2013 (the "Resolution"). Each Bond of this series is in all respects on a parity with and of equal dignity with every other Bond of this series. Reference is made to the Resolution for a full statement of the rights, duties and obligations of the Authority and the rights of the Owners of the Bonds, to all the provisions of which the Owner hereof, by the acceptance of this Bond, assents. The Resolution contains provisions permitting the Authority to issue additional bonds on a parity with the Bonds of this series, subject to the conditions contained in the Resolution. The Resolution also permits the Authority to amend the Resolution, or any resolution supplemental thereto, and thereby alter the rights and obligations of the Authority and of the Owners of the Bonds under certain conditions. Reference is made to the Resolution for complete details concerning amendment of the Resolution and the manner and procedure therefor.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS A PART, are payable as to principal and interest solely from, and secured by a lien on the Net Revenues (as defined in the Resolution) of the Authority's water supply system.

THE AUTHORITY EXPRESSLY RESERVES THE RIGHT to issue additional bonds and refunding bonds which will be on a parity with and of equal dignity in all respects with the Bonds of this issue, but such bonds may be issued only pursuant to and subject to the restrictions, terms and limitations contained in the Resolution, to which reference is hereby made for complete details. The Authority also reserves the right to issue subordinate lien bonds and to issue special project bonds payable from certain revenues received from the use, ownership, operation or lease of the properties, works and facilities constructed or otherwise acquired with the proceeds of special project bonds, but which shall not be payable from the Net Revenues pledged to the payment of the series of which this Bond is a part. Reference is made to the Resolution for a full statement of the reserved right to issue special project bonds.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS APART shall not be deemed to be a debt of the Authority or a pledge of its faith and credit, but shall be payable, as to both principal and interest, solely from, and secured solely by a pledge of and lien on the Net Revenues of the Authority's System (as defined in the Resolution). The Owner hereof shall never have the right to demand payment of this Bond from any revenues, receipts or assets of the Authority except the Net Revenues. The Authority has no taxing power.

THIS BOND MAY BE TRANSFERRED OR EXCHANGED upon presentation and surrender (or by due execution of the provisions for assignment hereon) at the principal payment office of the Paying Agent/Registrar, in Dallas, Texas, subject to the terms and conditions of the Resolution. Upon any such transfer, assignment or exchange, the Paying Agent/Registrar shall

register and deliver one or more exchange bonds, for a like aggregate principal amount in integral multiples of \$5,000.

IT IS HEREBY CERTIFIED, RECITED, AND REPRESENTED that the issuance of this Bond and the series of Bonds of which it is a part is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Bond and said issue of Bonds to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that the principal of and interest on this Bond and the series of Bonds of which it is a part, are payable from and secured by a lien on and pledge of the Net Revenues of the Authority's System; and that the issuance of this series of Bonds does not exceed any Constitutional or statutory limitation.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Resolution unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed by the manual or facsimile signatures of the President and Secretary of the Board of Directors of the Authority

(AUTHENTICATION
CERTIFICATE)

BRAZOSPORT WATER AUTHORITY

President

Secretary

(b) Form of Registration Certificate.

COMPTROLLER'S REGISTRATION CERTIFICATE:

REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(c) Form of Authentication Certificate.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Bond has been delivered pursuant to the Bond Resolution described in the text of this Bond.

The Bank of New York Mellon Trust Company, N.A.
As Paying Agent/Registrar

By: _____
Authorized Signature
Date of Authentication _____

(d) Form of Assignment.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto _____

(Please print or type name, address, and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer said Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Signature Guaranteed:

Registered Owner

NOTICE: The signature above must
Correspond to the name of the registered
Owner as shown on the face of this Bond in
every particular, without any alteration,
enlargement or change whatsoever.

NOTICE: Signature must be guaranteed
by a member firm of the New York Stock
Exchange or a commercial bank or trust
Company.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (c) of this
Section, except for the following alterations:

(i) immediately under the name of the Current Interest Bond, the headings
“INTEREST RATE” and “MATURITY DATE” shall both be completed with the words
“As Shown Below” and the word “CUSIP” deleted;

(ii) in the first paragraph of the Current Interest Bond, the words “on the
maturity date specified above” and “at the rate shown above” shall be deleted and the
following shall be inserted at the end of the first sentence “..., with such principal to be
paid in installments on the dates, in each of the years and in the principal amounts
identified in the following schedule and with such installments bearing interest at the per
annum rates set forth in the following schedule:”

(iii) the initial bond shall be numbered ICI-1.

SECTION 5.02 CUSIP NUMBERS. CUSIP numbers may be printed on the Bonds,
but errors or omissions in the printing of such numbers shall have no effect in the validity of the
Bonds.

ARTICLE VI
SECURITY FOR THE PARITY BONDS

SECTION 6.01 PLEDGE. The Authority hereby irrevocably pledges the Net Revenues to the payment of the principal of, premium, if any, and interest on the Parity Bonds, which pledge shall constitute a first lien on the Net Revenues hereby pledged. Such pledge shall be immediately effective without any further act, and such lien shall be valid and binding as against all parties of any kind having a claim of any kind in tort, contract or otherwise against the Authority, without regard to whether those parties have notice thereof. All moneys in the Funds created by this Resolution are pledged to the purposes provided for such Funds.

SECTION 6.02 SECURITY FOR THE PARITY BONDS. The Parity Bonds shall be payable both as to principal and interest solely from, and shall be equally and ratably secured by a first lien on and pledge of, the Net Revenues. The Owners of the Parity Bonds shall never have the right to demand payment from any revenues, receipts or assets of the Authority except those pledged hereunder to the payment of the Parity Bonds.

SECTION 6.03 RATES AND CHARGES. The Authority will, at all times while any of the Parity Bonds are Outstanding, establish, fix, prescribe and collect rates and charges for the sale or use of water or related services produced, transmitted, distributed or furnished by the System which are reasonably expected to yield income sufficient to satisfy each of the following requirements, whether or not the water furnished by the System is suspended, interrupted or reduced:

(a) Net Revenues shall be at least equal to the amount of all deposits required by the terms of this Resolution, to be made into the Funds and Accounts held under this Resolution and not otherwise provided for;

(b) Revenues and other amounts available for such purpose shall be sufficient to pay (i) the principal of (including any scheduled mandatory redemption), premium, if any, and interest on the Parity Bonds, (ii) all Operation and Maintenance Expenses and all taxes, assessments or other governmental charges lawfully imposed on the System or the Revenues therefrom, or payments in lieu thereof, payable by the Authority, (iii) the amount, if any, to be paid during the Fiscal Year into the Reserve Fund, the Operating Reserve Account or the Rate Stabilization Fund, (iv) the costs to the Authority of the prevention or correction of any unusual loss or damage and of major repairs, renewals and replacements and of capital additions, betterments, improvements and extensions less than part, if any, of such costs as is provided for by insurance or by amounts available therefor from the sale of Bonds issued in accordance with this Resolution, and (v) all other charges or obligations against the Revenues of whatever nature and whether now or hereafter imposed by this Resolution or by law or contract which the Authority expects to pay from Revenues; and

(c) Net Revenues for each Fiscal Year shall be equal to at least 105% of the principal of (including any scheduled mandatory redemption), premium, if any, and interest on the Parity Bonds payable during such Fiscal Year.

Promptly upon any material change in the circumstances which were contemplated at the time the rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the Authority shall review the rates and charges for water and related services and shall promptly revise the rates and charges as necessary to comply with the foregoing requirement so that the rates and charges shall produce moneys sufficient to enable the Authority to comply with all its covenants under this Resolution. The Authority further covenants that its rates, charges and income shall in any event produce Revenues sufficient to enable the Authority to comply with all of its covenants under this Resolution and to pay all obligations of the System, and will segregate and apply such Revenues or cause the same to be segregated and applied as provided in this Resolution.

ARTICLE VII
REVENUES AND APPLICATION THEREOF

SECTION 7.01 FUNDS AND ACCOUNTS. The Authority hereby creates the following special Funds and Accounts of the Authority which shall be maintained in an authorized depository of the Authority (except that the Debt Service Fund shall be maintained by the Paying Agent/Registrar) so long as any Bonds remain Outstanding.

(a) Brazosport Water Authority Water Supply System Revenue Fund, hereinafter called the "Revenue Fund" which shall contain an "Operating Reserve Account";

(b) Brazosport Water Authority Water Supply System Debt Service Fund, hereinafter called the "Debt Service Fund";

(c) Brazosport Water Authority Water Supply System Reserve Fund, hereinafter called the "Reserve Fund";

(d) Brazosport Water Authority Water Supply System Renewal and Replacement Fund, hereinafter called the "Renewal and Replacement Fund"; and

(e) Brazosport Water Authority Water Supply System Rate Stabilization Fund (the "Rate Stabilization Fund").

The Authority may establish additional accounts within such Funds from time to time.

SECTION 7.02 REVENUE FUND.

(a) All Revenues shall be deposited into the Revenue Fund as received, and the Operation and Maintenance Expenses of the System shall be paid from the Revenue Fund. After paying or providing for the payment of the Operation and Maintenance Expenses, money shall be transferred from the Revenue Fund into the other Funds described in this Article Seven, in the manner and amounts hereinafter provided, and each of such Funds shall have priority as to such deposits, in the order in which they are treated in the following Sections 7.03 through 7.06.

(b) The Authority shall continue to hold \$450,000 of funds and investments in the Brazosport Water Authority Water Supply System Revenue and Refunding Bonds Revenue Fund - Operating Reserve Account.

(c) Monies in the Operating Reserve Account shall be used to pay extraordinary operating expenses of the Authority as determined from time to time by the Board of Directors and shall be replenished to the extent required for financially prudent operation as determined from time to time by the Board of Directors.

SECTION 7.03 DEBT SERVICE FUND. On or before the last Business Day of the first full calendar month after the date of delivery of the Bonds to the Underwriter and on the last Business Day of each calendar month thereafter so long as any Parity Bonds remain Outstanding, the Authority shall deposit from the Revenue Fund to the Debt Service Fund:

(a) such amounts, in equal monthly installments, as will be sufficient to pay the interest scheduled to come due on the Parity Bonds on the next Interest Payment Date and the Paying Agent/Registrar's fees related thereto through that date;

(b) such amounts, in equal monthly installments, as will be sufficient to pay the next maturing principal of the Parity Bonds; and

(c) such amounts, in equal monthly installments, as will be sufficient to pay the redemption price of the next scheduled mandatory redemption of Term Bonds.

Money on deposit in the Debt Service Fund shall be used exclusively for the purpose of paying the Paying Agent/Registrar's fees and the interest on, premium, if any, and principal of the Parity Bonds (or redemption price) as the same become due and payable.

SECTION 7.04 RESERVE FUND. On the date of issuance of the Bonds, the Authority shall transfer \$752,886.24 of the funds and investments currently held in the Brazosport Water Authority Water Supply System Revenue and Refunding Bonds Reserve Fund to the Reserve Fund hereby established and maintained pursuant to this Section. No deposit shall be required to be made into the Reserve Fund as long as the Reserve Fund contains the Reserve Requirement, and any excess amount shall be transferred to the Revenue Fund. The Reserve Fund shall be used to pay the principal of, interest on or redemption price, if any, of the Parity Bonds at any time when there is not sufficient money available in the Debt Service Fund for such purpose, and shall be used finally to pay and retire the last of the Parity Bonds.

The Authority expressly reserves the right at any time to satisfy all or any part of the Reserve Requirement by obtaining for the benefit of the Reserve Fund one or more Reserve Fund Surety Policies (as defined below). In the event the Authority elects to substitute at any time a Reserve Fund Surety Policy for any funded amounts in the Reserve Fund, it may apply any bond proceeds thereby released, to the greatest extent permitted by law, to any purposes for which the bonds were issued and any other funds thereby released to any purposes for which such funds may lawfully be used, including the payment of debt service on the Parity Bonds. A Reserve Fund Surety Policy shall be an insurance policy or other credit agreement (as such term is defined by Section 1371.001, Government Code) in a principal amount equal to the portion of the Reserve Requirement to be satisfied and issued by a financial institution or insurance company with a rating for its long term unsecured debt or claims paying ability in the highest letter category by two major municipal securities evaluation sources. The premium for any such policy shall be paid from bond proceeds or other funds of the Authority lawfully available for

such purpose. Any Reserve Fund Surety Policy shall be authorized by resolution and submitted to the Attorney General for examination and approval.

SECTION 7.05 RATE STABILIZATION FUND. The Authority shall continue to hold \$500,000 in funds and investments in the Brazosport Water Authority Water Supply System Revenue and Refunding Bonds Rate Stabilization Fund. At the end of each Fiscal Year, all Net revenues in excess of those necessary to make the required deposits into the Debt Service Fund and the Reserve Fund shall be deposited into the Rate Stabilization Fund in an amount necessary to maintain a balance of \$500,000. If and whenever the balance in the Rate Stabilization Fund is reduced below such amount, the Authority shall make approximately equal monthly deposits into such Fund in amounts sufficient to restore such deficiency in 36 months. The Rate Stabilization Fund is not pledged to pay the principal of and interest on the Parity Bonds.

SECTION 7.06 RENEWAL AND REPLACEMENT FUND. At the end of each Fiscal Year the Authority shall transfer Net Revenues in excess of those required to be deposited into the Debt Service Fund, Reserve Fund, and Rate Stabilization Fund in amounts as may be directed by the Board of Directors into the Renewal and Replacement Fund. Money on deposit in the Renewal and Replacement Fund may be used to pay for equipment, repairs and construction of the System or for any lawful purpose. The Renewal and Replacement Fund is not pledged to pay the principal of and interest on the Parity Bonds.

SECTION 7.07 DEFICIENCIES IN FUNDS. If in any month there shall not be deposited into any Fund maintained pursuant to this Article the full amounts required herein, amounts equivalent to such deficiency shall be set apart and paid into such Fund or Funds from the first available and unallocated money in the Revenue Fund, and such payment shall be in addition to the amounts otherwise required to be paid into such Funds during the succeeding month or months. To the extent necessary, the rates and charges for the System shall be increased to make up for any such deficiencies.

SECTION 7.08 INVESTMENTS; SEPARATE ACCOUNTS. Money in each of the Funds described in Section 7.01 of this Resolution may, at the option of the Authority, be placed in Authorized Investments in such manner that the money required to be expended from any Fund will be available at the proper time or times. Any obligations in which money is so invested shall be promptly sold and the proceeds of sale applied to the making of all payments required to be made from the Fund from which the investment was made. Investment earnings on the Debt Service Fund shall remain in the Debt Service Fund. Investment earnings in all other Funds shall be transferred to the Revenue Fund at the end of each Fiscal Year, or more frequently at the direction of the Board of Directors.

SECTION 7.09 EXCESS REVENUES. The Net Revenues of the System, in excess of those necessary to establish and maintain the Funds described above, or as hereafter may be required in connection with the issuance of Additional Bonds, may be used for any lawful purpose.

SECTION 7.10 SECURITY FOR FUNDS. All Funds described or created in this Resolution shall be secured in the manner and to the fullest extent permitted or required by Texas

law, and such funds shall be used only for the purposes and in the manner permitted or required by this Resolution.

SECTION 7.11 APPLICATION OF CHAPTER 1208, GOVERNMENT CODE. Chapter 1208, Government Code, applies to the issuance of the Bonds and the pledge of the revenues granted by the Authority under Section 6.01 of this Resolution, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the revenues granted by the Authority under Section 6.01 of this Resolution is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the Authority agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

ARTICLE VIII
PROVISIONS CONCERNING SALE AND
APPLICATION OF PROCEEDS OF BONDS

SECTION 8.01 SALE; BOND PURCHASE AGREEMENT. The Bonds are hereby sold and shall be delivered to the Underwriter at a price as set forth in the Bond Purchase Agreement plus accrued interest to the date of delivery, presented to and hereby approved by the Board of Directors, which price and terms are hereby found and determined to be the most advantageous reasonably obtainable by the Authority. The President and other appropriate officials of the Authority are hereby authorized and directed to execute the Bond Purchase Agreement on behalf of the Authority, and the President and all other officers, agents and representatives of the Authority are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

SECTION 8.02 QUALIFIED TAX EXEMPT OBLIGATIONS. The Authority hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of section 265(b) of the Code. In connection therewith, the Authority represents (a) that the aggregate amount of tax-exempt obligations issued by the Authority during calendar year 2013, including the Bonds, which have been designated as "qualified tax-exempt obligations" under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of tax-exempt obligations which will be issued by the Authority during calendar year 2013, including the Bonds, will not exceed \$10,000,000. For purposes of this Section, the term "tax-exempt obligation" does not include "private activity bonds" within the meaning of section 141 of the Code, other than "qualified 501(c)(3) bonds" within the meaning of section 145 of the Code. In addition, for purposes of this Section, the Authority includes all entities which are aggregated with the Authority under the Code.

SECTION 8.03 COVENANTS TO MAINTAIN TAX-EXEMPT STATUS. The Authority intends that the interest on the Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable temporary,

proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Bonds. For this purpose, the Authority covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Bonds (including all property the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Bonds for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Authority shall have received an opinion of nationally recognized bond counsel to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the Authority shall comply with each of the following covenants:

(a) The Authority will use all of the proceeds of the Bonds to (i) provide funds for the purposes described in Section 2 hereof, which will be owned and operated by the Authority and (ii) to pay the costs of issuing the Bonds. The Authority will not use any portion of the proceeds of the Bonds to pay the principal of or interest or redemption premium on, any other obligation of the Authority or a related person.

(b) The Authority will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code. In particular, the Authority will limit the amount of proceeds of the Bonds to be used (other than use as a member of the general public) in the trade or business of any person other than a state or local governmental unit (including use of any property acquired, constructed or improved with such amount) to an amount aggregating no more than five percent of the proceeds of the Bonds. For purposes of this Section 22(b), the term "person" includes any individual, corporation, partnership, unincorporated association, or any other entity capable of carrying on a trade or business; and the term "trade or business" means, with respect to any natural person, any activity regularly carried on for profit and, with respect to persons other than natural persons, any activity other than an activity carried on by a State or local governmental unit.

(c) Principal of and interest on the Bonds will be paid solely from ad valorem taxes collected by the Authority, investment earnings on such collections, and as available, proceeds of the Bonds.

(d) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Bonds are delivered, the Authority reasonably expects that the proceeds of the Bonds will not be used in a manner that would cause the Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code, and one of the Pricing Officers shall so certify prior to the issuance of the Bonds. Moreover, the Authority covenants and agrees that it will make such use of the proceeds of the Bonds including interest or other investment income derived from Bond proceeds, regulate investments of proceeds of the Bonds, and take such other and further action as may be required so that the Bonds will not be "arbitrage bonds" within the meaning of section 148(a) of the Code and the applicable Regulations thereunder.

(e) At all times while the Bonds are outstanding, the Authority will identify and properly account for all amounts constituting gross proceeds of the Bonds in accordance with the Regulations. The Authority will monitor the yield on the investments of the proceeds of the Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Bonds. To the extent necessary to prevent the Bonds from constituting "arbitrage bonds," the Authority will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Bonds to be less than the yield that is materially higher than the yield on the Bonds.

(f) The Authority will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Bonds to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code.

(g) The Authority represents that not more than fifty percent (50%) of the proceeds of the Bonds will be invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the Authority reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Bonds will be used to carry out the governmental purpose of the Bonds within the three-year period beginning on the date of issue of the Bonds.

(h) The Authority will take all necessary steps to comply with the requirement that certain amounts earned by the Authority on the investment of the gross proceeds of the Bonds, if any, be rebated to the federal government. Specifically, the Authority will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the Authority allocable to other obligations of the Authority or moneys which do not represent gross proceeds of any obligations of the Authority and retain such records for at least six years after the day on which the last outstanding Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the Authority will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(i) The Authority will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than

would have resulted if such arrangement had been at arm's length and had the yield on the Bonds not been relevant to either party.

(j) The Authority will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Bonds on such form and in such place as the Secretary may prescribe.

(k) The Authority will not issue or use the Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the Authority to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(l) Proper officers of the Authority charged with the responsibility for issuing the Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Bonds and stating whether there are facts, estimates or circumstances that would materially change the Authority's expectations. On or after the date of issuance of the Bonds, the Authority will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(m) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holders and any subsequent Bond holder and bond counsel to the Authority.

In complying with the foregoing covenants, the Authority may rely upon an unqualified opinion issued to the Authority by nationally recognized bond counsel that any action by the Authority or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Bonds to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Order, the Authority's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Bonds for as long as such matters are relevant to the exclusion of interest on the Bonds from the gross income of the owners for federal income tax purposes.

SECTION 8.04 ESCROW AGREEMENT. The discharge and defeasance of the Refunded Bonds shall be effectuated pursuant to the terms and provisions of an Escrow Agreement to be entered into by and between the Authority and the Escrow Agent, the terms and provisions of which are hereby approved, subject to such insertions, additions and modifications as shall be necessary (a) to carry out the program designed for the Authority by the Underwriter, which shall be certified as to mathematical accuracy by Grant Thornton LLP, (b) to minimize the Authority's costs of refunding, (c) to comply with all applicable laws and regulations relating to the refunding of the Refunded Bonds and (d) to carry out the other intents and purposes of this Resolution, and the President is hereby authorized to execute and deliver such Escrow

Agreement on behalf of the Authority in multiple counterparts and the Secretary is hereby authorized to attest thereto.

SECTION 8.05 REDEMPTION PRIOR TO MATURITY OF REFUNDED BONDS.

The Authority hereby calls the following bonds of the Authority for redemption prior to maturity on the date shown below, at a price of par plus accrued interest to the date fixed for redemption, and authorizes and directs notice of such redemption to be given in accordance with the order authorizing the issuance of such bonds:

<u>Bonds To Be Redeemed</u>	<u>Redemption Date</u>
Brazosport Water Authority Water Supply System Revenue and Refunding Bonds, Series 2003 Maturities 2014 through 2018	September 1, 2013

SECTION 8.06 PURCHASE OF UNITED STATES TREASURY OBLIGATIONS.

To assure the purchase of the Escrowed Securities referred to in the Escrow Agreement, the President, General Manager and the Escrow Agent are hereby authorized to subscribe for, agree to purchase, and purchase non-callable obligations of the United States of America, in such amounts and maturities and bearing interest at such rates as may be provided for in the Report, and to execute any and all subscriptions, purchase agreements, commitments, letters of authorization and other documents necessary to effectuate the foregoing, and any actions heretofore taken for such purpose are hereby ratified and approved.

**ARTICLE IX
DEFAULT PROVISIONS**

SECTION 9.01 REMEDIES IN EVENT OF DEFAULT. In addition to any other rights and remedies provided by the laws of the State of Texas, the Authority covenants and agrees that in the event of default in payment of principal or interest on any of the Bonds when due, or, in the event the Authority fails to make the payments required to be made into the Debt Service Fund or any other Fund or defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Resolution, the following remedies shall be available:

(a) the Owners shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the Authority and the officials thereof to observe and perform the covenants, obligations or conditions prescribed in this Resolution; and

(b) any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

SECTION 9.02 RESOLUTION IS CONTRACT. In consideration of the purchase and acceptance of the Bonds authorized to be issued hereunder by the Owners, the provisions of this Resolution shall be deemed to be and shall constitute a contract between the Authority and

the Owners; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal benefit, protection and security of the Owners. The Bonds, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided herein.

ARTICLE X
DISCHARGE BY DEPOSIT

SECTION 10.01 AUTHORITY. The Authority may discharge its obligation to the Owners of any or all of the Bonds to pay principal, interest and redemption premium (if any) thereon in any manner now or hereafter permitted by law.

ARTICLE XI
AUTHORIZING SALE OF BONDS

SECTION 11.01 APPROVAL AND REGISTRATION. The President of the Board of Directors of the Authority and the Authority's attorneys and financial advisors are hereby authorized to have control of the Bonds and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination and approval by the Attorney General of the State of Texas and their registration by the Comptroller of Public Accounts of the State of Texas and their registration by the Paying Agent/Registrar.

SECTION 11.02 DELIVERY. Delivery of the Bonds is hereby authorized in accordance with the terms and conditions of this Resolution upon receipt of the full purchase price therefor, and the President and Secretary of the Board of Directors and all other officers and agents of the Authority are hereby authorized to take all actions necessary to have the Bonds delivered to the Underwriter in accordance with the terms of this Resolution.

SECTION 11.03 RELATED MATTERS. To satisfy in a timely manner all of the Authority's obligations under this Resolution, the President or Vice President of the Board of Directors, and all other appropriate officers and agents of the Authority are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the sale and delivery of the Bonds and the refunding of the Refunded Bonds, including, without limitation, executing and delivering on behalf of the Authority all certificates, consents, receipts, requests, and other documents as may be reasonably necessary to satisfy the Authority's obligations under the bond purchase agreement, this Resolution and to direct the application of funds of the Authority consistent with the provisions of this Resolution.

SECTION 11.04 OFFICIAL STATEMENT. The Board of Directors of the Authority hereby ratifies, authorizes and approves, in connection with the sale of the Bonds, the preparation and distribution of the Preliminary Official Statement dated June 18, 2013, and an Official Statement, containing such information as may be necessary to conform to the terms of the Bonds, this Resolution, and the Bond Purchase Agreement for the Bonds.

ARTICLE XII
MAINTENANCE AND OPERATION: INSURANCE

SECTION 12.01 DUTY TO MAINTAIN AND INSURE. While any of the Parity Bonds are Outstanding, the Authority covenants and agrees to: (a) maintain the System in good condition and operate the same in an efficient manner and at reasonable expense; and (b) maintain insurance on the System for the benefit of the Owner or Owners of Parity Bonds, of a kind and in an amount which usually would be carried by public agencies engaged in a similar type of business.

SECTION 12.02 RECONSTRUCTION OF SYSTEM: APPLICATION OF INSURANCE OR CONDEMNATION PROCEEDS. If any useful portion of the System shall be damaged or destroyed, or taken by eminent domain, the Authority shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the reconstruction or replacement thereof, and the proceeds of any insurance or condemnation award paid on account of the damage, destruction or taking, other than business interruption loss insurance, shall be held by the Authority in a special account and made available for, and to the extent necessary applied to, the cost of the reconstruction or replacement, if any. Pending that application, the proceeds may be invested by the Authority in Authorized Investments which mature not later than such times as shall be necessary to provide moneys when needed to pay such cost of reconstruction or replacement. Notwithstanding the foregoing, the Authority shall not be required to effect any such reconstruction or replacement if the Authority obtains an engineer's certificate from the consulting engineer certifying that the reconstruction or replacement is not in the best interests of the Authority and the Owners of the Parity Bonds, in which event the proceeds of any insurance or condemnation award paid on account of the damage, destruction or taking, other than business interruption loss insurance, shall be paid (i) if the proceeds are not in excess of \$100,000, (A) into the Funds and Accounts as necessary to make up any deficiencies in required deposits in the Funds and Accounts, (B) into the Debt Service Fund and applied to the purchase or redemption of Parity Bonds, or (C) applied by the Authority for the purpose of constructing extensions, betterments or improvements to the System, as the Authority may determine.

SECTION 12.03 EXCESS PROCEEDS. Any insurance proceeds or condemnation award remaining after the completion of and payment for any such reconstruction or repair shall be deposited to the credit of the Funds created hereunder, to the extent necessary to cure any deficiencies in such Funds, and any excess over such deficiencies, if any, may be used for any lawful purpose.

ARTICLE XIII
ACCOUNTING

SECTION 13.01 ACCOUNTING AND FISCAL YEAR. The Authority shall keep proper books of records and accounts, separate and apart from all other records and accounts of the Authority, in which complete and correct entries shall be made of all transactions relating to the System, and shall have said books audited once each Fiscal Year by a Certified Public Accountant. The Authority agrees to operate and keep its books of records and accounts pertaining to the System on the basis of its current Fiscal Year; provided, however, that the

governing body of the Authority may change such Fiscal Year if such change is deemed necessary or appropriate.

SECTION 13.02 INSPECTION. Any Owner of any Parity Bond shall have the right at all reasonable times to inspect the Authority's System and all records, accounts, and data of the Authority relating thereto.

ARTICLE XIV
CONTINUING DISCLOSURE OF INFORMATION

As used in this Section, the following terms have the meanings ascribed to such terms below:

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time.

"*SEC*" means the United States Securities and Exchange Commission

(a) The Authority will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access ("*EMMA*") system at www.emma.msrb.org. The information to be updated includes all quantitative financial information and operating data that is customarily prepared by the Authority of the general type included in the Official Statement authorized by Section 29 of this Resolution in APPENDIX B. The Authority shall update such information within six months after the end of each fiscal year. Any financial statements so to be provided shall be (1) prepared in accordance with the Accounting Principles described in this Resolution and (2) audited, if the Authority commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so provided, then the Authority shall provide unaudited financial statements for the applicable fiscal year by the required time, and audited financial statements when and if audited financial statements become available.

If the Authority changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Authority otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to documents (i) available to the public on the MSRB's internet web site or (ii) filed with the SEC. All filings shall be made electronically, in the format specified by the MSRB.

(b) The Authority shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Bonds:

- (i) Principal and interest payment delinquencies;

- (ii) Non-payment related defaults, if material;
- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Authority;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of the assets of the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The Authority shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the Authority to provide financial information or operating data in accordance with this Section by the time required by such Section.

All documents provided to the MSRB shall be accompanied by identifying information, as prescribed by the MSRB.

(c) The Authority shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the District remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Authority in any event

will give the notice required by this Section of any Bond calls and defeasance that cause the Authority to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Registered Owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Authority undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Authority's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Authority does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE AUTHORITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE AUTHORITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Authority in observing or performing its obligations under this Section shall constitute a breach of or default under the Resolution for purposes of any other provision of this Resolution.

Nothing in this Section is intended to or shall act to disclaim, waive, or otherwise limit the duties of the Authority under federal and state securities laws.

(d) The provisions of this Section may be amended by the Authority from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Authority, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell the Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Registered Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Authority (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Registered Owners and beneficial owners of the Bonds. If the Authority so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Authority may also amend or repeal the provisions of this

Section if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the Authority also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in any case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule.

ARTICLE XV
SPECIAL COVENANTS

SECTION 15.01 COVENANT NOT TO ENCUMBER. The Authority covenants that while any of the Parity Bonds are Outstanding, the Authority will not encumber the System other than in the ordinary course of business, without the prior consent of the Owners of a majority in aggregate principal amount of all Parity Bonds Outstanding, and that, with the exception of the Additional Parity Bonds expressly permitted to be issued by this Resolution, it will not encumber the Net Revenues of the System, unless such encumbrance is made junior and subordinate in all respects to the Parity Bonds and all liens and pledges in connection therewith.

SECTION 15.02 CHARGES FOR USE OF SYSTEM. None of the water or any other commodity, service or facility owned, controlled or supplied by the Authority shall be furnished or supplied free of charge to any person, firm or corporation, public or private, but on the contrary shall always be sold or furnished so as to produce Revenues. If the Authority shall sell water or other salable commodities developed or made available by or for the System, a reasonable charge therefor shall be made and the revenue received by the Authority therefrom shall be Revenues and accounted for as such.

SECTION 15.03 PUNCTUAL PAYMENT OF BONDS. The Authority will punctually pay or cause to be paid the principal and the interest to become due in respect of all Parity Bonds, in strict conformity with the terms of the Parity Bonds and of this Resolution.

SECTION 15.04 AGAINST SALE OR OTHER DISPOSITION OF PROPERTY. The Authority will not sell or otherwise dispose of any property necessary to the proper operation of the System or to the maintenance of the Revenues, except as follows:

(a) The Authority may sell or exchange at any time and from time to time for not less than fair value such property only if (i) it shall determine that such property is not useful in the operation of the System, or (ii) the proceeds of such sale are \$100,000 or less, or it shall obtain an engineer's certificate stating, in the opinion of the signer, that the fair value of the property exchanged is \$100,000 or less or (iii) if such proceeds or fair value exceeds \$100,000, it shall obtain such an engineer's certificate stating, in the opinion of the signer, that the sale or exchange of such property will not impair the ability of the Authority to comply during the current or any future year with the provisions of Section 6.03 hereof. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the Debt Service Fund; and

(b) The Authority may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of the System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation of the System, and (ii) does not in any manner impair or adversely affect the rights or security of the Owners under this Resolution; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement or other right is in excess of \$500,000, the Authority shall first obtain an engineer's certificate from an independent professional consulting engineer stating that the action of the Authority with respect thereto does not result in a breach of the conditions under this Section. Any payments received by the Authority under or in connection with any such lease, thereof shall constitute Revenues and shall be deposited forthwith into the Revenue Fund.

SECTION 15.05 OBSERVANCE OF LAWS AND REGULATIONS. The Authority will faithfully and punctually observe and perform all valid and lawful obligations, orders or regulations now or hereafter imposed on it by contract, or prescribed by law of the United States of America, the State of Texas or by any officer, board or commission having jurisdiction or control, as a condition to the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the Authority, including its right to exist and carry on business, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired. The Authority shall not be required, however, to comply with any such orders so long as the validity or application thereof is being contested in good faith.

SECTION 15.06 PAYMENT OF TAXES AND CLAIMS. The Authority will, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon any of the properties of the System or upon the Revenues or payments in lieu of taxes and other charges, when the same shall become due, and will duly observe and conform to all valid requirements of any governmental authority relative to any such properties. The Authority will pay and discharge all claims that may give rise, directly or indirectly, to mechanics' and materialmen's liens and shall keep the System and all parts thereof free from all other pledges, liens, claims, demands, charges and encumbrances prior to, or of equal rank with, the pledge created by this Resolution, except as otherwise expressly provided herein, to the end that the priority of the lien of this Resolution on the Net Revenues and the other moneys, funds, securities and accounts pledged pursuant hereto may at all times be maintained and preserved free from any claim or liability which might embarrass or hamper the Authority in conducting its business or operating the System. This section shall not prevent the Authority from contesting any lien or claim in good faith, and so long as the Authority is contesting a lien and existence of the lien does not prevent the Authority from meeting its obligations under this Resolution, the Authority may permit the lien to continue while it is being contested.

SECTION 15.07 COMPLIANCE WITH RESOLUTION. The Authority will not issue, or permit to be issued, any Bonds in any manner other than in accordance with the provisions of this Resolution, and will not suffer or permit any default to occur under this Resolution, but will faithfully observe and perform all the covenants, conditions and requirements contained in this Resolution and in the Parity Bonds executed, authenticated and delivered hereunder and at all proceedings pertaining thereto. The Authority will make, execute and deliver any and all such

further resolutions, instruments, assurances, filings and recordings as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for assuring and confirming unto the Owners of the Parity Bonds the pledge of rights, benefits and security provided in this Resolution. The Authority will make, execute and deliver any and all such further resolutions, instruments, assurances, filings and recordings as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for assuring and confirming unto the Owners of the Parity Bonds the pledge of rights, benefits and security provided in this Resolution. The Authority, for itself, its successors and assigns, represents, covenants, and agrees with the Owners of the Parity Bonds, as a material inducement to the purchase of the Parity Bonds, that so long as any of the Parity Bonds shall remain Outstanding and the principal thereof or interest thereon shall be unpaid or unprovided for, it will faithfully perform all of the covenants and agreements contained in this Resolution and the Parity Bonds.

SECTION 15.08 POWER TO ISSUE BONDS AND PLEDGE REVENUES AND OTHER FUNDS. The Authority is duly authorized under all applicable laws and the Water Supply Contract to create and issue the Parity Bonds and to execute, deliver and perform its obligations under this Resolution and to pledge the Net Revenues and other moneys, securities and funds purported to be pledged by this Resolution in the manner and to the extent provided in this Resolution. The Net Revenues and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, in any manner, except as otherwise expressly provided herein, and all corporate action on the part of the Authority to that end has been duly and validly taken. The Parity Bonds and the provisions of this Resolution are and will be the valid and legally enforceable obligations of the Authority in accordance with their terms and the terms of this Resolution. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Revenues and other moneys, securities and funds pledged under this Resolution and all the rights of the Owners of Parity Bonds against all claims and demands of all persons whomsoever.

SECTION 15.09 POWER TO CONSTRUCT AND OPERATE SYSTEM AND COLLECT RATES AND FEES. The Authority has, and will have so long as any Parity Bonds are Outstanding, good right and lawful power to execute, deliver and perform its obligations under the Water Supply Contracts, to construct, reconstruct, improve, maintain, operate and repair the facilities of the System, to finance the Project Costs of such facilities in the manner contemplated by this Resolution, to maintain its corporate existence, and to fix and collect rates, fees and other charges in connection with the System, subject to the jurisdiction of any applicable regulatory authority.

SECTION 15.10 MAINTENANCE OF WATER SUPPLY CONTRACTS AND REVENUES. The Authority will at all times comply with all terms, covenants and provisions, expressed and implied, of each of the Water Supply Contracts and with all other contracts and agreements entered into by it for the sale of water furnished by or available through the System. The Authority shall promptly collect all charges due for the supply or availability of water by it as the same become due and shall at all times maintain and promptly and vigorously enforce its rights against the parties to each of the Water Supply Contracts and against any other entity which does not pay such charges when due and shall enforce the covenants and agreements thereunder. The Authority will not consent or agree to or permit any rescission or amendment of

any Water Supply Contract which will impair or adversely affect any material rights of the Authority thereunder or the rights or security of the owners or holders of any Bonds or Additional Parity Bonds under this Resolution or the resolution authorizing the Additional Parity Bonds. In the event a monetary default shall occur and be continuing by a party to a Water Supply Contract, the Authority shall promptly and diligently enforce the provisions of the Water Supply Contract and take all such action as may be necessary or appropriate to assure that the Net Revenues are adequate to pay the Annual Principal and Interest Requirements of the Parity Bonds and any Additional Parity Bonds in a punctual manner. Further, to the extent that there is a monetary default by a party to a Water Supply Contract which shall be continuing, the Authority covenants and agrees to promptly reallocate the defaulting parties' contract quantity to become a part of the reserve capacity of the System pursuant to the terms of the Water Supply Contract to the extent required to assure that the Net Revenues will be adequate to pay the Annual Principal and Interest Requirements on the Parity Bonds and the Additional Parity Bonds.

ARTICLE XVI **ADDITIONAL PARITY BONDS AUTHORIZED**

SECTION 16.01 ADDITIONAL PARITY BONDS. The Authority reserves the right to issue, for any lawful purpose (including the refunding of any previously issued Parity Bonds or any other bonds or obligations of the Authority issued in connection with or payable from the revenues of the System), one or more series of Additional Parity Bonds payable from and secured by a first lien on the Net Revenues of the System on a parity with the Bonds, the Outstanding Parity Bonds, and any previously issued Additional Parity Bonds; provided, however, that no Additional Parity Bonds may be issued unless:

(a) The Additional Parity Bonds mature on, and interest is payable on, the same days of the year as the Bonds;

(b) The Debt Service Fund and the Reserve Fund each contains the amount of money then required to be on deposit therein; and

(c) For either the preceding fiscal year or a 12 consecutive calendar month period ending no more than 90 days prior to adoption of the resolution authorizing such Additional Parity Bonds, Net Revenues were equal to at least 105% of the average annual principal and interest requirements on all Parity Bonds that will be outstanding after the issuance of the series of Additional Parity Bonds then proposed to be issued, as certified by the Authority's General Manager or by an independent certified public accountant or firm of independent certified public accountants; or

(d) If the Authority cannot meet the test described in (c) above, but a change in the rates and charges applicable to the System becomes effective at least sixty (60) days prior to the adoption of the resolution authorizing Additional Parity Bonds and the Authority's General Manager certifies that, had such change in rates and charges been effective for the preceding fiscal year or 12 consecutive calendar month period ending no more than 90 days prior to adoption of said resolution, the Net Revenues for such period would have met the test described in (c) above.

Notwithstanding the aforesaid, if the series of proposed bonds are being issued for refunding purposes, the requirements of Section 16.01(c) are not applicable.

SECTION 16.02 SUBORDINATE LIEN BONDS. The Authority also reserves the right to issue and refinance bonds payable from the Net Revenues, the payment of which will be subordinate to payment of all Parity Bonds.

SECTION 16.03 SPECIAL PROJECT BONDS. The Authority reserves the right to issue Special Project Bonds, the proceeds of which will be used to finance the construction or otherwise acquire special projects, properties, works and facilities to enable the Authority to conserve, store, transport, treat and purify, distribute, sell or deliver water to any Persons, including any Participating Customers, and to pay all Project Costs, costs of issuance of the Special Project Bonds, and to fund any reserve funds authorized in connection with the Special Project Bonds. Such Special Project Bonds shall be payable from and secured by a lien on and pledge of certain Contractual payments allocated to debt service payments or the cost of financing specific capital items or real or personal property acquired or constructed for the purpose of providing services to such Persons. It is specifically provided that such Special Project Bonds shall not be payable from the Net Revenues of the System. Such Special Project Bonds may be issued only on the condition that the President and Secretary of the Board execute a certificate to the effect that the Authority is not in default as to any covenant, condition or obligation prescribed in this Resolution or any resolution authorizing Additional Parity Bonds.

ARTICLE XVII AMENDMENTS

SECTION 17.01 AMENDMENT OF RESOLUTION. The Owners of not less than two-thirds in aggregate principal amount of the Parity Bonds then Outstanding shall have the right, at any time and from time to time, to consent to and approve any amendment of this Resolution that may be deemed desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Resolution; provided, however, that nothing in this Article shall permit (a) an extension of the Maturity of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the rate of interest thereon, or (c) a privilege or priority of any Parity Bond or Parity Bonds over any other Parity Bond, or (d) a reduction in the percentage of Owners of an aggregate principal amount of the Parity Bonds required for consent to such amendment. Parity Bonds owned or held by or for the account of or the benefit of the Authority shall not be deemed to be Outstanding for the purpose of amending this Resolution. No such amendment shall be effective without the consent of the Insurer.

This Resolution or any resolution supplemental hereto or any resolution amending this Resolution and the rights and obligations of the Authority and of the Owners of the Parity Bonds may also be modified or amended at any time by a supplemental resolution without the consent of any Owners of the Outstanding Bonds, but only to the extent permitted by law and only for any one or more of the following purposes:

- (1) to add to the events constituting events of default under this Resolution, to add to the covenants and agreements of the Authority contained in this Resolution, other

covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved or confirmed upon the Authority;

(2) to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Resolution or to grant to or confer upon the Owners of the Parity Bonds any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them;

(3) to make such provisions for the purpose of curing any ambiguity, or of curing or correcting any defect, in any provision contained in this Resolution, or in regard to questions arising under this Resolution, as the Authority may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Parity Bonds; and

(4) to provide for the issuance of a series of Additional Bonds, and to provide the terms and conditions under which the Series of Bonds may be issued, subject to and in accordance with the provisions hereof.

SECTION 17.02 NOTICE OF ADOPTION OF AMENDMENT. If the Authority desires to amend the Resolution, it shall cause notice of the proposed amendment to be mailed to the Registered Owners and the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the Authority's principal office for inspection by all Registered Owners. If, within thirty days, or such longer period as shall be prescribed by the Authority, following the mailing of such notice, the Registered Owners of not less than two-thirds in aggregate principal amount of the Parity Bonds Outstanding shall have consented to the amendment as herein provided, no Registered Owners shall have any right to object to any of the terms and provisions contained therein, or in any manner to question the propriety of the execution thereof, and all the rights of all Registered Owners shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such amendment.

SECTION 17.03 REVOCATION OF CONSENT. Any consent given by any Registered Owners pursuant to the provisions of this Article shall be irrevocable for a period of six months from the date of the first publication or the mailing of such notice, and shall be conclusive and binding on all future Registered Owners of the same Bond during such period. Such consent may be revoked at any time after six months from the date of first publication or the mailing of such notice by the Registered Owners who gave such consent or by a successor in title, by filing notice thereof with the Authority, but such revocation shall not be effective if the Registered Owners of a majority in aggregate principal amount of the Parity Bonds Outstanding have, prior to the attempted revocation, consented to and approved the amendment.

ARTICLE XVIII **MISCELLANEOUS PROVISIONS**

SECTION 18.01 BONDS ARE SPECIAL OBLIGATIONS. The Parity Bonds are and shall be special obligations of the Authority, and the Registered Owner or Owners thereof shall

never have the right to demand payment of said obligations out of any source other than the Net Revenues or any funds raised or to be raised by taxation. The Authority has no taxing power.

SECTION 18.02 AUTHORITY'S SUCCESSORS AND ASSIGNS. Whenever, in this Resolution, the Authority is named and referred to it shall be deemed to include its successors and assigns, and all covenants and agreements in this Resolution by or on behalf of the Authority, except as otherwise provided herein, shall bind and inure to the benefit of its successors and assigns whether or not so expressed.

SECTION 18.03 NO RECOURSE AGAINST AUTHORITY OFFICERS. No recourse shall be had for the payment of the principal of or interest on the Parity Bonds or for any claim based thereon or on this Resolution against any officer of the Authority or any person executing the Parity Bonds.

SECTION 18.04 LEGAL HOLIDAYS. In any case where the date of Maturity of interest on or principal of the Parity Bonds or the date fixed for redemption of any Bonds shall be in the State of Texas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal, interest or redemption price need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of Stated Maturity or the date fixed for redemption, and no further interest shall accrue.

SECTION 18.05 BENEFITS OF RESOLUTION. Nothing in this Resolution or in the Parity Bonds, expressed or implied, shall give or be construed to give any Person, other than the Authority, the Paying Agent/Registrar, the Bond Insurer and the Owners of the bonds, any legal or equitable right or claim under or in respect of this Resolution, or under any covenant, condition or provision herein contained, all the covenants, conditions and provisions contained in this Resolution or in the Parity Bonds being for the sole benefit of the Authority, the Paying Agent/Registrar, the Bond Insurer and the Owners of the Parity Bonds.

SECTION 18.06 SEVERABILITY CLAUSE. If any word, phrase, clause, sentence, paragraph, section or other part of this Resolution, or the application thereof to any Person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Resolution and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Resolution to any Persons or circumstances shall not be affected thereby.

SECTION 18.07 FURTHER PROCEEDINGS. The President and Secretary of the Board of Directors and other appropriate officials of the Authority are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution.


SECTION 18.08 REPEALER. All orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 18.09 OPEN MEETING. It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and that public notice

of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

[Execution Page Follows.]

PASSED AND APPROVED on this 25th day of June 2013.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

Signature Page
S-1

**RESOLUTION APPROVING THE
DROUGHT CONTINGENCY PLAN
AND WATER CONSERVATION PLAN
FOR THE BRAZOSPORT WATER AUTHORITY**

At a regular meeting of the Board of Directors of the Brazosport Water Authority of Brazoria County, Texas (the "Board") held at the Brazosport Water Authority Treatment Plant Facility Conference Room located at 1251 FM 2004, Lake Jackson, Texas, on the 22nd day of July, 2014, among other business, on motion duly made and seconded, the following resolution was passed and adopted:

FINDINGS

1. Due and proper notice of the date, time, place and purpose of this meeting has been duly given in accordance with the provisions of the Texas Open Meetings Act, and such meeting has been conducted in accordance with said Open Meetings Act.

2. The Board requests the approval of the Drought Contingency Plan and Water Conservation Plan for the Brazosport Water Authority to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions.

3. The Board finds and determines that the Drought Contingency Plan and Water Conservation Plan for the Brazosport Water Authority should be granted and that the Drought Contingency Plan and Water Conservation Plan for the Brazosport Water Authority presented at this meeting should be approved.

NOW, THEREFORE, BE IT RESOLVED, that the Drought Contingency Plan and Water Conservation Plan for the Brazosport Water Authority, attached hereto as Exhibit "A" and Exhibit "B", presented at this meeting is hereby approved and that the General Manager is hereby directed to implement, administer, and enforce the Drought Contingency Plan and Water Conservation Plan for the Brazosport Water Authority.

DULY PASSED BY THE BOARD OF DIRECTORS OF THE BRAZOSPORT WATER AUTHORITY ON THIS 22nd DAY OF July, 2014.



Board President, Board of Directors

ATTESTED TO:



Secretary, Board of Directors

JULY 22, 2014

BRAZOSPORT WATER AUTHORITY WATER CONSERVATION PLAN

A. Brazosport Water Authority is a wholesale supplier of water. We are located in Lake Jackson, TX. Approximately 91,000 people are served daily. Our plant capacity is rated at 17.5 million gallons per day. Water pumped from the Dow Chemical's raw water canal is treated via poly aluminum chloride, cationic polymer, anionic polymer and activated carbon. Flocculation and settling takes place in three clarifiers, #1 and #2 are each 86 feet in diameter and #3 is 100 feet in diameter. Clarifier #1 and Clarifier #2 volume are each approximately 860,000 gallons and #3 is approximately 1 million gallons volume. Chlorine dioxide is the primary disinfection agent. Next the clarified water goes to eight dual media filters (anthracite and sand) for filtering. Chloramine is added post filtration for distribution. Additionally fluoride and Seaquest Polyphosphate are added and pH is adjusted for distribution. Final finished water goes into two clearwell storage areas before being pumped to customers. BWA has only backwash and sludge blow down wastewater. These streams are recycled to the raw water header for re-processing.

BWA does not own or operate any reservoirs; all water is taken from either Brazoria Reservoir and/or Harris Reservoir via the raw water canal. BWA pays a fee to Dow Chemical Company Division of Freeport for transporting and storage of Brazos River Water.

BWA presently sells to nine Customers; Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, TDCJ Units (Clemens & Wayne Scott) and Dow Chemical Company ("A" and "B") plants. Presently BWA is contracted to supply 9.33 million gallons per day.

B. Brazosport Water Authority Goal:

1. Achieved 4% or less unaccounted for water by 2014.
2. Achieved 3% or less unaccounted for water by 2019.

C. Brazosport Water Authority Goal:

1. Achieve 3.5% or less unaccounted for water by 2024.
2. Achieve 3% or less unaccounted for water by 2029.

D. Brazosport Water Authority presently utilizes venturi type, or variations there-of, for all water metering. All venturi devices purchased are certified flow calibrated. All devices are checked biannually and the dp cell is zeroed and calibrated. All customers flow signals are totaled via our remote sites PLC (Opto 22) and transferred via phone to our main computer on site. Our main raw water flow meter signal is totaled and stored via our main computer on site. Monthly flushing and maintenance check on meters/venturi.

E. Brazosport Water Authority presently maintains monthly meter reading data for all customers and main raw water usage meter. This data is used to determine customer sales and overall losses.

7/22/2014

F. Brazosport Water Authority presently does leak surveys by visual inspections.

Future Plans are to:

1. Filter media replacement to achieve longer run times to decrease backwash frequency.
2. Have professional leak detection company survey done by 2012.
3. Record and continue visual inspections on a biannual basis.

G. Brazosport Water authority presently requires all contract customers to maintain a water conservation plan. Additionally, any resale by our customers will require them to specify a water conservation plan within the contract.

H. Brazosport Water Authority does not operate a reservoir system.

I. Implementation, enforcement, written documentation, proof of actions, accounting, survey and inspections, such as:

1. Distribution pipeline leak surveys data.
 - A. Visual records
 - B. Leak repair records and loss estimated due to leak
 - C. Maintain accurate distribution maps, showing transmission line and leak repair locations.
2. Meter device inspections, calibrations and zero of dp cells as well as instrument upgrades.
3. Monitoring and recording of clearwell overflow alarms.
4. Records of flow meter totalizers data with loss and percent totals.

J. The service area of Brazosport Water Authority is located within the Region H water planning group and Brazosport Water Authority has provided a copy of this water conservation plan to The Region H water planning group.

K. Additional conservation strategies:

1. Increase clearwell storage capacity to prevent overflow. Complete by 2017.
2. Increase pumping capacity on backwash water recycle basin to prevent overflow. Complete by 2015.
3. Replace distribution air traps with non-corrosive piping, which will not leak water due to corrosion and pitting with age. Complete by 2015.
4. Increase backwash water storage capacity, as we occasionally do not have enough storage. Complete by 2020.

7/22/2014

**DROUGHT CONTINGENCY PLAN
FOR THE
BRAZOSPORT WATER AUTHORITY**

JULY 22, 2014

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and/or to protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the Brazosport Water Authority adopts the following Drought Contingency Plan (hereafter referred to as The Plan).

Section II: Public Involvement

Opportunity for water customers to provide input into the preparation of The Plan was provided by The Brazosport Water Authority. The meetings were held at The Brazosport Water Authority conference room on July 26, 2011 where the need for The Plan was explained. Input responses from these representatives was requested prior to that meeting with a return date of no later than July 26, 2011. Brazosport Water Authority has received input from personnel of numerous BWA customers.

Section III: Water Customer Education

The Brazosport Water Authority will periodically provide water customers with information about The Plan. This will include information about the conditions under which each stage of The Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by means of customer meetings, press releases, mailings, faxes, and telephones messages.

Section IV: Coordination with Regional Water Planning Groups

The water service area of the Brazosport Water Authority is located within the Houston Regional Water Planning Group H. The Brazosport Water Authority has provided a copy of The Plan to the Houston Regional Water Planning Group H in Conroe, Texas.

Section V: Authorization

The General Manager or his/her designee, is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety and welfare. The General Manager, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan. As utilization of an alternative water source, Brazosport Water Authority Board of Directors has granted approval to the General Manager for the purchase of a water release from the Brazos River Authority in the event that any stage is implemented or to avoid the implementation of a stage.

Section VI: Application

The provisions of this Plan shall apply to all customers utilizing water provided by the Brazosport Water Authority. The terms person and customer as used in The Plan include individuals, corporations, partnerships, associations, and all other legal entities.

Section VII: Triggering Criteria for Initiation and Termination of Drought Response Stages

The General Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of The Plan. Customer notification of the initiation or termination of drought response stages will be made by customer meetings, press release, email, fax, or telephone.

The triggering criteria described below are based on an analysis of the saline content of Brazos River water and the vulnerability of this water source under drought of record conditions.

Stage 1 – Mild Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize mild water shortage conditions if any of the following exist:

- When total potable water demand equals or exceeds 140% of contracted quantity for any 24 hour period.
- When supplemental water purchases are required.

- When TCEQ suspends water rights on the lower Brazos Basin of junior water rights holders for 1980 and up.
- When the daily average river level at Rosharon station falls below 4 feet for 3 consecutive days.

Requirements for termination – Stage 1 of The Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days. The Brazosport Water Authority will notify its customers and the media of the termination of Stage 1 in the same manner as the notification shown on page 2 section VII of this plan.

Stage 2 – Moderate Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize moderate water shortage conditions if any of the following exist:

- When total water demand equals or exceeds 125% of contract quantity for any 24 hour period.
- When a second supplemental water purchase is required.
- When TCEQ suspends water rights on the lower Brazos Basin of junior water rights holders for 1960 and up.
- When the daily average river level at Rosharon station falls below 3.5 feet for 3 consecutive days.

Requirements for termination – Stage 2 of The Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of five (5) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative. The Brazosport Water Authority will notify its customers and the media of the termination of Stage 2 in the same manner as the notification shown on page 2 section VII of this plan.

Stage 3 – Severe Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize severe water shortage conditions if any of the following exist:

- When total water demand equals or exceeds 105% of contracted quantity for any 24 hour period.
- When a third supplemental water purchase is required.

- When TCEQ suspends water rights on the lower Brazos Basin of junior water rights holders under 1960.
- When the daily average river level at Rosharon station falls below 2.5 feet for 3 consecutive days.

Requirements for termination – Stage 3 of The Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative. The Brazosport Water Authority will notify its customers and the media of the termination of Stage 3 in the same manner as the notification shown on page 2 section VII of this plan.

Stage 4 – Major Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize major water shortage conditions if any of the following exist:

- When a fourth supplemental water purchase is required.
- When TCEQ requires additional restrictions or reduction of daily water delivery than stated in Stage 3 of this plan.
- When the daily average river levels at Rosharon station falls below 2.0 feet for 3 consecutive days.
- When storage capacity of the Brazos River Basin drops below 55%.

Requirements for termination – Stage 4 of The Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative. The Brazosport Water Authority will notify its customers and the media of the termination of Stage 4 in the same manner as the notification shown on page 2 section VII of this plan.

Stage 5 – Extreme Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize extreme water shortage conditions if any of the following exist:

- When a fifth supplemental water purchase is required.
- When TCEQ requires additional restrictions and reduction of daily water delivery than stated in Stage 4 of this plan.

- When the daily average river level at Rosharon station falls below 1.5 foot.
- When Storage Capacity of the Brazos River Basin drops below 50%.

Requirements for termination – Stage 5 of The Plan may be rescinded when the conditions listed as triggering events have ceased to exist for a period of seven (7) consecutive days. Upon termination of Stage 5, Stage 4 becomes operative. The Brazosport Water Authority will notify its customers and the media of the termination of Stage 5 in the same manner as the notification shown on page 2 section VII of this plan.

Emergency Water Shortage Conditions

Requirements for initiation – The Brazosport Water Authority will recognize emergency water shortage conditions if any of the following exist:

- When a major water line breaks, or pump, power and other system failures occur, which cause loss of capability to provide water service.
- When there is natural or man-made contamination of the water supply source.
- When there is failure of water delivery from The Brazosport Water Authority's storage and transfer source.

Requirements for termination – The implementation of emergency water shortage conditions may be rescinded when the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. The Brazosport Water Authority will notify its customers and the media of the termination of the implementation of emergency water shortage conditions in the same manner as the notification shown on page 2 section VII of this plan.

Section VIII: Drought Response Stages

The General Manager, or his/her designee, shall monitor water supply and/or demand conditions and, in accordance with the triggering criteria set forth in Section VII, shall determine that mild, moderate, or severe water shortage conditions exist or that an emergency condition exists and shall implement the following actions. All customer daily demand shall be demanded utilizing "Pro Rata Allocation".

Stage 1 – Mild Water Shortage Conditions

1. Goal:

Achieve 120% or less of daily contracted potable water demand.

2. Supply Management Measures:

The Brazosport Water Authority will implement water conservation and minimize any non-essential water use within The Plant.

3. Demand Management Measures:

(a) The General Manager, or his/her designee(s), will contact customers informing them of procedures that will be implemented to reduce water usage.

(b) Information will be provided the news media regarding current conditions with a request to encourage the general population to conserve water wherever possible.

Stage 2 – Moderate Water Shortage Conditions

1. Goal:

Achieve 100% or less of daily contracted potable water demand.

2. Supply Management Measures:

The Brazosport Water Authority will limit all non-essential water use within The Plant.

3. Demand Management Measures:

The General Manager, or his/her designee(s), will:

(a) Contact customers informing them of procedures that will be implemented to reduce water usage.

(b) Information to be provided to news media regarding current conditions with a request to encourage the general population to conserve water wherever possible.

Stage 3 – Severe Water Shortage Conditions

1. Goal:

Achieve 90% or less of daily contracted potable water demand.

2. Supply Management Measures:

The Brazosport Water Authority will stop all non-essential water use within The Plant.

3. Demand Management Measures:

The General Manager, or his/her designee(s), will:

- (a) Contact customers informing them of procedures that will be implemented to reduce water usage. The Plan will take into consideration the customers ability to satisfy its needs from subsurface sources and the ability of customers to assist other customers through use of the pipelines existing within the system.
- (b) Information to be provided to news media regarding current conditions with a request to encourage the general population to conserve water wherever possible.

Stage 4 – Major Water Shortage Conditions

1. Goal

Achieve 85% or less of daily contracted potable water demand.

2. Supply Management Measures:

The Brazosport Water Authority will continue to uphold supply management measures from Stage 3.

3. Demand Management Measures:

The General Manager, or his/her designee(s), will:

- (a) Contact customers informing them of procedures that will be implemented to reduce water usage. The Plan will take into consideration the customers ability to satisfy its needs from subsurface sources and the ability of customers to assist other customers through use of the pipelines existing within the system.
- (b) Information to be provided to news media regarding current conditions with a request to encourage the general population to conserve water wherever possible.

Stage 5 – Extreme Water Shortage Conditions

1. Goal

Achieve 80% or less of daily contracted potable water demand.

2. Supply Management Measures:

The Brazosport Water Authority will continue to uphold supply management measures from Stage 3.

3. Demand Management Measures:

The General Manager, or his/her designee(s), will:

- (a) Contact customers informing them of procedures that will be implemented to reduce water usage. The Plan will take into consideration the customers ability to satisfy its needs from subsurface sources and the ability of customers to assist other customers through use of the pipelines existing within the system.
- (b) Information to be provided to news media regarding current conditions with a request to encourage the general population to conserve water wherever possible.

Emergency Water Shortage Conditions

Whenever emergency water shortage conditions exist as defined in Section VII of The Plan, the General Manager shall:

- 1. Assess the severity of the problem and identify the actions needed and time required to solve the problem.(Initiate emergency response procedures)
- 2. Inform the utility director or other responsible official of each customer by telephone or fax.
- 3. Notify appropriate regulatory officials.
- 4. Undertake necessary actions, including repairs as needed.
- 5. Notify customers of plan to restart water delivery.
- 6. Prepare a post-event assessment report on the incident and critique of emergency response procedures and actions.

* Please note in the event of a paid water release, BWA will supply a daily average allocation of water based on the proportion at which the release was determined until that water release has been expended.

Section IX: Pro Rata Water Allocation

In the event that the triggering criteria specified in Section VII of The Plan for Stage 3 – Severe Water Shortage Conditions have been met, the General Manager is hereby authorized to initiate allocation of water supplies on a pro rata basis in accordance with Texas Water Code Section 11.039 and according to the following water allocation policies and procedures:

- (a) A customer's monthly allocation shall be a percentage of the customer's monthly contracted amount of water, i.e. Contract Quantity. The percentage will be set by resolution of the Brazosport Water Authority Board of Directors based on the General Manager's assessment of the severity of the water shortage condition and the need to curtail water diversions and/or deliveries and may be adjusted periodically by resolution of the Brazosport Water Authority Board of Directors as conditions warrant. Once pro rata allocation is in effect, water diversions by or deliveries to each customer shall be limited to the allocation established for each month.
- (b) The General Manager shall provide notice, by certified mail, to each customer informing them of their monthly water usage allocations and shall notify the news media and the executive director of the Texas Commission on Environmental Quality upon initiation of pro rata water allocation.
- (c) Upon request of the customer or at the initiative of the General Manager, the allocation may be reduced or increased if an extenuating circumstance occurs and based on the sole discretion of the General Manager or his designee.
- (d) Usage totals will be monitored through Brazosport Water Authority SCADA System.
- (e) In the event that any water contracts are entered into or renewed with Brazosport Water Authority after adoption of The Plan, including contract extensions, the contracts shall include a provision stating that in the case of a shortage of water resulting from drought, the water to be distributed shall be divided in accordance with Texas Water Code, §11.039.

**Example Calculation of Monthly Allocation for a Hypothetical Water Customer

	2008	2009	2010	2011	2012	SUM	AVE	DROUGHT STAGE	TOTAL ALLOCATION PERCENTAGE	MONTHLY ALLOCATION
January	31.00	31.00	31.00	31.00	31.00	155.00	31.00	1	120%	37.20
February	29.00	28.00	28.00	28.00	29.00	142.00	28.40	1	120%	34.08
March	31.00	31.00	31.00	31.00	31.00	155.00	31.00	1	120%	37.20
April	30.00	30.00	30.00	30.00	30.00	150.00	30.00	1	120%	36.00
May	31.00	31.00	31.00	31.00	31.00	155.00	31.00	1	120%	37.20
June	30.00	30.00	30.00	30.00	30.00	150.00	30.00	2	100%	30.00
July	31.00	31.00	31.00	31.00	31.00	155.00	31.00	2	100%	31.00
August	31.00	31.00	31.00	31.00	31.00	155.00	31.00	3	90%	27.90
September	30.00	30.00	30.00	30.00	30.00	150.00	30.00	3	90%	27.00
October	31.00	31.00	31.00	31.00	31.00	155.00	31.00	4	85%	26.35
November	30.00	30.00	30.00	30.00	30.00	150.00	30.00	4	85%	25.50
December	31.00	31.00	31.00	31.00	31.00	155.00	31.00	5	80%	24.80
TOTAL	366.00	365.00	365.00	365.00	366.00		365.40			

*UNITS IN MILLION GALLONS

**THIS CHART IS AN EXAMPLE, EACH CUSTOMER'S MONTHLY ALLOCATION WILL BE COMPUTED AS STATED IN SECTION IX: (B)

Section X: Enforcement

During any period when pro rata allocation of available water supplies is in effect, customers shall be subject to discontinuation of service for exceeding pro rata allocation.

- (a) Each customer's daily usage shall be monitored and totaled via SCADA System and stored on computer.
- (b) Customers in excess of 5% over daily allocation will have water source discontinued if they exceed their contracted or allocated amount, whichever is less, until the following day. Discontinuance of service will be accomplished by Brazosport Water Authority's PLC coding, control set point value and control valve. Operator will be notified via computer alarming system.

Section XI: Variances

The General Manager, or his/her designee, may, in writing, grant a temporary variance to the pro rata water allocation policies provided by this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the public health, welfare, or safety and if one or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which The Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the General Manager within five (5) days after pro rata allocation has been invoked. All petitions for variances shall be reviewed by the Board of Directors, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Detailed statement with supporting data and information as to how the pro rata allocation of water under the policies and procedures established in The Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (c) Description of the relief requested.

- (d) Period of time for which the variance is sought.
- (e) Alternative measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (f) Other pertinent information.

Variations granted by the Board of Directors shall be subject to the following conditions, unless waived or modified by the Board of Directors or its designee:

- (a) Variations granted shall include a timetable for compliance.
- (b) Variations granted shall expire when The Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

Section XII: Severability

It is hereby declared to be the intention of the Brazosport Water Authority Board of Directors that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the Brazosport Water Authority Board of Directors without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

This document was approved by Brazosport Water Authority's Board of Directors on July 22, 2014.

**ATTACHMENTS –
PART C**

C39 - Taxable Assessed Valuation by Classification
Brazoria County

Taxable Appraised Value for Fiscal Year Ended September 30,

Category	2015		2014		2013	
	Amount	% of Total	Amount	% of Total	Amount	% of Total
Real, Residential, Single-Family	\$ 12,764,974,510	41.76%	\$ 12,329,061,894	40.33%	\$ 12,129,331,323	41.01%
Real, Residential, Multi-Family	601,587,794	1.97%	573,104,404	1.87%	512,248,097	1.73%
Real, Vacant Lots/Tracts	425,145,214	1.39%	433,375,619	1.42%	436,638,317	1.48%
Real, Acreage (Land Only)	1,069,049,912	3.50%	1,021,695,508	3.34%	1,303,261,304	4.41%
Real, Farm and Ranch Improvements	672,197,196	2.20%	662,846,163	2.17%	341,625,826	1.16%
Real, Commercial	1,865,006,700	6.10%	2,014,160,408	6.59%	1,898,240,058	6.42%
Real, Industrial	5,966,085,860	19.52%	5,838,845,890	19.10%	5,920,968,480	20.02%
Real, Oil and Gas	578,422,477	1.89%	503,846,381	1.65%	375,349,341	1.27%
Real, Other Minerals	632,891	0.00%	491,650	0.00%	762,030	0.00%
Real and Intangible Personal, Utilities	1,007,958,310	3.30%	629,444,242	2.06%	573,247,770	1.94%
Tangible Personal, Commercial	1,072,914,994	3.51%	1,004,179,300	3.29%	925,101,240	3.13%
Tangible Personal, Industrial	1,853,806,190	6.06%	1,937,660,875	6.34%	1,670,877,424	5.65%
Tangible Personal, Mobile Homes	72,897,090	0.24%	68,460,470	0.22%	71,036,280	0.24%
Real Property, Inventory	134,786,666	0.44%	107,512,751	0.35%	124,333,526	0.42%
Special Inventory	54,513,360	0.18%	56,951,680	0.19%	48,175,250	0.16%
Total Exempt Property	2,428,089,397	7.94%	2,393,165,114	7.83%	2,502,385,878	8.46%
Total Appraised Value Before Exemptions	30,568,068,561	100.00%	29,574,802,349	96.75%	28,833,582,144	97.49%
Less: Total Exemptions/Reductions	(2,649,048,724)		(3,319,556,767)		(8,343,097,758)	
Taxable Value under protest	-		-		-	
Net Taxable Assessed Valuation	25,490,930,440		26,255,245,582		20,490,484,386	

Category	2012		2011	
	Amount	% of Total	Amount	% of Total
Real, Residential, Single-Family	\$ 11,873,929,530	41.18%	\$ 11,767,411,845	8192.22%
Real, Residential, Multi-Family	439,778,426	1.53%	462,355,424	321.88%
Real, Vacant Lots/Tracts	438,842,651	1.52%	469,572,281	326.91%
Real, Acreage (Land Only)	1,281,305,878	4.44%	1,303,803,348	907.68%
Real, Farm and Ranch Improvements	330,413,332	1.15%	327,575,483	228.05%
Real, Commercial and Industrial	1,921,567,748	6.66%	7,921,830,270	5515.01%
Real, Oil and Gas and other minerals	5,882,995,380	20.40%	419,340,354	291.94%
Real and Intangible Personal, Utilities	385,311,605	1.34%	566,983,010	394.72%
Personal, business	1,090,980	0.00%	876,731,590	610.36%
Personal, other	572,523,410	1.99%	1,390,495,680	968.03%
Real, Inventory	886,759,750	3.08%	173,017,662	120.45%
Special Inventory	1,405,218,090	4.87%	35,619,170	24.80%
Total Exempt Property	70,365,190	0.24%	-	0.00%
Total Appraised Value Before Exemptions	143,641,259	0.50%	25,714,736,117	17902.05%
Less: Total Exemptions/Reductions	39,782,880	0.14%	(6,236,239,815)	
Taxable Value under protest	2,422,175,607	8.40%	-	
Net Taxable Assessed Valuation	28,095,701,716	97.44%	19,478,496,302	
	(8,544,519,152)			
Source: Brazoria County Appraisal District	-			
	19,551,182,564			

C40 - Overlapping Tax Rates⁽¹⁾

<u>Issuer</u>	<u>G.O. Tax Debt as of 6/1/2015</u>	<u>Total Tax Rate</u>
Brazoria County	\$ 84,880,000	\$ 0.4985
City of Angleton	15,745,000	0.7235
City of Brazoria	1,355,000	0.7707
City of Clute	13,755,000	0.6756
City of Freeport	3,774,000	0.6756
City of Lake Jackson	31,385,000	0.3875
Oyster Creek Village	195,000	0.4764
City of Richwood	2,630,000	0.7357
Angleton ISD	129,114,519	1.4552
Brazosport ISD	128,219,050	1.2553
Columbia-Brazoria ISD	39,264,985	1.2847
Angleton Danbury Hospital District	10,150,000	0.3627
Brazosport College District	61,535,000	0.2809
Velasco Drainage District	5,945,000	0.0980
Port Freeport	5,315,000	0.0450

Source: Municipal Advisory Council of Texas

(1) Issuers listed represent each of the overlapping issuers of the 7 member cities of the Authority

PART C45a

Brazosport Water Authority

ProForma Cash Flow

Existing Debt Service and Projected 2015 Issuance

Fiscal Year Ended 30-Sep	Operating Revenues	Operating Expenses	Net Revenue Available	Existing Debt Service	New Debt to Be Issued			Total Debt Service	Coverage
					Open Market S2015A	The Bonds TWDB S2015B	Open Market S2015C		
2015	\$ 7,904,988	\$ 4,910,375	\$ 2,994,613	\$ 2,486,925				\$ 2,486,925	1.20
2016	9,900,000	4,910,375	4,989,625	2,503,770	514,350	110,223	559,600	3,687,943	1.35
2017	9,900,000	4,910,375	4,989,625	2,500,420	1,028,700	110,223	1,119,200	4,758,543	1.05
2018	9,900,000	4,910,375	4,989,625	2,500,720	1,028,700	110,223	1,119,200	4,758,843	1.05
2019	9,900,000	4,910,375	4,989,625	919,670	1,553,700	400,223	1,689,200	4,562,793	1.09
2020	9,900,000	4,910,375	4,989,625	922,954	1,552,700	397,381	1,691,400	4,564,435	1.09
2021	9,900,000	4,910,375	4,989,625	923,922	1,555,900	399,133	1,692,600	4,571,555	1.09
2022	9,900,000	4,910,375	4,989,625	922,760	1,553,100	400,387	1,692,800	4,569,046	1.09
2023	9,900,000	4,910,375	4,989,625	919,657	1,554,500	401,217	1,692,000	4,567,373	1.09
2024	9,900,000	4,910,375	4,989,625	919,808	1,553,750	396,581	1,693,500	4,563,638	1.09
2025	9,900,000	4,910,375	4,989,625	923,782	1,556,500	396,640	1,693,250	4,570,171	1.09
2026	9,900,000	4,910,375	4,989,625	921,622	1,552,500	401,401	1,691,250	4,566,772	1.09
2027	9,900,000	4,910,375	4,989,625	923,455	1,557,000	400,385	1,692,500	4,573,339	1.09
2028	9,900,000	4,910,375	4,989,625	924,325	1,554,500	398,755	1,691,750	4,569,329	1.09
2029	9,900,000	4,910,375	4,989,625	924,205	1,555,250	396,594	1,689,000	4,565,048	1.09
2030	9,900,000	4,910,375	4,989,625	923,149	1,554,000	399,023	1,689,250	4,565,422	1.09
2031	9,900,000	4,910,375	4,989,625	921,217	1,555,750	400,915	1,692,250	4,570,132	1.09
2032	9,900,000	4,910,375	4,989,625	923,472	1,555,250	397,324	1,692,750	4,568,796	1.09
2033	9,900,000	4,910,375	4,989,625	919,788	1,552,500	398,504	1,690,750	4,561,542	1.09
2034	9,900,000	4,910,375	4,989,625	920,340	1,552,500	399,328	1,691,250	4,563,418	1.09
2035	9,900,000	4,910,375	4,989,625		1,555,000	399,828	1,689,000	3,643,828	1.37
2036	9,900,000	4,910,375	4,989,625		1,554,750		1,689,000	3,243,750	1.54
2037	9,900,000	4,910,375	4,989,625		1,556,750		1,691,000	3,247,750	1.54
2038	9,900,000	4,910,375	4,989,625		1,555,750		1,689,750	3,245,500	1.54
2039	9,900,000	4,910,375	4,989,625		1,556,750		1,690,250	3,247,000	1.54
2040	9,900,000	4,910,375	4,989,625		1,554,500		1,692,250	3,246,750	1.54
2041	9,900,000	4,910,375	4,989,625		1,554,000		1,690,500	3,244,500	1.54
				<u>\$ 24,745,957</u>				<u>\$ 88,765,063</u>	

- 1) 2015 Operating Revenues are budgeted amounts from the current year budget.
- 2) 2015 Operating Expenditures are budgeted amounts from the current year budget.
- 3) Operating Revenues and Expenditures are increased based on planned rate increase to accommodate debt service.
- 4) Interest rates are estimated based on market conditions from June 1, 2015.
- 5) Open market issues show debt service net of capitalized interest in 2016.
- 5) Coverage of 1.05 times coverage is required per the bond order.

PART C46 5 Year Operating Statement

For Fiscal Year Ended September 30,

Operating Revenues	2015 ⁽¹⁾	2014	2013	2012	2011	2010
Water Sales	\$ 4,729,740	\$ 6,729,577	\$ 6,531,597	\$ 6,341,101	\$ 5,701,612	\$ 5,669,634
Interest Income		31,577	6,903	39,820	79,197	106,761
Total Revenues	\$ 4,729,740	\$ 6,761,154	\$ 6,538,500	\$ 6,380,921	\$ 5,780,809	\$ 5,776,395
Operating Expenses						
Salaries and Employee Benefits	\$ -	\$ 1,311,376	\$ 1,116,307	\$ 1,010,001	\$ 945,628	\$ 841,826
Water Storage and Transfer		564,929	528,371	572,932	531,332	621,695
Chemicals		122,013	793,764	891,971	922,944	669,822
Water Purchases		774,105	-	82,842	106,250	-
Electricity		239,193	238,128	325,934	384,388	391,983
Plant and System Maintenance		260,797	197,899	195,744	195,634	252,538
Sediment Disposal		542,946	417,375	431,339	358,029	361,570
Lab Costs		30,337	37,264	36,512	36,005	41,620
Professional Fees		66,737	60,275	97,521	42,553	68,573
Administrative		181,010	185,390	120,009	96,279	98,230
Total Expenses	\$ 2,286,331	\$ 4,093,443	\$ 3,574,773	\$ 3,764,805	\$ 3,619,042	\$ 3,347,857
Available for Debt Service	\$ 2,443,409	\$ 2,667,711	\$ 2,963,727	\$ 2,616,116	\$ 2,161,767	\$ 2,428,538
Debt Service	2,502,275	1,582,175	1,679,186	1,697,556	1,697,044	1,697,794
Coverage		1.69x	1.76x	1.54x	1.27x	1.43x
Customer Count	9	9	9	9	9	9

(1) For the seven months ending April 30, 2015.

BRAZOSPORT WATER
AUTHORITY

ANNUAL FINANCIAL REPORT

For the Year Ended September 30, 2014

BRAZOSPORT WATER AUTHORITY

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INDEPENDENT AUDITORS' REPORT

Board of Directors
Brazosport Water Authority
Brazoria County, Texas

We have audited the accompanying financial statements of the business-type activities of the Brazosport Water Authority (the "Authority") as of and for the year ended September 30, 2014, and the related notes to the financial statements, which collectively comprise the Authority's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Brazosport Water Authority, as of September 30, 2014, and the respective changes in financial position and, where applicable, cash

flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 3 through 7 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the Authority's basic financial statements. The Texas Supplementary Information is presented for purposes of additional analysis and is not a required part of the basic financial statements.

The Texas Supplementary Information is the responsibility of management and was derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Texas Supplementary Information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.



Sugar Land, Texas
January 13, 2015

BRAZOSPORT WATER AUTHORITY

MANAGEMENT'S DISCUSSION AND ANALYSIS

The management of the Brazosport Water Authority (the "Authority") offers readers of the Authority's financial statements this narrative overview and analysis of the financial activities of the Authority for the year ended September 30, 2014. We encourage readers to consider the information presented here in conjunction with the financial statements and the notes to the financial statements.

FINANCIAL HIGHLIGHTS

- The Authority's total assets exceeded liabilities by \$7,865,931. This amount represents net position; of this amount, \$1,039,869 represents net investment in capital assets. An additional \$3,697,510 is under restricted net position and the remaining \$3,128,552 represents unrestricted net position.
- Liabilities for the Authority totaled \$6,229,548 of which \$5,875,000 accounts for obligations under long-term debt.
- Operating revenues for the Authority at year-end were \$6,729,577 and exceeded operating expenses by \$1,492,421. The major revenue source was water sales to seven municipalities within Brazoria County, Texas. The total change in net position was \$1,240,399 for the 2014 fiscal year.
- Operating expenses totaled \$5,237,156. Of this amount, salaries, wages and employee benefits were \$1,311,376. Depreciation expense totaled \$1,143,713 and the remaining \$2,782,067 represents other operating expenses.
- Non-operating expenses exceeded non-operating revenues by \$252,022. This was primarily attributable to interest expense paid on bonds that totaled \$245,848 for the 2014 fiscal year.

OVERVIEW OF THE FINANCIAL STATEMENTS

The management's discussion and analysis is intended to serve as an introduction to the Authority's basic financial statements. The Authority's basic financial statements include three components: 1) business-type financial statements, 2) notes to the financial statements, and 3) other supplemental information. This report also contains other supplemental information in addition to the basic financial statements.

ENTERPRISE FUNDS

Enterprise funds are used to report the same functions presented as business-type activities in the basic financial statements. The Authority is operated under one enterprise fund.

NOTES TO THE FINANCIAL STATEMENTS

The notes provide additional information that is essential to a full understanding of the data provided in the financial statements.

STATEMENT OF NET POSITION

The Statement of Net Position for the Authority is presented as one of the required basic financial statements. The Statement of Net Position includes all of the Authority's assets, deferred outflows of resources, liabilities and net position. A major function of the Statement of Net Position is to measure the ability of the Authority to meet its current and long-term obligations.

State and local governments report the net value or "Net Position" in these major categories:

- Net Investment in Capital Assets
- Restricted
- Unrestricted

The Governmental Accounting Standards Board (the "GASB") believes the users of the Authority's financial statements should know whether "Net Position" were invested in capital assets, are restricted for future use or their future use is unrestricted.

FINANCIAL ANALYSIS

Net position may serve over time as a useful indicator of a financial statement position. In the case of the Authority, assets and deferred outflows of resources exceeded liabilities by \$7,865,931 at the close of the most recent fiscal year.

As of September 30, 2014 and 2013

	<u>2014</u>	<u>2013</u>
Assets		
Current assets	\$ 3,315,196	\$ 2,871,164
Restricted assets	3,712,197	3,433,364
Other assets	45,000	45,000
Capital assets - net	6,914,869	7,608,362
Total Assets	<u>13,987,262</u>	<u>13,957,890</u>
Deferred Outflows of Resources		
Charges from debt refunding	108,217	136,447
Total Deferred Outflows of Resources	<u>108,217</u>	<u>136,447</u>
Liabilities		
Current liabilities	354,548	263,805
Long-term debt	5,875,000	7,205,000
Total Liabilities	<u>6,229,548</u>	<u>7,468,805</u>
Net Position		
Net investment in capital assets	1,039,869	403,362
Restricted:		
Debt service	3,697,510	3,412,349
Unrestricted	3,128,552	2,809,821
Total Net Position	<u>\$ 7,865,931</u>	<u>\$ 6,625,532</u>

- Current assets increased by \$444,032 which represents a 15.5% increase from the prior year. The increase in current assets reflects an increase in cash and cash equivalents during the 2014 fiscal year.

- Deferred outflows of resources decreased by \$28,230, which represents a 20.7% decrease from the prior year. This decrease can be attributed to the amortization of charges from debt refunding in the amount of \$28,230 during the 2014 fiscal year.
- Total liabilities decreased by \$1,239,257, a 16.6% decrease from the prior year. This decrease is mainly due to a principal payment on the Series 2013 refunding bonds in the amount of \$1,330,000.

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

The Statement of Revenues, Expenses and Changes in Net Position is the basic statement of activities for all of the Authority. The Authority does not seek to earn a profit in the long-term. However, the Authority must cover its operations, maintenance and other costs annually from fees and charges since the Authority does not levy or collect any tax revenue. The Statement of Revenues, Expenses and Changes in Net Position measures how well annual costs are covered by fees and charges.

For the Years Ended September 30, 2014 and 2013

	<u>2014</u>	<u>2013</u>
Operating Revenues:		
Water sales	\$ 6,729,577	\$ 6,531,597
Total Operating Revenues	<u>6,729,577</u>	<u>6,531,597</u>
Operating Expenses:		
Salaries, benefits and personnel	1,311,376	1,095,759
Water storage and transfer	564,929	528,371
Water purchases	122,013	
Chemicals	774,105	793,764
Electricity	239,193	238,128
Maintenance and repairs	260,797	197,899
Sediment disposal	542,946	417,375
Lab costs	30,337	37,264
Professional fees	66,737	60,275
Other administrative expenses	181,010	155,032
Depreciation	1,143,713	1,094,903
Total Operating Expenses	<u>5,237,156</u>	<u>4,618,770</u>
Operating Income	<u>1,492,421</u>	<u>1,912,827</u>
Nonoperating Revenues (Expenses)		
Investment income	31,577	6,903
Unrealized (loss) on investments	(9,521)	(167,807)
Interest expense	(245,848)	(366,851)
Bond issuance costs		(138,862)
Amortization of charges from debt refunding	(28,230)	(83,700)
Total Nonoperating Revenue (Expenses)	<u>(252,022)</u>	<u>(750,317)</u>
Change in Net Position	1,240,399	1,162,510
Net Position at Beginning of Year	<u>6,625,532</u>	<u>5,463,022</u>
Net Position at End of Year	<u>\$ 7,865,931</u>	<u>\$ 6,625,532</u>

- Salaries, benefits and personnel increased by \$215,617, a 20.0% increase from the prior year. This increase can be attributed to an additional employee and Board approved adjustments to wages and salaries.

- Water purchases increased by \$122,013, a 100.0% increase from the prior year. This increase can be attributed to an additional water purchase due to drought conditions.
- Maintenance and repairs increased by \$62,898, a 31.8% increase from the previous year. This increase is due to an aging plant which requires additional work, and more work being completed due to an additional employee that was added in the current fiscal year.
- Sediment disposal increased by \$125,571, a 30.1% increase from the prior year. This increase can be attributed to raw water conditions.

CAPITAL ASSETS AND LONG-TERM DEBT

The Authority's capital assets as of September 30, 2014, totaled \$6,914,869. These capital assets include land, treatment plant, pipelines, equipment, furniture and fixtures, automobiles and trucks and construction in progress. The total decrease in the Authority's capital assets for the current fiscal year was 9.1%.

As of September 30, 2014 and 2013

	<u>2014</u>	<u>2013</u>
Capital Assets - at cost		
Land	\$ 242,762	\$ 242,762
Treatment plant	16,490,891	16,286,607
Pipelines	9,919,186	9,919,186
Equipment	1,918,462	1,255,006
Furniture and fixtures	30,978	30,978
Automobiles and trucks	192,035	154,377
Construction in progress	375,678	830,856
Less accumulated depreciation	<u>(22,255,123)</u>	<u>(21,111,410)</u>
Total Capital Assets	<u>\$ 6,914,869</u>	<u>\$ 7,608,362</u>

Additional information on the Authority's capital assets can be found in Note 3 to the financial statements.

LONG-TERM DEBT

At the end of the current fiscal year, the Authority had long-term debt of \$5,875,000. The debt represents bonds secured solely by specified revenue sources (i.e. revenue bonds).

As of September 30, 2014 and 2013

	<u>2014</u>	<u>2013</u>
Long-Term Debt		
Water Supply Revenue and Refunding Bonds, Series 2013	<u>\$ 5,875,000</u>	<u>\$ 7,205,000</u>
Total Long-Term Debt	<u>\$ 5,875,000</u>	<u>\$ 7,205,000</u>

The Authority's total debt decreased by \$1,330,000 from the previous fiscal year.

Additional information on the Authority's long-term debt can be found in Note 4 to the financial statements.

REQUESTS FOR INFORMATION

This financial report is designed to provide a general overview of the Authority's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to General Manager; Brazosport Water Authority; 1251 FM 2004; Lake Jackson, Texas 77566.

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BASIC FINANCIAL STATEMENTS

BRAZOSPORT WATER AUTHORITY

Exhibit B(1)

STATEMENT OF NET POSITION

September 30, 2014

	<u>Assets</u>	<u>Business-Type Activities</u> <u>Enterprise Fund</u>
Current Assets		
Cash and cash equivalents		\$ 2,476,231
Accounts receivable, net		657,720
Prepays		59,547
Inventory		121,698
	Total Current Assets	3,315,196
Restricted Assets		
Restricted cash and cash equivalents		2,777,515
Restricted investments		934,682
	Total Restricted Assets	3,712,197
Other Assets		
Water rights		45,000
	Total Other Assets	45,000
Capital Assets - at cost		
Land		242,762
Treatment plant		16,490,891
Pipelines		9,919,186
Equipment		1,918,462
Furniture and fixtures		30,978
Automobiles and trucks		192,035
Construction in progress		375,678
Less accumulated depreciation		(22,255,123)
	Total Capital Assets	6,914,869
	Total Assets	13,987,262
Deferred Outflows of Resources		
Charges from debt refunding		108,217
	Total Deferred Outflows of Resources	108,217

See Notes to Financial Statements.

	<u>Liabilities</u>	<u>Business-Type Activities</u> <u>Enterprise Fund</u>
Current Liabilities		
Accounts payable and accrued liabilities		\$ 280,114
Accrued compensated absences		59,747
Total Current Liabilities		<u>339,861</u>
Liabilities Payable from Restricted Assets		
Debt service:		
Current portion of revenue bonds		1,405,000
Accrued interest payable on bonds		14,687
Total Liabilities Payable from Restricted Assets		<u>1,419,687</u>
Long-Term Debt		
Revenue bonds - less current maturities		4,470,000
Total Long-Term Debt		<u>4,470,000</u>
Total Liabilities		<u>6,229,548</u>
Net Position		
Net investment in capital assets		1,039,869
Restricted:		
Debt service		3,697,510
Unrestricted		3,128,552
Total Net Position		<u>\$ 7,865,931</u>

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BRAZOSPORT WATER AUTHORITY

Exhibit B(2)

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

Year Ended September 30, 2014

	<u>Business-Type Activities</u>
	<u>Enterprise Fund</u>
Operating Revenues:	
Water sales	\$ 6,729,577
Total Operating Revenues	<u>6,729,577</u>
Operating Expenses:	
Salaries, benefits and personnel	1,311,376
Water storage and transfer	564,929
Water purchases	122,013
Chemicals	774,105
Electricity	239,193
Maintenance and repairs	260,797
Sediment disposal	542,946
Lab costs	30,337
Professional fees	66,737
Other administrative expenses	181,010
Depreciation	1,143,713
Total Operating Expenses	<u>5,237,156</u>
Operating Income	<u>1,492,421</u>
Nonoperating Revenues (Expenses)	
Investment income	31,577
Unrealized (loss) on investments	(9,521)
Interest expense	(245,848)
Amortization of charges from debt refunding	(28,230)
Total Nonoperating Revenues (Expenses)	<u>(252,022)</u>
Change in Net Position	1,240,399
Net Position at Beginning of Year	<u>6,625,532</u>
Net Position at End of Year	<u>\$ 7,865,931</u>

See Notes to Financial Statements.

BRAZOSPORT WATER AUTHORITY

Exhibit B(3)

STATEMENT OF CASH FLOWS

Year Ended September 30, 2014

	<u>Business-Type Activities</u>
	<u>Enterprise Fund</u>
Cash Flows from Operating Activities	
Cash received from customers	\$ 6,620,080
Cash payments to suppliers for goods and services	(2,823,000)
Cash payments for employee services	(1,297,775)
	<hr/>
Net Cash Provided by Operating Activities	2,499,305
	<hr/>
Cash Flows from Capital and Related Financing Activities	
Principal paid on bonds	(1,330,000)
Interest paid on bonds	(252,176)
Acquisition of capital assets	(450,220)
	<hr/>
Net Cash (Used) by Capital and Related Financing Activities	(2,032,396)
	<hr/>
Cash Flows from Investing Activities	
Net proceeds from sale and maturities of investments	50,798
Interest earned	31,577
	<hr/>
Net Cash Provided by Investing Activities	82,375
	<hr/>
Net Increase in Cash and Cash Equivalents	549,284
	<hr/>
Cash and Cash Equivalents at Beginning of Year	4,704,462
	<hr/>
Cash and Cash Equivalents at End of Year	\$ 5,253,746
	<hr/> <hr/>
Reconciliation of Operating Income to Net Cash Provided by Operating Activities	
Operating income	\$ 1,492,421
Adjustments to reconcile operating income to net cash provided by operating activities:	
Depreciation	1,143,713
(Increase) decrease in receivables	(109,497)
(Increase) decrease in prepaids	(59,547)
(Increase) decrease in inventory	(1,516)
Increase (decrease) in accounts payable and accrued liabilities	26,310
Increase (decrease) in accrued compensated absences	7,421
Total Adjustments	<hr/> 1,006,884 <hr/>
Net Cash Provided by Operating Activities	\$ 2,499,305
	<hr/> <hr/>

See Notes to Financial Statements.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The accounting and reporting policies of the Brazosport Water Authority (the "Authority"), a governmental agency and political subdivision of the State of Texas, conform to accounting principles generally accepted in the United States of America as prescribed by the Governmental Accounting Standards Board (the "GASB"). The following is a summary of the more significant policies consistently applied in the preparation of the accompanying financial statements:

A. Reporting Entity

The reporting entity refers to the scope of activities, organizations and functions included in the financial statements. The Authority is a separate, self-supporting governmental unit created pursuant to Article XVI, Section 59, of the Constitution of the State of Texas and is administered by a Board of seven members who are appointed by seven cities that purchase water from the Authority. There are no dependent functions or agencies that meet any of the criteria for inclusion in the reporting entity in accordance with the requirements of the GASB.

The Authority was created by an act of the State Legislature and signed by the governor on June 11, 1985. The Authority has the power to acquire surface and underground water supplies from sources both inside and outside the boundaries of the Authority and may conserve, store, transport, treat, purify, distribute, sell, and deliver water to persons, corporations, municipal corporations, political subdivisions of the state and others, inside and outside the Authority.

The Authority currently sells water to seven municipalities within Brazoria County, Texas, those being the cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood. The Authority is governed by a board of directors, composed of directors appointed by each of the respective cities. Each director serves as a volunteer without pay. The Authority also supplies water to the Clemens and Wayne Scott units of the Texas Department of Criminal Justice and The Dow Chemical Company, which do not have representation on the governing board.

The Authority began producing treated water for its seven member cities in March 1989. Revenues are derived primarily from water sales, and no taxes are levied by the Authority. The financial statements of the Authority include all activities, agencies, organizations, and functions of the Authority for which the Board of Directors has oversight responsibility. Such oversight responsibility includes; designation of management, financial interdependency, the ability to influence operations and accountability for fiscal matters.

Oversight responsibility is the primary criterion set forth by GAAP, for determining

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

whether to include a potential component unit within the reporting entity. Other criteria used for determining potential component units, include evaluating the scope of public service; application of which involves consideration of whether the activities carried on benefit the government and/or citizens, or whether the activity is conducted within the geographic boundaries of the government and is generally available to its citizens. Another criteria is the existence of special financing relationships, regardless of whether the governments is able to exercise oversight responsibility. Based on the forgoing criteria, there are no potential component units of the Authority.

B. Business-Type Activities

The business-type activities and the related accounts of the Authority are organized on the basis of an Enterprise Fund. The operations of the Enterprise Fund are accounted for by a separate set of self-balancing accounts that comprise its assets, deferred outflows of resources, liabilities, fund equity, revenues and expenses, as appropriate. This Enterprise Fund is used to account for operations (1) that are financed and operated in a manner similar to private business enterprises – where the intent of the governing body is that the costs (expenses, including depreciation) of providing services to customers on a continuing basis be financed or recovered primarily through user charges; or (2) where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

C. Measurement Focus and Basis of Accounting

The Enterprise Fund has a net income or capital measurement focus and is accounted for using the accrual basis of accounting, under which revenues are recognized when they are earned including unbilled water sales which are accrued. Expenses are recognized at the time the liability is incurred. With this measurement focus, all assets and liabilities associated with the operation of these funds are included in the Statement of Net Position.

The Authority applies all GASB pronouncements as well as Financial Accounting Standards Board pronouncements issued on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements.

D. Cash and Cash Equivalents

Cash and cash equivalents include amounts in checking, savings and money market accounts.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

E. Accounts Receivable

Accounts receivable are comprised of the monthly billings to member cities and two other significant users under contract with the Authority; the Texas Department of Criminal Justice and The Dow Chemical Company.

The allowance for doubtful accounts is established to provide an estimate of bad debts charged to revenues. Losses are charged against the allowance when management believes the collectibility of a receivable is unlikely. Subsequent recoveries, if any, are credited to the allowance. The allowance for doubtful accounts is evaluated on a regular basis by management and is based on historical experience and specifically identified questionable receivables. The evaluation is inherently subjective as it requires estimates that are susceptible to significant revision as more information becomes available.

As of September 30, 2014, an allowance for bad debts was not deemed necessary.

F. Inventories

The Authority's inventory primarily consists of water treatment chemicals, and these are reported at cost using the first-in-first-out method of accounting.

G. Deferred Outflows of Resources

Deferred outflows of resources represent a consumption of net position that applies to a future period(s) and so will not be recognized as outflows of resources (expenses) until that time. As of September 30, 2014, deferred outflows of resources consist of charges from debt refunding.

H. Depreciation

Depreciation is provided for in amounts sufficient to relate the cost of the depreciable property to operations on a straight-line basis over their estimated useful lives. The Authority's policy is to capitalize assets with an initial cost exceeding \$5,000.

The useful lives by the type of assets are as follows:

<u>Asset Class</u>	<u>Useful Life</u>
Treatment plant, transmission lines, and grounds improvements	15-30 years
Machinery and equipment, furniture and fixtures and automobiles and trucks	5-10 years

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

The Authority's management considers its water permits and rights permanent in nature and since these intangible assets have no evident limited life, no amortization is being recognized.

I. Compensated Absences

It is the Authority's policy to permit employees to accumulate earned but unused vacation and sick pay benefits. There is no liability for unpaid accumulated sick leave since the policy does not pay such amounts when employees separate from service. All vacation pay is accrued when incurred and reported as a liability.

J. Net Position

Net position represents assets plus deferred outflows of resources minus liabilities. Net position net investment in capital assets consist of capital assets, net of accumulated depreciation, reduced by the outstanding balances of any borrowing used for the acquisition, construction or improvements of those assets, and adding back unspent bond proceeds.

Net position is reported as restricted when there are limitations imposed on their use through external restrictions imposed by creditors, grantors, or laws or regulations of other governments. Unrestricted net position represents the remaining portion of net position.

K. Date of Management's Review

In preparing the financial statements, the Authority has evaluated events and transactions for potential recognition or disclosure through January 13, 2015, the date that the financial statements were available to be issued.

L. Estimates

The preparation of financial statements, in conformity with generally accepted accounting principles, requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

NOTE 2 - CASH AND INVESTMENTS

All cash and cash equivalents are carried at cost.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

	<u>Book Balance</u>	<u>Fair Value</u>
Cash and cash equivalents	\$ 5,253,746	\$ 5,253,746
Total Cash and Cash Equivalents	\$ 5,253,746	\$ 5,253,746

Investments

Water authorities in Texas are authorized to make investments as follows:

- Obligations of the U.S. or its agencies;
- Obligations of the state of Texas or its agencies;
- Obligations guaranteed by the U.S. or the state of Texas;
- Certificates of deposit of federally insured banks and savings and loans domiciled in Texas;
- Various others meeting specific requirements.

At year-end, the Authority's investment balances were as follows:

	<u>Fair Value</u>	<u>Weighted Average Maturity (Days)</u>
U.S. government securities	\$ 934,682	2521
Total Investments	\$ 934,682	

The fair values of the U.S. Government and Agency Securities are based on quoted market prices. The investments are reported at Fair Value in accordance with Governmental Accounting Standards Board Statement (GASB) No. 31 "Accounting and Financial Reporting for Certain Investments and for External Investment Pools." The increase or decrease in the fair value of investments is recorded in investment income.

Interest Rate Risk

Fair value fluctuates with interest rates and increasing rates may cause fair value to decline below original cost. The Authority structures its portfolio so that securities mature to meet cash flow requirements, thereby avoiding the need to sell securities prior to maturity and below the original cost.

Credit Risk

In accordance with its investment policy, the Authority minimizes credit risk losses due to default of a security issuer or backer, by limiting investments to the safest types of securities. As of September 30, 2014, all of the Authority's investments are in U.S. government securities.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

NOTE 3 - CAPITAL ASSETS

The following table summarizes the changes in the components of capital assets:

	Balance at Oct. 1, 2013	Additions	Deletions	Balance at Sept. 30, 2014
Land	\$ 242,762	\$	\$	\$ 242,762
Treatment plant	16,286,607	204,284		16,490,891
Pipelines	9,919,186			9,919,186
Equipment	1,255,006	663,456		1,918,462
Furniture and fixtures	30,978			30,978
Automobiles and trucks	154,377	37,658		192,035
Construction in progress	830,856	311,954	767,132	375,678
Less accumulated depreciation	(21,111,410)	(1,143,713)		(22,255,123)
Total Capital Assets	\$ 7,608,362	\$ 73,639	\$ 767,132	\$ 6,914,869

NOTE 4 - LONG-TERM DEBT

A summary of changes in bonds payable follows:

	Interest Rates	Original Issuance	Balance at Oct. 1, 2013	Additions	Deductions	Balance at Sept. 30, 2014	Due Within One Year
Water Revenue Refunding Bonds:							
Series 2013	3.00%	\$ 7,205,000	\$ 7,205,000	\$	\$ 1,330,000	\$ 5,875,000	\$ 1,405,000
Total Bonds Payable			\$ 7,205,000	\$	\$ 1,330,000	\$ 5,875,000	\$ 1,405,000

Maturities of bonds payable for the next five fiscal years follow:

Fiscal Year	Principal	Interest	Total
2015	\$ 1,405,000	\$ 176,250	\$ 1,581,250
2016	1,445,000	134,100	1,579,100
2017	1,490,000	90,750	1,580,750
2018	1,535,000	46,050	1,581,050
	\$ 5,875,000	\$ 447,150	\$ 6,322,150

During the prior fiscal year, the Authority issued the Water Supply System Revenue Refunding Bonds, Series 2013, in the amount of \$7,205,000 to refund the Authority's Water Supply System Revenue Refunding Bonds, Series 2003. The Series 2013 Refunding Bonds will provide an economic gain of \$547,864.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

NOTE 5 - RETIREMENT PLAN

The Authority has an employee savings and retirement plan that was implemented in 1989. It is a defined contribution plan covering substantially all full-time employees. Participating employees can contribute from 1% to 10% of eligible pay. The Authority matches the employees' elective contributions up to the plan maximum of 7%. The Authority's policy is to fund pension cost as it is incurred. Retirement expense totaled \$43,628 for the 2014 fiscal year.

NOTE 6 - COMMITMENTS AND CONTINGENCIES

In the ordinary course of conducting its operations, the Authority is involved in various legal matters. These matters are in various stages of the process of resolution and the impact, if any, is not currently determinable. The Authority's management does not believe that any unfavorable decisions would have a material impact on the financial statements.

Water Rights and Purchases

On January 1, 1987 the Authority entered into a contract with The Dow Chemical Company (the "Company") to purchase a portion of the Company's water rights permit for water diverted from the Brazos River. Based on this contract, the Authority can receive, and the Company agrees to pump, up to a maximum of thirty six million gallons of water per day. In addition, the Company will use its raw water pumping, storage and transmission facilities to transport water diverted from the Brazos River to the intake structure for the Authority's treatment facilities.

Water Supply Contracts

On February 20, 1987, the Authority entered into water supply contracts with member municipalities listed in Note 1. The contract term is forty years, and may not be terminated as long as the related long-term debt is outstanding. Each municipality determined their contract quantity in millions of gallons of water per day. Each has agreed to purchase at least its contract quantity of water. These contracts are for a combined total of 9.33 million gallons daily. The plant capacity is 17.5 million gallons daily, expandable to 25 million. The rate assessed is to be reviewed and established annually. The established rate must be sufficient to provide the Authority with necessary funds to meet its annual debt service requirements, maintain a reserve deposit requirement, pay operating expenses and provide for replacements and improvements as needed. The Authority also has a contract to provide water to the Clemens and Wayne Scott units of the Texas Department of Criminal Justice and The Dow Chemical Company.

BRAZOSPORT WATER AUTHORITY

Exhibit B(4)

NOTES TO FINANCIAL STATEMENTS

NOTE 7 – RESTATEMENT OF BEGINNING NET POSITION

During the 2014 fiscal year, beginning net position was restated from \$6,574,626 to \$6,625,532. This increase in beginning net position is due to insurance expenses that were charged to the 2013 fiscal year, but the coverage period was actually for the 2014 fiscal year. Therefore, both beginning net position and insurance expenses were increased by \$50,906 in the 2014 fiscal year.

OTHER SUPPLEMENTARY INFORMATION

BRAZOSPORT WATER AUTHORITY

Exhibit C(1)

SCHEDULE OF REVENUES AND EXPENSES - BUDGET AND ACTUAL

For the Year Ended September 30, 2014

	<u>Budgeted Amounts</u>		<u>Actual</u>	<u>Variance Over (Under)</u>
	<u>Original</u>	<u>Final</u>		
<u>Operating Revenues</u>				
Water sales	\$ 6,656,907	\$ 6,656,907	\$ 6,729,577	\$ 72,670
Total Revenues	<u>6,656,907</u>	<u>6,656,907</u>	<u>6,729,577</u>	<u>72,670</u>
<u>Operating Expenses</u>				
Salaries, benefits and personnel	1,304,568	1,304,568	1,311,376	(6,808)
Water storage and transfer	705,000	705,000	564,929	140,071
Water purchases			122,013	(122,013)
Chemicals	1,116,250	1,116,250	774,105	342,145
Electricity	300,000	300,000	239,193	60,807
Maintenance and repairs	350,500	350,500	260,797	89,703
Sediment disposal	430,000	430,000	542,946	(112,946)
Lab costs	52,000	52,000	30,337	21,663
Professional fees	59,000	59,000	66,737	(7,737)
Other administrative expenses	222,400	222,400	181,010	41,390
Depreciation			1,143,713	(1,143,713)
Total Operating Expenses	<u>4,539,718</u>	<u>4,539,718</u>	<u>5,237,156</u>	<u>(697,438)</u>
Operating Income	2,117,189	2,117,189	1,492,421	(624,768)
<u>Nonoperating Revenues (Expenses)</u>				
Investment income	55,000	55,000	31,577	(23,423)
Unrealized (loss) on investments			(9,521)	(9,521)
Interest expense			(245,848)	(245,848)
Amortization of charges from debt refunding			(28,230)	(28,230)
Total Nonoperating Revenues (Expenses)	<u>55,000</u>	<u>55,000</u>	<u>(252,022)</u>	<u>(307,022)</u>
Change in Net Position	2,172,189	2,172,189	1,240,399	(931,790)
Net Position, Beginning of Year	<u>6,625,532</u>	<u>6,625,532</u>	<u>6,625,532</u>	
Net Position, End of Year	<u>\$ 8,797,721</u>	<u>\$ 8,797,721</u>	<u>\$ 7,865,931</u>	<u>\$ (931,790)</u>

TEXAS SUPPLEMENTARY INFORMATION

BRAZOSPORT WATER AUTHORITY

TSI-1

SCHEDULE OF CUSTOMERS AND REVENUES

Years Ended September 30, 2014 and 2013

Customer	2014	2013
City of Angleton	\$ 1,271,376	\$ 1,215,450
City of Brazoria	210,240	202,575
City of Clute	700,800	675,250
City of Freeport	1,401,600	1,350,500
City of Lake Jackson	1,401,600	1,350,500
Village of Oyster Creek	66,576	64,149
City of Richwood	164,688	158,684
Texas Department of Criminal Justice	665,269	659,921
Dow Chemical Company	846,474	832,038
Other	954	22,530
Total Water Sales	\$ 6,729,577	\$ 6,531,597

BRAZOSPORT WATER AUTHORITY

TSI-5

LONG-TERM DEBT SERVICE REQUIREMENTS BY YEARS

September 30, 2014

Due During Fiscal Year Ending September 30	Total All Series			Series 2013 Refunding		
	Principal Due September 1	Interest Due March 1, September 1	Total	Principal Due September 1	Interest Due March 1, September 1	Total
	2015	\$ 1,405,000	\$ 176,250	\$ 1,581,250	\$ 1,405,000	\$ 176,250
2016	1,445,000	134,100	1,579,100	1,445,000	134,100	1,579,100
2017	1,490,000	90,750	1,580,750	1,490,000	90,750	1,580,750
2018	1,535,000	46,050	1,581,050	1,535,000	46,050	1,581,050
Total	<u>\$ 5,875,000</u>	<u>\$ 447,150</u>	<u>\$ 6,322,150</u>	<u>\$ 5,875,000</u>	<u>\$ 447,150</u>	<u>\$ 6,322,150</u>

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BRAZOSPORT WATER AUTHORITY

TSI-6

ANALYSIS OF CHANGES IN LONG-TERM BONDED DEBT

Year Ended September 30, 2014

	Bond Issue Series 2013R	Total
Interest rate	3.0%	
Dates interest payable	3/1;9/1	
Maturity dates	9/1/2018	
Original issue amount	\$ 7,205,000	
Bonds outstanding at beginning of year	\$ 7,205,000	\$ 7,205,000
Bonds issued		
Principal retirements/refundings	(1,330,000)	(1,330,000)
Bonds Outstanding at End of Year	\$ 5,875,000	\$ 5,875,000
Interest Retirements	\$ 245,848	\$ 245,848

Paying Agent's Name and City

2013R The Bank of New York Mellon, N.A.
 Dallas, Texas

Bond Authority	Revenue and Refunding Bonds
Amount authorized	\$ _____
Amount issued	\$ _____
Remaining	\$ _____

Average Annual Debt Service Payment for Remaining Term of all Debt \$ 1,580,538

BRAZOSPORT WATER AUTHORITY

COMPARATIVE SCHEDULE OF REVENUES AND EXPENSES

Last Five Fiscal Years

	Amounts				
	2014	2013	2012	2011	2010
<u>Operating Revenue</u>					
Water sales	\$ 6,729,577	\$ 6,531,597	\$ 6,341,101	\$ 5,701,612	\$ 5,669,634
Total Operating Revenue	<u>6,729,577</u>	<u>6,531,597</u>	<u>6,341,101</u>	<u>5,701,612</u>	<u>5,669,634</u>
<u>Operating Expenses</u>					
Salaries, benefits and personnel	1,311,376	1,116,307	1,010,001	945,628	841,826
Water storage and transfer	564,929	528,371	572,932	531,332	621,695
Water purchases	122,013		82,842	106,250	
Chemicals	774,105	793,764	891,971	922,944	669,822
Electricity	239,193	238,128	325,934	384,388	391,983
Maintenance and repairs	260,797	197,899	195,744	195,634	252,538
Sediment disposal	542,946	417,375	431,339	358,029	361,570
Lab costs	30,337	37,264	36,512	36,005	41,620
Professional fees	66,737	60,275	97,521	42,553	68,573
Other administrative expenses	181,010	185,390	120,009	96,279	98,230
Depreciation	1,143,713	1,094,903	1,090,762	1,117,951	1,130,163
Total Operating Expenses	<u>5,237,156</u>	<u>4,669,676</u>	<u>4,855,567</u>	<u>4,736,993</u>	<u>4,478,020</u>
Operating Income	<u>1,492,421</u>	<u>1,861,921</u>	<u>1,485,534</u>	<u>964,619</u>	<u>1,191,614</u>
<u>Nonoperating Revenues (Expenses)</u>					
Investment income	31,577	6,903	39,820	79,197	87,894
Unrealized gain (loss) on investments	(9,521)	(167,807)		33,573	18,867
(Loss) on sale of investments, net			(8,547)	(70,962)	
(Loss) on disposal of capital assets				(131,952)	
Interest expense	(245,848)	(366,851)	(439,027)	(480,092)	(515,674)
Bond issuance costs		(138,862)			
Amortization of charges from debt refunding	(28,230)	(83,700)	(100,439)	(100,439)	(100,863)
Total Nonoperating Revenues (Expenses)	<u>(252,022)</u>	<u>(750,317)</u>	<u>(508,193)</u>	<u>(670,675)</u>	<u>(509,776)</u>
Change in Net Position	<u>\$ 1,240,399</u>	<u>\$ 1,111,604</u>	<u>\$ 977,341</u>	<u>\$ 293,944</u>	<u>\$ 681,838</u>

Percent of Total Revenues				
2014	2013	2012	2011	2010
100.0 %	100.0 %	100.0 %	100.0 %	100.0 %
100.0	100.0	100.0	100.0	100.0
19.5	17.1	15.9	16.6	14.8
8.4	8.1	9.0	9.3	11.0
1.8		1.3	1.9	
11.5	12.2	14.1	16.2	11.8
3.6	3.6	5.1	6.7	6.9
3.9	3.0	3.1	3.4	4.5
8.1	6.4	6.8	6.3	6.4
0.5	0.6	0.6	0.6	0.7
1.0	0.9	1.5	0.7	1.2
2.7	2.8	1.9	1.7	1.7
17.0	16.8	17.2	19.6	19.9
78.0	71.5	76.5	83.0	78.9
22.2	28.6	23.5	17.0	21.0
0.5	0.1	0.6	1.4	1.6
(0.1)	(2.6)		0.6	0.3
		(0.1)	(1.2)	
(3.7)	(5.6)	(6.9)	(8.4)	(9.1)
	(2.1)		(2.3)	
(0.4)	(1.3)	(1.6)	(1.8)	(1.8)
(3.7)	(11.5)	(8.0)	(11.8)	(9.0)
18.5 %	17.1 %	15.5 %	5.2 %	12.0 %

BRAZOSPORT WATER AUTHORITY

TSI-8

BOARD MEMBERS, KEY PERSONNEL AND CONSULTANTS

September 30, 2014

Authority Mailing Address: 1251 FM 2004
Lake Jackson, Texas 77566

Authority's Business Telephone Number: (979) 297-2715

<u>Names</u>	<u>Term or Date Hired</u>	<u>Fees of Office Paid*</u>	<u>Expenses*</u>	<u>Title at Year-End</u>
<u>Board Members</u>				
Juan Longoria III Lake Jackson	9/14-9/16			President
Jesse Knight Brazoria	9/14-9/16			Vice President
Joe Damian Clute	9/13-9/15			Director
Brian Garrett Richwood	9/14-9/16			Assistant Secretary
Calvin Ron Wise Freeport	9/14-9/16			Director
Carl Morrison Oyster Creek	9/13-9/15			Director
Johnny Ray Norris Angleton	9/13-9/15			Secretary
<u>Key Administrative Personnel</u>				
Ronald Woodruff				General Manager
<u>Consultants</u>				
Frank Mauro/Jason Cordoba		\$	41,054	Attorney
Harry Koester Jr., CPA	2010		10,275	Bookkeeper
Sandersen Knox & Co., L.L.P.	2009		7,950	Independent Auditor

* No fees or expense reimbursements were paid to the board members during the year.

PART C49 b. Existing Revenue DebtOpen Market Bonds

Water Supply System Revenue Refunding Bonds, Series 2013

TWDB Bonds

Water Supply System Regional Revenue Bonds, Series 2014

Payment Date	Principal	Interest	Total	Fiscal Total
3/1/2015	-	\$ 161,465.08	\$ 161,465.08	
9/1/2015	\$ 2,140,000.00	190,460.00	2,330,460.00	2,491,925.08
3/1/2016	-	169,385.00	169,385.00	
9/1/2016	2,200,000.00	169,385.00	2,369,385.00	2,538,770.00
3/1/2017	-	147,710.00	147,710.00	
9/1/2017	2,255,000.00	147,710.00	2,402,710.00	2,550,420.00
3/1/2018	-	125,360.00	125,360.00	
9/1/2018	2,330,000.00	125,360.00	2,455,360.00	2,580,720.00
3/1/2019	-	102,335.00	102,335.00	
9/1/2019	715,000.00	102,335.00	817,335.00	919,670.00
3/1/2020	-	101,477.00	101,477.00	
9/1/2020	720,000.00	101,477.00	821,477.00	922,954.00
3/1/2021	-	99,461.00	99,461.00	
9/1/2021	725,000.00	99,461.00	824,461.00	923,922.00
3/1/2022	-	96,379.75	96,379.75	
9/1/2022	730,000.00	96,379.75	826,379.75	922,759.50
3/1/2023	-	92,328.25	92,328.25	
9/1/2023	735,000.00	92,328.25	827,328.25	919,656.50
3/1/2024	-	87,403.75	87,403.75	
9/1/2024	745,000.00	87,403.75	832,403.75	919,807.50
3/1/2025	-	81,890.75	81,890.75	
9/1/2025	760,000.00	81,890.75	841,890.75	923,781.50
3/1/2026	-	75,810.75	75,810.75	
9/1/2026	770,000.00	75,810.75	845,810.75	921,621.50
3/1/2027	-	69,227.25	69,227.25	
9/1/2027	785,000.00	69,227.25	854,227.25	923,454.50
3/1/2028	-	62,162.25	62,162.25	
9/1/2028	800,000.00	62,162.25	862,162.25	924,324.50
3/1/2029	-	54,602.25	54,602.25	
9/1/2029	815,000.00	54,602.25	869,602.25	924,204.50
3/1/2030	-	46,574.50	46,574.50	
9/1/2030	830,000.00	46,574.50	876,574.50	923,149.00
3/1/2031	-	38,108.50	38,108.50	
9/1/2031	845,000.00	38,108.50	883,108.50	921,217.00
3/1/2032	-	29,236.00	29,236.00	
9/1/2032	865,000.00	29,236.00	894,236.00	923,472.00
3/1/2033	-	19,894.00	19,894.00	
9/1/2033	880,000.00	19,894.00	899,894.00	919,788.00
3/1/2034	-	10,170.00	10,170.00	
9/1/2034	900,000.00	10,170.00	910,170.00	920,340.00
	\$ 21,545,000.00	\$ 3,370,957.08	\$ 24,915,957.08	\$ 24,915,957.08

PART C49c Authorized but Unissued Debt

Open Market Bonds

Water Supply System Revenue Refunding Bonds, Series 2015A

Dated July 2015

Water Supply System Revenue Refunding Bonds, Series 2015B

Dated October 2015

Payment Date	Principal	Interest	Total	Fiscal Total
3/1/2015	\$ -	\$ -	\$ -	\$ -
9/1/2015	-	-	-	-
3/1/2016	-	1,152,133.33	1,152,133.33	
9/1/2016	-	1,073,950.00	1,073,950.00	2,226,083.33
3/1/2017	-	1,073,950.00	1,073,950.00	
9/1/2017	-	1,073,950.00	1,073,950.00	2,147,900.00
3/1/2018	-	1,073,950.00	1,073,950.00	
9/1/2018	-	1,073,950.00	1,073,950.00	2,147,900.00
3/1/2019	-	1,073,950.00	1,073,950.00	
9/1/2019	1,095,000.00	1,073,950.00	2,168,950.00	3,242,900.00
3/1/2020	-	1,052,050.00	1,052,050.00	
9/1/2020	1,140,000.00	1,052,050.00	2,192,050.00	3,244,100.00
3/1/2021	-	1,029,250.00	1,029,250.00	
9/1/2021	1,190,000.00	1,029,250.00	2,219,250.00	3,248,500.00
3/1/2022	-	1,005,450.00	1,005,450.00	
9/1/2022	1,235,000.00	1,005,450.00	2,240,450.00	3,245,900.00
3/1/2023	-	980,750.00	980,750.00	
9/1/2023	1,285,000.00	980,750.00	2,265,750.00	3,246,500.00
3/1/2024	-	948,625.00	948,625.00	
9/1/2024	1,350,000.00	948,625.00	2,298,625.00	3,247,250.00
3/1/2025	-	914,875.00	914,875.00	
9/1/2025	1,420,000.00	914,875.00	2,334,875.00	3,249,750.00
3/1/2026	-	879,375.00	879,375.00	
9/1/2026	1,485,000.00	879,375.00	2,364,375.00	3,243,750.00
3/1/2027	-	842,250.00	842,250.00	
9/1/2027	1,565,000.00	842,250.00	2,407,250.00	3,249,500.00
3/1/2028	-	803,125.00	803,125.00	
9/1/2028	1,640,000.00	803,125.00	2,443,125.00	3,246,250.00
3/1/2029	-	762,125.00	762,125.00	
9/1/2029	1,720,000.00	762,125.00	2,482,125.00	3,244,250.00
3/1/2030	-	719,125.00	719,125.00	
9/1/2030	1,805,000.00	719,125.00	2,524,125.00	3,243,250.00
3/1/2031	-	674,000.00	674,000.00	
9/1/2031	1,900,000.00	674,000.00	2,574,000.00	3,248,000.00
3/1/2032	-	626,500.00	626,500.00	
9/1/2032	1,995,000.00	626,500.00	2,621,500.00	3,248,000.00
3/1/2033	-	576,625.00	576,625.00	
9/1/2033	2,090,000.00	576,625.00	2,666,625.00	3,243,250.00
3/1/2034	-	524,375.00	524,375.00	
9/1/2034	2,195,000.00	524,375.00	2,719,375.00	3,243,750.00
3/1/2035	-	469,500.00	469,500.00	
9/1/2035	2,305,000.00	469,500.00	2,774,500.00	3,244,000.00
3/1/2036	-	411,875.00	411,875.00	
9/1/2036	2,420,000.00	411,875.00	2,831,875.00	3,243,750.00
3/1/2037	-	351,375.00	351,375.00	
9/1/2037	2,545,000.00	351,375.00	2,896,375.00	3,247,750.00
3/1/2038	-	287,750.00	287,750.00	
9/1/2038	2,670,000.00	287,750.00	2,957,750.00	3,245,500.00
3/1/2039	-	221,000.00	221,000.00	
9/1/2039	2,805,000.00	221,000.00	3,026,000.00	3,247,000.00
3/1/2040	-	150,875.00	150,875.00	
9/1/2040	2,945,000.00	150,875.00	3,095,875.00	3,246,750.00
3/1/2041	-	77,250.00	77,250.00	
9/1/2041	3,090,000.00	77,250.00	3,167,250.00	3,244,500.00
	\$ 43,890,000.00	\$ 37,286,033.33	\$ 81,176,033.33	\$ 81,176,033.33

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF ANGLETON, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF ANGLETON, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I

DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income.
The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other incapacities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

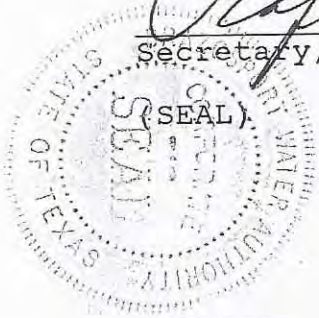
IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By *[Signature]*
President, Board of Directors

ATTEST:

[Signature]
Secretary, Board of Directors

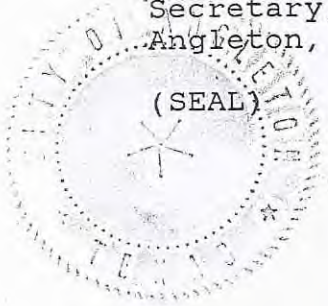


CITY OF ANGLETON, TEXAS

By *[Signature]*
Mayor, City of Angleton,
Texas

ATTEST:

[Signature]
Secretary, City of
Angleton, Texas



NOTICE ADDRESS: 1215 Velasco
Angleton, TX 77515

LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant
2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF BRAZORIA, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF BRAZORIA, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I

DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements.
The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income. The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By *W. L. Smith*
President, Board of Directors

ATTEST:

Ralph H. Brull
Secretary, Board of Directors



(SEAL)

CITY OF BRAZORIA, TEXAS

By *James Earl Wood*
Mayor Pro Tem, City of
Brazoria, Texas

ATTEST:

Betty M. Wilson
Secretary, City of
Brazoria, Texas



(SEAL)

NOTICE ADDRESS: 114 E. Texas
Brazoria, TX 77422

LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant
2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF CLUTE, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF CLUTE, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I

DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income. The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By *W. L. Smith*
President, Board of Directors

ATTEST:

Ralph B. Small
Secretary, Board of Directors



CITY OF CLUTE, TEXAS

By *Jerry Adkins*
Mayor, City of Clute, Texas

ATTEST:

Barbara Hester
Secretary, City of
Clute, Texas
(SEAL)



NOTICE ADDRESS: 140 E. Main St.
Clute, TX 77531

LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant
2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF FREEPORT, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF FREEPORT, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I
DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income.
The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

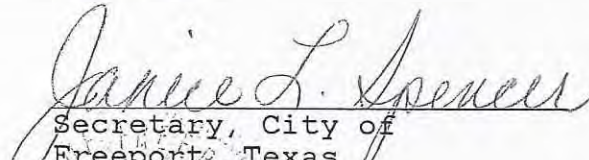
By 
President, Board of Directors

ATTEST:


Secretary, Board of Directors




ATTEST:


Secretary, City of
Freeport, Texas



CITY OF FREEPORT, TEXAS

By 
Mayor, City of Freeport,
Texas

NOTICE ADDRESS: 128 E. 4th Street
Freeport, Texas 77541

LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant

2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF LAKE JACKSON, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF LAKE JACKSON, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I
DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income.
The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By *W.L. Smith*
President, Board of Directors

ATTEST:
Ralph H. Snell
Secretary, Board of Directors



CITY OF LAKE JACKSON, TEXAS

By *Rich Kurbane*
Mayor, City of Lake Jackson,
Texas

ATTEST:
Chas. H. Smith
Secretary, City of
Lake Jackson, Texas

NOTICE ADDRESS: 25 Oak Drive
Lake Jackson, TX 77566



LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant

2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

CERTIFICATE FOR ORDINANCE

THE STATE OF TEXAS §

COUNTY OF BRAZORIA §

We, the undersigned officers of the City of Lake Jackson, Texas (the "City"), do hereby execute and deliver this certificate for the benefit of the Attorney General of the State of Texas and the purchasers of and all other persons interested in the validity of the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1987. We hereby certify as follows:

1. We are the duly chosen, qualified and acting officers of the City for the offices shown below our signatures; as such we are familiar with the facts herein certified; and we are duly authorized to execute and deliver this certificate.

2. There is attached to this certificate a true, correct and complete copy of Ordinance No. _____ of the City (the "Ordinance"), which was passed and approved by the City Council at a _____ meeting held February ____, 1987.

3. The Ordinance has been duly and lawfully adopted by the City Council of the City; the Mayor of the City has approved, and hereby approves, the Ordinance; the Mayor and the City Secretary of the City have duly signed and attested the Ordinance and hereby declare that the signing of this certificate shall also constitute the signing of the Ordinance for all purposes; and the Ordinance, as signed, has been duly recorded in the official records of the City.

4. Each of the officers and members of the City Council was duly and sufficiently notified, officially and personally, in advance, of the date, hour, place and subject of each meeting of the City Council at which the Ordinance was considered for passage, and each of such officers and members consented, in advance, to the holding of said meetings to consider and act upon such subject.

5. Written notice of the date, hour, place and subject of said meeting of the City Council was posted for the time required by law preceding said meeting on a bulletin board located at a place convenient to the public in the City Hall; said bulletin board was readily accessible

to the public at all times from the time of posting until the convening of said meeting of the City Council; and said meeting was open to the public as required by law at all times during which the Ordinance and the subject matter thereof was discussed, considered and acted upon, all as required by the Open Meetings Act, Article 6252-17, Vernon's Texas Civil Statutes, as amended.

WITNESS OUR HANDS AND THE SEAL OF THE CITY this _____ day of February, 1987.

Chris H. Smith
City Secretary

Rich Tucker
Mayor

(SEAL)

MINUTES OF MEETING
February __, 1987
City Council of the City of
Lake Jackson, Texas

THE STATE OF TEXAS §
 §
COUNTY OF BRAZORIA §

The City Council of the City of Lake Jackson, Texas, convened in _____ Meeting, open to the public, ON THE _____ DAY OF FEBRUARY, 1987, in the City Hall within the City, and the roll was called of the duly constituted officers and members of said Council to-wit:

V. Vickers	Mayor
C. E. Golden	Councilmember
C. F. Hogan	Councilmember
James F. Brown, Jr.	Councilmember
Doris Williams	Councilmember
Ron Dipprey	Councilmember

and all of said persons were present, except the following absentees: _____ thus constituting a quorum. Whereupon, the following [among other] business was transacted at said meeting: a written ordinance entitled:

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CONTRACT ENTITLED "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" BETWEEN THE CITY AND BRAZOSPORT WATER AUTHORITY (THE "AUTHORITY"); CONTAINING OTHER PROVISIONS RELATING TO SUCH SUBJECT; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS FINAL PASSAGE.

was duly introduced for the consideration of said Council. It was then duly moved by Councilmember _____ and seconded by Councilmember _____ that such Ordinance be adopted; and after due discussion, such motion, carrying with it the adoption of the Ordinance, prevailed by the following vote:

AYES:

NOES:

The Mayor thereupon announced that the ordinance had been duly and lawfully adopted and was in full force and effect. The Ordinance thus adopted follows:

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CONTRACT ENTITLED "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" BETWEEN THE CITY AND BRAZOSPORT WATER AUTHORITY (THE "AUTHORITY"); CONTAINING OTHER PROVISIONS RELATING TO SUCH SUBJECT; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS FINAL PASSAGE.

WHEREAS, the City Council of the City (the "Council") desires to approve the execution and delivery of a contract with the Brazosport Water Authority (the "Authority") entitled "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" (the "Contract"), wherein the Authority has agreed, interalia to issue its bonds to construct and acquire the Initial Project (as defined in the Contract) to supply treated water to the City; and

WHEREAS, the Council has reviewed the Contract and has determined that it is in the best interests of the City to enter into the Contract; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:


Section 1: That the officers of the City are hereby authorized to enter into that certain Contract in substantially the form attached hereto, which is hereby approved as to the form and substance, subject to such insertions, completions and variations as shall be approved by the officers of the City (such approval to be evidenced by execution of the Contract), and the Mayor or any other duly appointed person is hereby authorized and directed to execute and deliver the Contract and the City Secretary is hereby authorized and directed to attest thereto and impress the seal of the City thereupon.

Section 2: That the Council hereby affirmatively finds, determines and declares that all matters set forth in the preamble of this Ordinance are true, correct and complete.

Section 3: It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the Council was posted at a place convenient to the public at the City Hall for the time required by law preceding this meeting and that such place of posting was readily accessible at all times to the general public from the time of posting to the time of this meeting; that the foregoing was done as required by the Open Meetings Law, Article 6252-17, Vernon's Texas Civil Statutes, as amended; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The Council further officially finds and determines that the public importance of this measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring the consideration of such subject even if this notice has not been posted for at least 72 hours preceding the scheduled time of such meeting and that the notice of this meeting expressed such emergency and urgent public necessity; the Council further finds and determines that the public importance of the measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring that any rules providing for ordinances to be read more than one time or at more than one meeting of the Council be suspended, and requiring that this Ordinance be passed and take effect as an emergency measure, and any such rules or provisions are accordingly suspended.


Section 4: That this Ordinance shall be and become effective from and after its adoption upon its passage.

PASSED AND APPROVED on the _____ day of February, 1987.




Mayor
City of Lake Jackson, Texas

ATTEST:



City Secretary
City of Lake Jackson, Texas

[CITY SEAL]



ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CONTRACT ENTITLED "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" BETWEEN THE CITY AND BRAZOSPORT WATER AUTHORITY (THE "AUTHORITY"); CONTAINING OTHER PROVISIONS RELATING TO SUCH SUBJECT; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS FINAL PASSAGE.

WHEREAS, the City Council of the City (the "Council") desires to approve the execution and delivery of a contract with the Brazosport Water Authority (the "Authority") entitled "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" (the "Contract"), wherein the Authority has agreed, interalia to issue its bonds to construct and acquire the Initial Project (as defined in the Contract) to supply treated water to the City; and

WHEREAS, the Council has reviewed the Contract and has determined that it is in the best interests of the City to enter into the Contract; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:

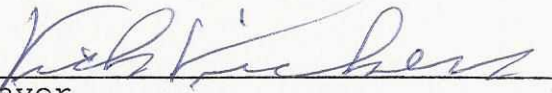
Section 1: That the officers of the City are hereby authorized to enter into that certain Contract in substantially the form attached hereto, which is hereby approved as to the form and substance, subject to such insertions, completions and variations as shall be approved by the officers of the City (such approval to be evidenced by execution of the Contract), and the Mayor or any other duly appointed person is hereby authorized and directed to execute and deliver the Contract and the City Secretary is hereby authorized and directed to attest thereto and impress the seal of the City thereupon.

Section 2: That the Council hereby affirmatively finds, determines and declares that all matters set forth in the preamble of this Ordinance are true, correct and complete.

Section 3: It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the Council was posted at a place convenient to the public at the City Hall for the time required by law preceding this meeting and that such place of posting was readily accessible at all times to the general public from the time of posting to the time of this meeting; that the foregoing was done as required by the Open Meetings Law, Article 6252-17, Vernon's Texas Civil Statutes, as amended; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The Council further officially finds and determines that the public importance of this measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring the consideration of such subject even if this notice has not been posted for at least 72 hours preceding the scheduled time of such meeting and that the notice of this meeting expressed such emergency and urgent public necessity; the Council further finds and determines that the public importance of the measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring that any rules providing for ordinances to be read more than one time or at more than one meeting of the Council be suspended, and requiring that this Ordinance be passed and take effect as an emergency measure, and any such rules or provisions are accordingly suspended.

Section 4: That this Ordinance shall be and become effective from and after its adoption upon its passage.

PASSED AND APPROVED on the _____ day of February, 1987.



Mayor
City of Lake Jackson, Texas

ATTEST:

City Secretary
City of Lake Jackson, Texas

[CITY SEAL]

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF CONTRACT ENTITLED "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" BETWEEN THE CITY AND BRAZOSPORT WATER AUTHORITY (THE "AUTHORITY"); CONTAINING OTHER PROVISIONS RELATING TO SUCH SUBJECT; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT FROM AND AFTER ITS FINAL PASSAGE.

WHEREAS, the City Council of the City (the "Council") desires to approve the execution and delivery of a contract with the Brazosport Water Authority (the "Authority") entitled "BRAZOSPORT WATER AUTHORITY WATER SUPPLY CONTRACT" (the "Contract"), wherein the Authority has agreed, interalia to issue its bonds to construct and acquire the Initial Project (as defined in the Contract) to supply treated water to the City; and

WHEREAS, the Council has reviewed the Contract and has determined that it is in the best interests of the City to enter into the Contract; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE JACKSON, TEXAS:


Section 1: That the officers of the City are hereby authorized to enter into that certain Contract in substantially the form attached hereto, which is hereby approved as to the form and substance, subject to such insertions, completions and variations as shall be approved by the officers of the City (such approval to be evidenced by execution of the Contract), and the Mayor or any other duly appointed person is hereby authorized and directed to execute and deliver the Contract and the City Secretary is hereby authorized and directed to attest thereto and impress the seal of the City thereupon.

Section 2: That the Council hereby affirmatively finds, determines and declares that all matters set forth in the preamble of this Ordinance are true, correct and complete.

Section 3: It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the Council was posted at a place convenient to the public at the City Hall for the time required by law preceding this meeting and that such place of posting was readily accessible at all times to the general public from the time of posting to the time of this meeting; that the foregoing was done as required by the Open Meetings Law, Article 6252-17, Vernon's Texas Civil Statutes, as amended; and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The Council further officially finds and determines that the public importance of this measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring the consideration of such subject even if this notice has not been posted for at least 72 hours preceding the scheduled time of such meeting and that the notice of this meeting expressed such emergency and urgent public necessity; the Council further finds and determines that the public importance of the measure and the fact that it is in the best interests of the City to enter into a water supply contract with Brazosport Water Authority at the earliest possible date creates an emergency and urgent public necessity requiring that any rules providing for ordinances to be read more than one time or at more than one meeting of the Council be suspended, and requiring that this Ordinance be passed and take effect as an emergency measure, and any such rules or provisions are accordingly suspended.

Section 4: That this Ordinance shall be and become effective from and after its adoption upon its passage.

PASSED AND APPROVED on the _____ day of February, 1987.



Mayor
City of Lake Jackson, Texas

ATTEST:

City Secretary
City of Lake Jackson, Texas

[CITY SEAL]

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF OYSTER CREEK, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF OYSTER CREEK, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I

DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income.
The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By *W.L. Scott*
President, Board of Directors

ATTEST:

Ralph H. Bull
Secretary, Board of Directors



CITY OF OYSTER CREEK, TEXAS

By *Clifford Louis Guidry*
Mayor, City of Oyster
Creek, Texas

ATTEST:

Peggy Sims
Secretary, City of
Oyster Creek, Texas



NOTICE ADDRESS: 3120 FM 523
Freeport, TX 77541

LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant
2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT
BETWEEN
BRAZOSPORT WATER AUTHORITY
AND
THE CITY OF RICHWOOD, TEXAS

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WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 20th day of February, 1987, between the BRAZOSPORT WATER AUTHORITY, a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws, Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution (the "Authority") and the CITY OF RICHWOOD, TEXAS, situated in Brazoria County, Texas (the "Participating Customer").

R E C I T A L S :

WHEREAS, the Authority was created by the Act and confirmed by the voters of the member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, Richwood, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Participating Customer needs to secure a source of supply of treated surface water for its present inhabitants and to provide for the growth of its population in the future; and

WHEREAS, the Participating Customer is authorized by law, in particular the Interlocal Cooperation Act, Art. 4413(32c) TEX. REV. CIV. STAT. (the "Interlocal Cooperation Act"), to enter into contracts for the purpose of obtaining a treated water supply from the Authority under the terms set forth in this Contract; and

WHEREAS, the Authority has agreed to issue its Bonds (hereinafter defined) from time to time for the purpose of financing the cost of providing a water treatment and supply system for the Term of this Contract and, in consideration therefore, the Participating Customer has agreed to pay its share of all of the Authority's System Costs (as defined hereinafter) in connection therewith as provided for in this Contract.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Participating Customer agree as follows:

ARTICLE I
DEFINITIONS

"Accountant" shall mean a firm of independent, certified public accountants retained by the Authority which is experienced in auditing public agencies.

"Act" is defined in the Recitals to this Contract.

"Annual System Budget" is defined and described in Sections 4.2 and 4.3 of this Contract.

"Authority" shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

"Board" or "Texas Water Development Board" shall mean the Texas Water Development Board or any agency of the State of Texas which succeeds to the functions and authority thereof.

"Bonds" shall mean the Initial Project Bonds, as well as any other notes, bonds, refunding bonds or other revenue obligations issued from time to time by the Authority for the purpose of financing or refinancing any cost, expense or liability incurred or to be paid by the Authority in connection with the financing, or refinancing, construction, reconstruction, acquisition, operation or maintenance of the System or otherwise paid or incurred by the Authority in connection with the performance of its obligations under the Water Supply Contracts. "Bonds" shall include Bonds issued

for any of the purposes described in Sections 8.1, 8.2 and 8.3 respectively. The term "Bonds" for the purposes of this Contract shall not include any Bonds, or any portion of an issue of bonds, the proceeds of which are used for the purpose of constructing or acquiring Special Project Facilities as described in Section 8.4.

"Capital Costs" shall mean all costs and expenses paid or incurred by the Authority in connection with the financing of the System, including without limitation, the following:

- (1) payments of principal of (whether upon maturity or earlier optional or mandatory redemption), redemption premium, if any, and interest which the Authority makes on all Bonds and amounts which the Authority is required to make into any sinking fund, debt service reserve fund or account under the terms of any bond resolution or indenture authorizing the issuance of any Bonds;
- (2) amounts related to the Bonds and required under a bond resolution or indenture to be paid or deposited into any fund or account established by such bond resolution or indenture (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above, provided that the Participating Customer shall receive credits against any amounts due under the preceding paragraph (1) or this paragraph (2) for investment earnings (net of any losses and expenses), if any, on amounts deposited in any funds created under such bond resolution or indenture and required to be paid by the Participating Customer under the preceding paragraph (1) or this paragraph (2);
- (3) amounts which the Authority is required to pay under any credit agreements, standby purchase agreements, agreements with any trustee, escrow

agent, tender agent, indexing agent or paying agent, or remarketing costs related to the Bonds; and

- (4) additional amounts which must be realized by the Authority in order to meet the requirements of any rate covenant contained in a bond resolution or indenture with respect to coverage of principal of, premium, if any, and interest on the Bonds or to fulfill the terms of any agreement made with the holders of the Bonds and with any person in their behalf.

Capital Costs shall not include the Authority's debt service requirements or any payments made by the Authority to finance Special Project Facilities.

"Commencement Date" shall mean the date on which water is first available for delivery to the Participating Customer at any Delivery Point of the Participating Customer.

"Consulting Engineers" shall mean Espey Huston & Associates, Inc., or any other professional engineering firm employed by the Authority to advise the Authority concerning the design, construction, processing, operation or maintenance of the System.

"Contract" shall mean this Water Supply Contract, including any amendments or supplements hereto.

"Contract Quantity" is described in Section 3.1 of this Contract. The initial Contract Quantities of all of the Participating Customers are listed on Exhibit "B" attached hereto.

"Delivery Point" is defined in Section 5.1. The initial Delivery Points of all of the Participating Customers are listed on Exhibit "A".

"Dow" shall mean Dow Chemical Company, a Delaware corporation, its successors or assigns.

"Effective Date" shall mean the date set forth on the first page of this Contract.

"Financial Advisor" shall mean First Southwest Company or any other investment banking company or advisor employed by the Authority to advise the Authority concerning the financing of the System.

"Fiscal Year" shall mean the period of October 1 through September 30 of each year or such other period as is established from time to time by the Authority.

"Force Majeure" is defined in Section 6.4.

"Initial Project" is described on Exhibit "C" hereto.

"Initial Project Bonds" shall mean the Series 1986 Bonds and the Series 1987 Bonds or any other series of bonds issued for the purpose of financing the costs of the Initial Project.

"Interlocal Cooperation Act" is defined in the Recitals to this Contract.

"Operating Costs" shall mean all costs and expenses, excluding Capital Costs and depreciation, paid or incurred by the Authority in connection with the ownership, operation

or maintenance of the System and any repairs, renewals, replacements, additions, improvements, betterments and modifications to the System, including without limitation, the following:

- (1) amounts which the Authority has paid or incurred for raw water or the withdrawal, lifting, treating, transportation or storage of raw or treated water;
- (2) amounts paid or incurred for the prevention or correction of any casualty loss or damage resulting from any cause whatsoever or for renewals, replacements, repairs, additions, improvements, betterments and modifications which the Authority determines are necessary to keep the System in good operating condition, to provide adequate service or prevent a loss of revenues therefrom;
- (3) amounts paid or incurred for the purpose of operating and maintaining the System and of delivering water therefrom including but not limited to payments for supplies, stores and two months reserve of the average cost of operation and maintenance of the System as estimated by the Authority's Consulting Engineer;
- (4) all costs, expenses or liabilities relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System whether or not incurred as a result of the negligence of the Authority, its agents or employees, but excluding costs and expenses relating to personal injury and damage or property damage claims required to be paid by the Authority in connection with the System which arise out of willful misconduct which is authorized by the Board of Directors of the Authority; and
- (5) amounts paid or incurred in connection with any improvements to the System which the Authority is required to make by any local, State or Federal regulatory agency or State or Federal legislation; and

- (6) all administrative and general expenses of the Authority incurred in connection with the System including, by way of illustration but not limitation, the following: salaries, wages, taxes, benefits and travel expenses of the Authority's employees, technical professionals, financial advisors and legal fees, premiums for liability, casualty and worker's compensation insurance, or bonds, consumer, use, excise, property or other taxes or assessments, if any; postage and freight charges, long distance charges and similar minor expenses, and other reasonable administrative expenses.

"Operating Costs" shall not include the cost of operating or maintaining any Special Project Facilities.

"Participating Customer" is defined on the first page of this Contract.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall initially mean the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns so long as such entities are parties to Water Supply Contracts, or any one of such Participating Customers as the context may indicate, and shall also include any purchaser of treated water from the Authority which becomes a Participating Customer pursuant to the terms of Section 3.4.

"Project" shall mean any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and

shall include any related real or personal property or facilities or any interest therein, and any related environmental facilities or facilities for conservation, safety and administration.

"Reserve Capacity" shall mean that portion of the System Capacity from time to time, if any, which is available for the use of the Participating Customers. The Reserve Capacity on the Effective Date is indicated on Exhibit "B" hereto. As the Reserve Capacity changes from time to time due to increases or decreases in the Contract Quantity of any Participating Customer or Customers, increases due to additional Projects which expand the System Capacity, or decreases due to the sale of part of the Reserve Capacity to customers of the Authority which are not Participating Customers, or the addition of Participating Customers, or for any other reason permitted by this Contract, the Authority shall amend and supplement Exhibit "B" to reflect such changes.

"Series 1986 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series 1986 issued in an estimated aggregate principal amount of approximately \$5,000,000.

"Series 1987 Bonds" shall mean the Brazosport Water Authority Water Supply System Contract Revenue Bonds, Series

1987, issued in an estimated aggregate principal amount of approximately \$20,000,000.

"Special Project Facilities" is defined in Section 8.4 of this Contract.

"System" shall mean the Initial Project, any additional Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority's water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights permits and other tangible and intangible assets of the Authority in connection with or related to the Authority's water supply system and the agreement between the Authority and Dow or any other supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing.

"System Capacity" shall mean the actual total capacity as determined by the Authority from time to time of the System to produce and deliver treated water.

"System Costs" shall mean the Operating Costs plus the Capital Costs of the System.

"Term" is defined in Section 7.1 of this Contract.

"Water Supply Contracts" shall mean this Contract and the contracts between each of the other Participating Customers and the Authority, as amended from time to time.

ARTICLE II

INITIAL FINANCING, ACQUISITION OF PROPERTY AND CONSTRUCTION OF PROJECTS

Section 2.1: Financing and Construction of Initial Project. (a) The Authority shall use its best efforts to issue the Initial Project Bonds in amounts which the Authority estimates to be sufficient to pay for the costs of the Initial Project. The costs of the Initial Project shall include all construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to systems of this nature, and without limiting the generality of the foregoing, shall include purchase of equipment, initial supplies, property, rights in property, capitalized interest, costs of land, easements and rights-of-way, including damages to land and property, engineering, financing, financial consultants, administra-

tive, auditing and legal expenses incurred in connection with the acquisition and construction of the Initial Project described in Exhibit "C", plus any and all equipment required for the operation and maintenance thereof and shall also include fiscal, legal and other expenses incurred by the Authority in issuing the Initial Project Bonds. Prior to the issuance of the Initial Project Bonds, the Authority shall furnish the bond resolutions authorizing issuance of the Initial Project Bonds to the Participating Customer for information and review.

(b) Upon finalization of the plans, specifications and contract documents relating to the Initial Project, the Authority shall obtain competitive bids for the construction thereof and determine if sufficient funds are available to finance such construction. If the Authority determines that sufficient funds are available, and the Authority is satisfied with the bids received, the Authority shall award such contracts to qualified, bondable contractors. The Authority shall then initiate construction as provided in the plans, specifications and contract documents, subject to any written change orders issued during construction.

(c) The Authority agrees to use reasonable diligence in constructing and completing the Initial Project pursuant to the provisions hereof and to commence operation of the Initial Project within fifteen (15) months after the date of

issuance of the Initial Project Bonds, but the Authority shall not be liable to the Participating Customer for any delay in completion of construction or any damages arising out of any delay by the Authority in the commencement of operation of the System. The Authority shall supply the Participating Customers with quarterly reports as to the progress and costs of construction of the Initial Project.

Section 2.2: Raw Water Supply For Initial Project and Subsequent Projects. The Authority shall use its best efforts to secure a source of raw water sufficient to enable the System to produce the System Capacity as determined by the Authority's Consulting Engineers for the duration of this Contract whether through the procurement of water rights permits from the State of Texas by the Authority or through contracts with third parties for the purchase of water rights or raw water. In addition, the Authority may contract with third parties, from time to time during the Term of this Contract, for the pumping, storage and conveyance of raw water for the Authority's purposes.

Section 2.3: Preparation of Plans. The Authority shall direct its Consulting Engineers to prepare plans and specifications, including estimates of the cost of treated water to the Participating Customers, and direct its Consulting Engineers and attorneys to prepare the contract documents for construction of the Initial Project described

in Exhibit "C" and any additional Projects. The Authority shall make all plans and specifications available to the Participating Customer at the Participating Customer's request. The Participating Customer shall supply the Authority's Consulting Engineers with any information necessary to design the facilities which will deliver water to the Participating Customer.

Section 2.4: Acquisition of Real Estate and Easements. The Authority shall determine the location of the System's facilities and shall use its best efforts to acquire the real estate as the sites therefor. The Authority and the Participating Customers shall determine the necessary rights-of-way which must be acquired and proceed to acquire the necessary real estate, permits or easements. The Participating Customer agrees to grant at no cost to the Authority rights to use the Participating Customer's streets, public easements and ways, and public utility easements as necessary for the construction, operation and maintenance of the System's facilities in accordance with the Participating Cities' ordinances and codes.

Section 2.5: Ownership. It is expressly agreed and understood that as between the parties hereto, the Authority shall be the owner and operator of the System.

ARTICLE III

PURCHASE AND SALE OF WATER

Section 3.1: Contract Quantity. Subject to the other provisions of this Contract, the Authority agrees to sell and deliver to the Participating Customer, and the Participating Customer agrees to take and pay for, or pay for whether taken or not, its Contract Quantity of water. The Participating Customer's initial "Contract Quantity" (averaged over each calendar year) is designated on Exhibit "B".

Section 3.2: Decreases in Contract Quantity. The Participating Customer's Contract Quantity may be decreased at any time by an amount equal to the quantity of water which any other financially responsible Participating Customer is willing to contract for from the Authority under the terms of their Water Supply Contract for the Term thereof. The Participating Customer shall notify the Authority in writing of the amount of its Contract Quantity which it wishes to transfer to another Participating Customer. Within seven (7) days of receipt of such notice, the Authority shall notify all of the other Participating Customers of the availability of such water. Each of the Participating Customers shall have the option to assume any portion of its pro rata share of the available water, each

Participating Customer's pro rata share of the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their options. Such options must be exercised, if at all, within sixty (60) days after receipt by the Participating Customers of notice of the availability of the water. Upon execution of an assignment and assumption agreement concerning the water made available, the assigning Participating Customer shall be relieved to that same extent of its obligations to make the payments set forth in this Article III. Each decrease in Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantity. If none of the Participating Customers elect to contract for such water, it shall remain part of the offering Participating Customer's Contract Quantity and such Participating Customer shall remain responsible therefor.

Section 3.3: Increases in Contract Quantity.

(a) The Participating Customer agrees that the Reserve Capacity of the System shall be available and allocated among the Participating Customers on the basis of actual

need and usage. If, for any given three hundred sixty-five (365) day period, the Participating Customer uses a quantity of water that, when averaged over such period, exceeds the Participating Customer's Contract Quantity, the Authority shall have the right to increase the Participating Customer's Contract Quantity to any amount not in excess of the average daily quantity of water used by that Participating Customer during such three hundred sixty-five (365) day period. Such increase shall become effective thirty (30) days after the end of the three hundred sixty-five (365) day period and Exhibit "B" hereto shall be so amended. In addition, the Participating Customer may request the Authority in writing to increase its Contract Quantity to: (i) any amount not in excess of the average quantity of water used by the Participating Customer during the prior three hundred sixty-five (365) day period; or (ii) increase its Contract Quantity to allow the Participating Customer to provide water to new industrial, residential, recreational or commercial developments pursuant to Section 3.11 hereof and if such Reserve Capacity is available and no other Participating Customer has also made a request for the same Reserve Capacity, the Authority shall grant such request to become effective thirty (30) days after receipt of the request and Exhibit "B" hereto shall be so amended. If there is not enough Reserve Capacity in the System for

each of the Participating Customers requesting an increase in their Contract Quantity, the requesting Participating Customers may share the available Reserve Capacity in the proportion their Contract Quantity bears to the sum of the Contract Quantities of all of the Participating Customers requesting an increase in their Contract Quantity and such increase shall become effective thirty (30) days after receipt of each request and a supplement to Exhibit "B" shall be distributed by the Authority.

(b) In the event of a default by any of the Participating Customers and a termination of such Participating Customer's rights under its Water Supply Contract, pursuant to the terms of Section 6.2(b), the defaulting Participating Customer's Contract Quantity shall become part of the Reserve Capacity of the System. In such event, within seven (7) days, the Authority shall notify all of the Participating Customers by certified mail of the availability of such Reserve Capacity. Each of the Participating Customers shall have an option to assume its pro rata share of the available water, each Participating Customer's option with respect to the available water being in the same proportion the Participating Customer's Contract Quantity bears to the sum of the Contract Quantities of all non-defaulting Participating Customers which elect to exercise their option to increase their Contract Quantity.

If fewer than all of the Participating Customers exercise their option, the Participating Customers exercising their options shall have the right to share in the available water in the proportion that the Contract Quantity bears to the sum of the Contract Quantities of all Participating Customers exercising their option. Such option must be exercised, if at all, within sixty (60) days after receipt by each of the Participating Customers of notice of the available water. Upon execution of an assignment and assumption agreement concerning the water made available, the defaulting Participating Customer shall be relieved to that same extent of its obligations to make the payment set forth in this Article III. Each increase in the assuming Participating Customer's Contract Quantity shall be effective on the date the Authority approves the written assignment and assumption agreement between the Authority and the assuming Participating Customer or Participating Customers or on any later date mutually agreed upon by the parties, and Exhibit "B" of this Agreement shall be supplemented by the Authority to reflect such changes in Contract Quantities.

(c) If the System Capacity is increased at any time due to construction of an additional Project, the Participating Customer shall have the right to increase its Contract Quantity in such a manner as is mutually agreeable

to the Participating Customer and the Authority, and Exhibit "B" shall be supplemented to reflect such changes.

Section 3.4: Sale of Water or Capacity to Purchasers Other Than Participating Customers. The Authority may sell treated water or capacity out of the Reserve Capacity of the System to purchasers other than Participating Customers if it finds such sales would benefit the Participating Customers. In addition, the Authority may contract to sell additional capacity in the System resulting from expansion of the System to purchasers other than Participating Customers. The Authority may choose to make such customers "Participating Customers" even though all of the terms of their take-or-pay water supply contracts may not be identical to this Contract. It is the intent of the parties that all of the original member cities of the Brazosport Water Authority shall be entitled to become Participating Customers. Therefore, upon the execution of water supply contracts between Surfside Beach and the Authority and Jones Creek and the Authority, on terms satisfactory to the Authority, such cities shall be included as Participating Customers. Upon the occurrence of any of the events described in this subsection, the Authority shall appropriately amend and supplement Exhibit "B."

Section 3.5: Price of Water. (a) The parties recognize that because the Capital Costs related to its

Bonds issued to provide facilities with which to serve the Participating Customer is not presently known, and because the operation, maintenance and repair expenses of the System will vary from time to time, it is neither practical nor possible to fix a schedule of specific rates in this Contract which will control the price the Participating Customer will pay to the Authority for water delivered throughout the Term of this Contract. The parties further recognize, however, that the Authority is not organized for profit and that its rates for water should at all times be the lowest rates which are consistent with good business management on the part of the Authority and with the commitments which the Authority must make to its bondholders in order to provide funds with which to operate and maintain the System.

(b) The Authority shall establish classes of customers to which it sells treated water. The Participating Customers shall constitute one class of customers of the Authority. From time to time as needed, the Authority shall establish other classes of customers which may consist of one or more customers. The Authority recognizes the obligation to serve all customers of the same class without discrimination as to rates or type of service and agrees to establish rates in conformity with all applicable laws, rules and regulations of the State of Texas. The Authority

shall never sell water to any other class of customers at a lower price than the price paid by the Participating Customers.

(c) The water rates paid by the Participating Customers shall be sufficient for the Authority to recover the System Costs. The amount of the annual Capital Costs to be paid by the Participating Customer shall be determined by the multiplication of the total of such Capital Costs for each Fiscal Year by a fraction, the numerator of which is the Participating Customer's Contract Quantity and the denominator of which is the combined Contract Quantities of all of the Participating Customers. Approximately one-twelfth (1/12) of such amount shall be payable on a monthly basis, the exact amount to be determined from time to time by the Authority. Notwithstanding the aforesaid, however, the Participating Customers' obligations shall be reduced by that amount of the Capital Costs which any other customer of the System contracts to pay for under their contract with the Authority pursuant to Section 3.4 hereof. The monthly amount of the Operating Costs to be paid by the Participating Customer shall be a rate per 1,000 gallons of water actually delivered to the Participating Customer, which rate shall be established on the basis of the Annual System Budget as described in Sections 4.2 and 4.3 and

adjusted from time to time as the Authority deems necessary to cover its Operating Costs.

(d) If the Authority finances Special Project Facilities for any Participating Customer, such Participating Customer shall agree to pay the costs of financing, operating and maintaining such Special Project Facilities as an additional charge hereunder on such terms as the Participating Customer and the Authority shall agree.

(e) The rate for water charged to any customers which are not Participating Customers shall be sufficient for the Authority to recover at least: (1) the costs of financing, maintaining and operating any Special Project Facilities which such are not Participating Cities customers contract to pay for; (2) the rate per 1,000 gallons of water actually delivered to such customer established by the Authority on the basis of the Annual System Budget and charged all other customers; (3) its part of the Capital Costs of the System based on such customer's contractual allocation of System Capacity not financed with bonds issued to finance the Special Project Facilities; and (4) any additional surcharges which may be established by the Authority.

(f) If in the future, the System Capacity is allocated among the Participating Customers in such a manner that the Participating Customers Contract Quantities cannot be exceeded without encroaching upon the Contract Quantities

allocated to other Participating Customers, the Authority may establish from time to time a penalty charge to be paid by any Participating Customer which uses in excess of its Contract Quantity of water.

Section 3.6: Payments by Participating Customer Unconditional. The Participating Customer and the Authority recognize that the Bonds will be payable from, and secured by, a pledge of the sums of money to be received by the Authority under this Contract and the other Water Supply Contracts and that in order to make the Bonds marketable at the lowest available interest rate, it is to the mutual advantage of the Participating Customer and the Authority that the Participating Customer's obligation to make the payments required hereunder be unconditional. All sums payable hereunder to the Authority shall, so long as any part of the Bonds are outstanding and unpaid, be paid by the Participating Customer without set-off, counter-claim, abatement, suspension or diminution except as otherwise expressly provided herein. So long as any part of the Bonds are outstanding and unpaid, this Contract shall not terminate, nor shall the Participating Customer have any right to terminate this Contract nor be entitled to the abatement of any payment or any reduction thereof nor shall the obligations hereunder of the Participating Customer be otherwise affected for any reason, it being the intention of

the parties that so long as any part of the Bonds are outstanding and unpaid, all sums required to be paid by the Participating Customer to the Authority shall continue to be payable in all events and the obligations of the Participating Customer hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. The amounts owed by the Participating Customer under this Contract shall be payable by the Participating Customer, notwithstanding the suspension, interruption, temporary or permanent termination or unavailability of water from the System, in whole or in part, for any reason whatsoever, and shall not be subject to any reduction, whether by offset or otherwise. In addition, if, for any reason, the Commencement Date does not occur within fifteen (15) months of the date of issuance of the Authority's Series 1987 Bonds, to the extent funds are not available to the Authority to make debt service payments on its outstanding Bonds, the Participating Customer's obligations to pay its share of the Capital Costs of the System shall nonetheless commence at that time.

Section 3.7: Source of Payments. All payments required to be made by the Participating Customer to the Authority under this Contract shall be payable from the revenues and income received by the Participating Customer

from the ownership and operation of its water system (or its water system as a portion of its combined utility system). The Authority shall never have the right to demand payment by the Participating Customer of any obligations assumed by or imposed upon it under or by virtue of this Contract from any funds raised or to be raised by taxation, and the Participating Customer's obligations under this Contract shall never be construed to be a debt of the Participating Customer of such kind as to require it under the Constitution and laws of the State of Texas to levy and collect a tax to discharge such obligation. Nothing in this Section 3.7, however, shall be construed as preventing the Participating Customer, in its sole discretion, from making any such payment from sources other than revenues and income of the Participating Customer's water system. Pursuant to the provisions of Section 5(b) of the Interlocal Cooperation Act, such payments made hereunder shall be an operating expense of the Participating Customer's water system or combined utility system as the case may be.

Section 3.8: Covenant to Maintain Sufficient Income.
The Participating Customer agrees to fix and maintain such rates and collect such charges for the facilities and services provided by its water system as will be adequate to permit the Participating Customer to make prompt payment of all expenses of operating and maintaining the Participating

Customer's water system, including payments under this Contract, and to make prompt payment of the interest on and principal of the bonds or other obligations of the Participating Customer payable, in whole or in part, from the revenues of its water system or combined utility system.

The Participating Customer further covenants and agrees that if it maintains a combined utility fund for its water, electric, gas, sanitary sewer or other utility system (or any combination of two or more thereof which includes its water system), it will establish, maintain and collect rates and charges for the services provided by its other departments which are combined with its water department which shall produce revenues at least sufficient to enable the Participating Customer to pay all expenses attributable to such other departments, including all expenses incurred in the operation and maintenance of the systems maintained by such other departments, and the debt service requirements on any bonds, notes or other evidences of indebtedness secured by such revenues and issued to finance improvements to the systems operated by the other departments.

Section 3.9: Issuance of Other Indebtedness by Participating Customer. The Participating Customer covenants and agrees that, from and after the Effective Date, it shall not issue bonds, notes or other evidences of indebtedness or incur lease obligations which, under generally accepted

accounting principles, would appear as a liability on its balance sheet which shall be payable from the gross revenues derived from its water system on a parity with, or superior to the payment of the operating expenses of its water system. Nothing in this Section 3.9 shall preclude the Participating Customer from issuing bonds, notes or other evidences of indebtedness payable from the net revenues of its water system or combined utility system or from revenues derived from taxes, or both. The Participating Customer further agrees to comply with all of the provisions of the resolutions, ordinances or indentures authorizing its other bonds or other obligations which are payable, in whole or in part, from the net revenues of its water system or combined utility system.

Section 3.10: Requirements Contract. The Participating Customer agrees that so long as there is water available to the Participating Customer from the Authority's System pursuant to the terms of this Contract, it shall not purchase or take its requirements for treated surface water from any source other than the Authority or a surface water treatment facility owned by the Participating Customer and in operation on the Effective Date.

Section 3.11: Sale of Water by Participating Customer. The Participating Customer shall have the right to maintain existing contracts or to enter into contracts for the resale

of water delivered to the Participating Customer by the Authority. The consideration as between or among the Participating Customer and its customers may be determined by the contracting parties, but no such contract shall relieve the Participating Customer of its primary obligation to the Authority under the terms of this Contract.

Section 3.12: Prepayment. If at any time after the Effective Date of this Contract, all of the principal, premium, if any, and interest due to stated maturity (or earlier optional redemption date) of the Bonds is paid in full, the Participating Customer shall have no further obligation to make any payments to the Authority defined herein as Capital Costs which are directly related to such Bonds, but all other rights and obligations of the parties under this Contract, including the Participating Customer's right to receive water and obligation to pay all other Operating Costs, shall continue. After such payment in full of all of the Bonds, and upon one year's prior written notice to the Authority, the Participating Customer shall have the right to terminate this Contract at any time after the Authority determines the Participating Customer has satisfied all of its outstanding monetary obligations under this Contract.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1: Billing. The Authority shall bill the Participating Customer on a monthly basis. Payment shall be

due upon receipt of such invoice by the Participating Customer. Payments which are not received within the period of time stated in the operational rules and regulations to be established by the Authority shall bear interest at ten percent (10%) per annum.

Section 4.2: Annual System Budget For Authority. The Authority shall prepare, or cause to be prepared, and deliver to the Participating Customer its proposed Annual System Budget at least ninety (90) days prior to the beginning of each Fiscal Year. The proposed Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and all revenues for the ensuing Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customer within thirty (30) days of receipt of the Annual System Budget concerning specific cost items or revenue items, the Authority shall, not less than thirty (30) days prior to the beginning of such Fiscal Year, adopt an Annual System Budget for such Fiscal Year and shall deliver copies of such Annual System Budget to the Participating Customer. The Participating Customer hereby agrees to pay the rates set by the Authority for water on the basis of the Annual System Budget without objection, dispute or contest.

Section 4.3: Amendment to Annual System Budget. If, at any time, or from time to time, after the adoption of an

Annual System Budget, the Authority estimates that the Operating Costs or Capital Costs of the System for the Fiscal Year or any part thereof for which such Annual System Budget applies will be substantially greater or less than the Operating Costs or Capital Costs or revenues set forth in the Annual System Budget during the remainder of such Fiscal Year, then the Authority shall prepare and deliver to the Participating Customers an amended Annual System Budget. The amended Annual System Budget shall itemize estimates of all Capital Costs and all Operating Costs and revenues for the remainder of that Fiscal Year. After consideration of any written comments submitted to the Authority by the Participating Customers within fifteen (15) days of receipt of the amended Annual System Budget concerning specific cost items or revenue items, the Authority shall adopt an amended Annual System Budget for such Fiscal Year and shall deliver copies of such amended Annual System Budget to the Participating Customer. The amended Annual System Budget shall then supersede the Annual System Budget or amended Annual System Budget previously provided.

Section 4.4: Accounts and Annual Audit. The Authority will keep accurate records and accounts of the System and of the transactions relating to the System as well as of the operations of the Authority in accordance with standard accounting practices. After the close of each Fiscal Year,

the Authority shall cause such records and accounts and all transactions of the Authority relating to the System with respect to such Fiscal Year, including specifically a comparison of the Annual System Budget or amended Annual System Budget with the actual costs incurred during that Fiscal Year of the specific items included as Capital Costs and Operating Costs, to be subject to an annual audit by the Authority's Accountant. Within one hundred twenty (120) days of the close of each Fiscal Year, a copy of such annual audit, including all written comments and recommendations of such Accountant, shall be sent by the Authority to the Participating Customer. If the annual audit indicates that the water rates paid by the Participating Customers during the preceding Fiscal Year exceeded or was less than the amount which the Authority reasonably and prudently needed to recover the Operating Costs and Capital Costs of the System, then the Authority shall appropriately adjust the water rates for the Participating Customers.

Section 4.5: Participating Customer's Accounts. The Participating Customer shall keep accurate records and accounts for its water system, and such records and accounts shall be audited annually by an independent certified public accountant, and a copy of such annual audit, pertaining to the Participating Customer's water system, shall be furnished to the Authority not later than ninety (90) days after the close of the Participating Customer's fiscal year.

If the Participating Customer presently maintains, for accounting purposes, a combined utility fund and combined operating and maintenance expenses, the preceding paragraph shall not be construed as requiring the Participating Customer to maintain a fund for its water system separate and apart from the Participating Customer's combined utility fund.

ARTICLE V

OPERATION AND MAINTENANCE

Section 5.1: Point of Delivery and Title. The Delivery Point of water by the Authority to the Participating Customer shall be the same point or points designated on Exhibit "A" hereto, unless and until the Authority and the Participating Customer, by mutual written agreement, designate a substitute or additional Delivery Points. Title to the water shall pass to the Participating Customer when it passes through the meter at or near the Delivery Point. The Participating Customer will be responsible for maintenance of the line between the meter and the Participating Customer's ground storage tank.

Section 5.2: Delivery and Terminal Storage. (a) Water will be delivered to the Participating Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Participating Customer's Contract Quantity.

(b) The Participating Customer shall furnish an adequate ground storage tank into which the water will be deposited from the Authority's System.

(c) Upon request of the Participating Customer, the Authority agrees to finance the cost of the ground storage tank. The Authority's Consulting Engineer shall design and cause the construction of such tank or tanks, which design and the financing terms of which shall be approved by the Participating Customer. Pumping facilities necessary to distribute the water from the tank as well as additional internal water mains to improve distribution shall be the responsibility of the Participating Customer and not be included in this Contract. Upon completion of construction, the Authority shall convey the tank so financed to the Participating Customer subject to a vendor's lien or security interest, as determined appropriate by the Authority's attorneys, and such tank shall be the property of the Participating Customer for whom the tank was constructed and shall constitute a part of its water system. However, the Participating Customer will agree in a written form approved by the Authority to pay to the Authority on a monthly basis, in addition to the amounts described in Article III of this Contract, an amount equal to the cost to the Authority of the financing of such ground water storage tank, which monthly amounts will be set forth on a schedule

delivered to the Participating Customer prior to the Commencement Date.

Section 5.3: Measuring and Control Equipment. The Authority shall furnish, install, operate and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Participating Customer prior to installation. The Participating Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority. For the purpose of this Contract, the original record or reading of the meter or meters shall be in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Participating Customer, the Authority will give the Participating Customer a copy of such journal or record book, or permit the Participating Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Participating Customer to do so, in the presence of a representative of the Participating Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Participating Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Participating Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Participating Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the Participating Customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Participating Customer.

The Participating Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter

specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration and adjustment thereof shall be made only by the Participating Customer.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or
- (c) by using the Participating Customer's own records of resale of water to all customers of its water system.

Section 5.4: Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

Section 5.5: Quality. The Authority agrees to use reasonable diligence to deliver to the Participating Customer water of sufficient quality to conform to the standards of the Texas Department of Health for potable water. Notwithstanding the aforesaid, however, the Authority shall have no liability to the Participating Customer for any damage caused by the quality or quantity of the water delivered pursuant to this Contract. In addition, Dow shall have no liability for the quality of the water delivered pursuant to this Contract.

Section 5.6: Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Participating Customer agrees to furnish to the Authority, prior to the Commencement Date

and annually thereafter, such information as the Authority may reasonably from time to time request. In addition, the Participating Customer shall provide the Authority on a monthly basis with a copy of its reports to the State Health Department regarding its water usage. The Authority shall use the aforesaid information to plan for the Participating Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract.

Section 5.7: Standard of Operation and Contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operation which are not inconsistent with providing water service to the Participating Customer in accordance with the other terms and provisions of this Contract. The Authority reserves the right to contract with other parties to render services for the operation, maintenance or supply of the System.

Section 5.8: Interruptions in Service. The Authority shall use its best efforts to deliver to the Participating Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of water to the Participating Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its System. After informing the Participating Customer regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Participating Customer. The Authority shall have no liability to the Participating Customer for any damages caused by any interruption in service or any failure (partial or total) to deliver water to the Participating Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the Contract Quantities to all of the Participating Customers, the Authority shall have the right to allocate the water available for delivery to the Participating Customers and its other customers; provided,

however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.9: Water Conservation Plans. The Authority and the Participating Customer agree that prior to the issuance of the Series 1986 Bonds or Series 1987 Bonds it will take all actions required by the Texas Water Development Board for the adoption of water conservation and drought contingency plans approved by the Board. The Participating Customer and the Authority covenant that so long as any of the Bonds are owned by the Board, and the Board so requires, the Participating Customer and the Authority shall comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1: Default. The following shall be considered a default under this Contract:

- (a) the failure of the Participating Customer to make any monetary payment when due under this Contract and such failure is continuing; or
- (b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after notice, specifying such default, is given to the non-performing party by the other party; provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long

as, the party has initiated all remedial action reasonably possible within the fifteen (15) day period and thereafter continues diligently to remedy the failure.

Section 6.2: Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the Participating Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy (other than termination) which may also be available to the Participating Customer.

(b) If a monetary default shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Participating Customer thirty (30) days' advance written notice of the effective date of such cessation. Such cessation, however, shall not be effective if prior to the effective date of cessation the Participating Customer shall

have fully paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Participating Customer's other rights, including the Participating Customer's right to receive delivery of water hereunder, but not the Participating Customer's monetary and non-monetary obligations, under this Contract. If the Authority terminates all of the Participating Customer's rights under this Contract, the Participating Customer's Contract Quantity shall be added to and become a part of the Reserve Capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3(b). No termination of rights pursuant to this Section 6.2(b) or reassignment of any rights of the defaulting Participating Customer pursuant to Section 3.3(b), including all or part of its Contract Quantity, shall have the effect of relieving the defaulting Participating Customer of any liability which it would otherwise have had if no such termination or reassignment had occurred, except to the extent that such liability is offset from time to time by payments actually made to the Authority by the Participating Customer(s) acquiring terminated rights of the defaulting Participating Customer.

(c) The Authority or any Participating Customer, jointly or severally, may commence suits, actions or

proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of any defaulting Participating Customers under their Water Supply Contracts.

Section 6.3: No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4: Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract (except the unconditional obligation of the Participating Customer to make the payments required in Article III), in whole or in part, then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any inability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the Force Majeure relied upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without

limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military authority, insurrections, riots, epidemics, landslides, drought, lightning, earthquakes, fires, hurricanes, storms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or of the Authority to supply water received through third parties and any other inabilities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

ARTICLE VII

TERM

Section 7.1: Term. This Contract shall remain in effect from the Effective Date for a term of forty (40) years and thereafter until payment in full of the principal, premium, if any, and interest on all Bonds and all related fees to be paid under any bond resolution or indenture securing Bonds.

Section 7.2: Renewal of Contract. Upon the expiration of the Term of this Contract, the Authority agrees to negotiate with the Participating Customer to continue to provide water (to the extent then permitted by law) and in the negotiation of such contract to recognize the Participating Customer's contribution to the financing of the System and the Participating Customer's equitable interest in the System and the right to continue to receive water from the Project. It is contemplated that when there are no Bonds outstanding and this Contract is renewed or rewritten, the charges to be paid by the Participating Customer for the delivery of water hereafter shall be its fair and proportionate share of the Authority's Operating Costs for the System.

ARTICLE VIII

ADDITIONAL FINANCING PROVISIONS

Section 8.1: Bonds Issued to Complete a Project. If, in addition to the amount of the Initial Project Bonds, or

any other series of Bonds issued to finance an additional Project, the Board of Directors of the Authority determines, based upon the recommendation of its Consulting Engineers, that additional funds in an amount not to exceed twenty-five percent (25%) of the original estimated cost of such project are required to complete the Project in accordance with the plans and specifications prepared in accordance with Section 2.3, the Authority is authorized, without the prior consent of the Participating Customer, to issue completion Bonds on a parity with the Bonds or subordinate thereto as provided in the bond resolutions or indentures authorizing issuance of the Authority's outstanding Bonds for the purpose of completing the Project in accordance with such plans and specifications. Upon the issuance of completion Bonds, the amounts to be paid to the Authority by the Participating Customer as Capital Costs shall be increased by the amount necessary to pay the principal, premium, if any, and interest on such completion Bonds and any fees attributable thereto, and to create, establish or increase any funds required by the bond resolution or indenture authorizing and securing such completion Bonds. Upon delivery of each issue of completion Bonds, the Authority shall furnish to the Participating Customers the bond resolution or indenture securing said completion Bonds and a maturity schedule showing the total annual payments of

principal and interest required to retire all of the then outstanding Bonds of the Authority.

Section 8.2: Bonds Issued to Finance Additional Projects. The Authority will undertake to acquire and construct from time to time such additional Projects as are needed to: (a) provide the Participating Customers with their requirements for treated water; (b) provide such improvements, enlargements, betterments, extensions, repairs or restorations as may be required to comply with any new or additional terms or conditions imposed by any regulatory agency having jurisdiction over the Authority, including but not limited to conservation and environmental regulations; (c) provide for the acquisition, construction or financing of raw water pumping and storage facilities; or (d) any other purpose permitted by the Act. When the Board of Directors of the Authority and the Participating Customers shall mutually agree as to when such additional Projects are necessary and feasible, the Authority shall furnish the bond resolution or indenture for each series of Bonds to the Participating Customers for review. The City Council or governing body of each Participating Customer which is not in default under its Water Supply Contract may vote to approve or disapprove the issuance of each series of Bonds issued to finance an additional Project other than the Special Project Facilities described in Section 8.4. If

both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote), and (b) a majority in number of the Participating Customers, approve the issuance of the series of Additional Project Bonds, the Authority may issue such Bonds without the approval of each of the Participating Customers. The Authority will authorize and use its best efforts to sell such Bonds to obtain capital funds to construct and provide the additional Project and to pay the costs of issuance of such Bonds. Notwithstanding anything contained in this Section 8.2 to the contrary, however, it is agreed that the intent of the Authority and the Participating Customers has been to expand the Initial Project to a 15 MGD plant and related distribution facilities and the Authority shall have the right to issue Bonds to finance such expansion at such time as it deems feasible and necessary to serve the needs of the Participating Customers without having to obtain any consents from the Participating Customers.

Section 8.3: Refunding Bonds. The Authority reserves the right to issue refunding Bonds to refinance all or any portion of the Bonds then outstanding, and no consent of any Participating Customer shall be required so long as the issuance of such refunding Bonds does not have the effect of

increasing the Capital Costs payable by the Participating Customers by more than five percent (5%) of existing Capital Costs in any one Fiscal Year in which the refunding bonds are outstanding. If Capital Costs would be increased by more than five percent (5%) of existing Capital Costs in any Fiscal Year, however, the Authority shall not issue such refunding Bonds without furnishing the Bond Resolution authorizing such refunding Bonds to the Participating Customers for their review. The City Council or other governing body of each Participating Customer not in default under its Water Supply Contract may vote to approve or disapprove such refunding Bonds. If both: (a) a majority in interest of the Participating Customers (each Participating Customer's interest being calculated on the basis of its Contract Quantity at the time of the vote); and (b) a majority in number of the Participating Customers approve the issuance of the series of refunding Bonds, the Authority may issue such refunding Bonds without the approval of each of the Participating Customers.

Section 8.4: Bonds Issued to Finance Special Project Facilities. The Authority will reserve the right, in each of its bond resolutions or indentures authorizing the issuance of Bonds, to issue bonds or other instruments of indebtedness for the purpose of constructing or acquiring new treatment or distribution facilities or adding to,

expanding or extending existing treatment or distribution facilities to serve the particular needs of any Participating Customer or Participating Customers or third parties which contract to purchase treated surface water from the Authority including, but not limited to expansion of the System Capacity to serve one or more Participating Customers when the consent required by Section 8.2 cannot be obtained. Facilities constructed or acquired with the proceeds of such bonds are hereinafter called "Special Project Facilities." The principal of and interest on such bonds shall be payable from revenues derived from payments from customers which contract on a take or pay basis to pay for such facilities and no consent shall be necessary from any of the Participating Customers. The financing costs of Special Project Facilities will not be a part of the "Capital Costs" as defined in this Contract, and the term "Bonds" as used in this Contract shall not include any issue of bonds or any portion of an issue of bonds issued to finance Special Project Facilities, nor shall expenses attributable to Special Project Facilities be included in "Operating Costs" for the purposes of setting water rates for the Participating Customers. The Authority shall apportion the System's Operating Costs and Capital Costs which would otherwise be payable by the Participating Customers to customers for whom Special Project Facilities

are financed and who benefit from the use of the System pursuant to the terms of this Contract, or if this Contract is silent, in such manner as the Authority deems fair and equitable to the Participating Customers and the Authority's other customers.

Section 8.5: Covenants Regarding Bonds. The Authority and the Participating Customer covenant and agree that neither of them shall use or permit to be used any of the water acquired under this Contract in any manner or for any purpose which would cause any Bond to be deemed a "private activity bond" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or as an "arbitrage bond" within the meaning of Section 148 of the Code. Further, the Participating Customer agrees to cooperate with the Authority in the issuance of any Bonds and the preparation of any offering statement regarding such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.1: Insurance. The Authority will maintain, or cause to be maintained, to the extent available and practicable on the basis of the advice of its insurance carrier, the following insurance coverage:

(a) Insurance against loss or damage to the System by flooding, fire, lightning, vandalism and malicious mischief

and other perils described in the uniform standard extended coverage endorsement to the extent of the full insurable value thereof (except for flood insurance which shall be in an amount deemed sufficient by a Consulting Engineer satisfactory to the Participating Customer to cover foreseeable damages resulting from such flooding) or replacement value thereof;

(b) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring on or about the System or in any way related to the operations of the System (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the System and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, Art. 6252-19, TEX REV. CIV. STAT. ANN., as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary by the Authority, under what is commonly known and referred to as "umbrella coverage";

(c) Workers' compensation insurance on the employees of the Authority or other workers who typically work in or about the System in such amounts as may be required by the laws of the State of Texas;

(d) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 9.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 9.2: Disposition of Insurance and Condemnation Proceeds. In case any significant damage to or destruction of any part of the System occurs or any significant part thereof is taken by eminent domain, the Authority shall elect to either (i) cause to be prepared plans and specifications for repairing, replacing, or reconstructing the damaged, destroyed, or taken property and an estimate of the cost thereof, or (ii) apply or cause the application of the insurance proceeds or condemnation award to a redemption of all or a portion of any outstanding Bonds. After the

preparation of any such plans and specifications and cost estimate, the Authority shall, at the Authority's option, either (i) repair, replace or reconstruct such property in accordance with such plans and specifications or (ii) apply or cause the application of the net insurance proceeds or net condemnation award to a redemption of all or a portion of any outstanding Bonds. The insurance proceeds or condemnation award available for, or to be applied to, the replacement, repair, or reconstruction of the damaged, destroyed, or taken property or to the redemption of all or a portion of the Bonds, shall be disbursed by the applicable trustee under any indenture securing the Bonds (or, if there are no Bonds then outstanding or the Bonds are issued pursuant to a bond resolution, by the Authority) for such purposes.

Section 9.3: No Discrimination. Subject to the last sentence of Section 5.8, the Authority covenants and agrees that there shall be no pattern of unreasonable adverse distinction and no pattern of unreasonable discrimination in carrying out its obligations under this Contract relating to the Participating Customer as compared to other customers.

Section 9.4: Approval by the Participating Customer. Whenever this Contract requires or permits approval or consent to be hereafter given by the Participating Customer, the Participating Customer agrees that such approval or

consent shall not be unreasonably withheld or delayed. Such approval or consent by the Participating Customer may be evidenced by an ordinance or resolution properly adopted by the governing body of the Participating Customer or by an appropriate certificate executed by a person, firm or entity authorized to determine and give approval or consent on behalf of the Participating Customer pursuant to an ordinance or resolution adopted by the governing body of the Participating Customer. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the Participating Customer shall be required as a condition to any action by the Authority except as expressly required in this Contract.

Section 9.5: Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 prepaid telegram, when appropriate, addressed

to the party to be notified. 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 Authority, to:

Brazosport Water Authority
25 Oak Drive
Lake Jackson, Texas 77566
ATTN: General Manager

If to the Participating Customer, to the address set forth on the signature page of this Contract.

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.

Section 9.6: Modification. This Contract shall be subject to change or modification only with the mutual consent of the Authority and all of the Participating Cities, but the Participating Customer recognizes that the bond resolutions or indentures securing the Authority's Bonds may contain covenants by the Authority not to consent to certain changes or modifications of this Contract.

Section 9.7: Assignability. This Contract shall not be assignable by the Authority without the prior consent of the Participating Customer and shall not be assignable by the Participating Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 9.8: Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Participating Customer and the owners and holders of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust, pledge or otherwise hypothecate or encumber the Participating Customer's obligations to make payments under this Contract.

Section 9.9: Captions. The captions appearing at the first of each numbered article and section in this Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities of the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 9.10: Severability. The provisions of this Contract are severable, and if any provision or part of this Contract or the application thereof to any person or circumstance shall ever be held by any court of competent juris-

diction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract to other persons or circumstances shall not be affected thereby.

Section 9.11: Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

Section 9.12: Contingency. Should the Authority fail to issue its Initial Bonds within one (1) year of the Effective Date, this Contract shall terminate except for the payment of costs of the Initial Project incurred by the Authority prior to the date of termination. The Participating Customer recognizes that in order to commence and complete the Initial Project as soon as possible, the Authority will incur contractual obligations to pay for certain costs of the Initial Project, including the acquisition of water rights, a water conveyance contract with Dow, engineering costs and other costs and expenses relating to the Initial Project prior to the issuance of the Initial Bonds. Promptly after the date of termination, the Authority will determine all costs paid or incurred prior to such date and prepare an amortization schedule to pay and discharge all such costs within eighteen (18) months after the date of termination, and the Participating Customer shall pay its monthly share of such costs in the same manner and from the same source as provided for the payment for

Capital Costs. The Authority shall, upon payment of all such costs, transfer and assign to the Participating Customer its proportionate share (based upon its Contract Quantity) of all water rights acquired by the Authority.

Section 9.13: Texas Water Commission. The provisions of this Contract are subject to the jurisdiction of the Texas Water Commission with respect to regulation of rates and conditions of service to the extent provided by law.

Section 9.14: Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein. Notwithstanding the aforesaid, however, the parties recognize the Participating Customer's continuing right to be remembered for its contributions toward the creation of the Authority pursuant to the terms of the Act.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

ATTEST:

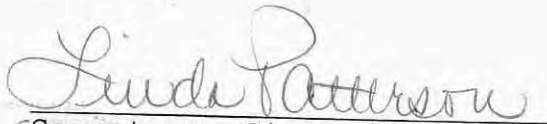

Secretary, Board of Directors

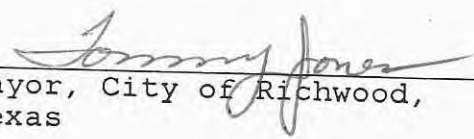
By 
President, Board of Directors



CITY OF RICHWOOD, TEXAS

ATTEST:


Secretary, City of Richwood, Texas

By 
Mayor, City of Richwood, Texas

NOTICE ADDRESS: 215 Halbert
Richwood, TX 77531



LIST OF EXHIBITS

- Exhibit "A" - Delivery Points of the Participating Customers
- Exhibit "B" - Initial Contract Quantities of the Participating Customers
- Exhibit "C" - Description of the Initial Project

2B/BZWA(a)
02/04/87

EXHIBIT "A"

DELIVERY POINTS

Angleton - Water Plant No. 3 on Henderson Road

Brazoria - Red Oak Street and Austin Street

Clute - Park Site at Brazoswood and Lazy Lane

Freeport -

1. Pecan Street at the Water Storage Plant

2. Bridge Harbor

Lake Jackson - Oak Drive Facility of the City of Lake
Jackson

Oyster Creek - Linda Lane Facility

Richwood - City Facility at Creekwood Landing

EXHIBIT "B"

CONTRACT QUANTITIES

Angleton	1.8	MGD
Brazoria	0.3	MGD
Clute	1.0	MGD
Freeport	2.0	MGD
Lake Jackson	2.0	MGD
Oyster Creek	0.095	MGD
Richwood	<u>0.235</u>	MGD
	7.43	

System Capacity = 10.00 MGD
Contract Quantities = -7.43 MGD
Reserve Capacity = 2.57 MGD

EXHIBIT "C"

DESCRIPTION OF INITIAL PROJECT

The Initial Project will consist of a 10 MGD water treatment plant expandable to a 15 MGD water treatment plant and correspondingly adequate distribution lines to serve the Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek and Richwood and 35 miles of 10-inch through 24-inch water transmission pipelines and related valves and pumps. A distribution line across the Intercoastal Canal to Surfside Beach is included in the Initial Project. However, if the City of Surfside Beach does not execute a water supply contract within one year of the date of issuance of the Authority's Initial Bonds, the Authority will use the amount attributed to that distribution line in a manner consistent with the rules of the Texas Water Development Board.

WATER SUPPLY CONTRACT

THIS WATER SUPPLY CONTRACT (this "Contract") is made and entered into as of the 6 day of April, 2005, between the BRAZOSPORT WATER AUTHORITY (the "Authority" or "BWA") a conservation and reclamation district and a governmental agency and body politic and corporate of the State of Texas created by 1985 Tex. Laws. Reg. Sess. Chap. 449 at 3063, as amended (the "Act") and pursuant to Article XVI, Section 59 of the Texas Constitution and THE DOW CHEMICAL COMPANY (the "Customer"), a Delaware corporation doing business at 2301 N. Brazosport Blvd., Freeport, TX 77541 ("DOW").

RECITALS

WHEREAS, the Authority was created by the Act and confirmed by the voters of the original member cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood, their successors or permitted assigns ("Participating Customers") and the now nonmember cities, Surfside Beach and the Village of Jones Creek for the purpose of acquiring surface and underground water supplies from both inside and outside the boundaries of the Authority and to conserve, store, transport, treat, purify, distribute, sell and deliver water to persons, corporations, municipal corporations, political subdivisions of the State, and others, inside and outside the boundaries of the Authority; and

WHEREAS, the Authority has ample capacity above and beyond current demand by Participating Customers; and

WHEREAS, the Customer needs to secure an ongoing source of supply of potable water for its current operations in Freeport, Texas, and secure a source of supply of potable water for its future operations in Freeport, Texas.

NOW THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Authority and the Customer agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions

“Act” is defined in the Recitals to this Contract.

“Authority” or “BWA” shall mean the Brazosport Water Authority of Brazoria County, Texas, or its Board of Directors as the context may indicate.

“Board” or “Texas Water Development Board” shall refer to the Texas Water Development Board or its successor, or any agency of the State of Texas to which the Board’s functions and/or authority are assigned.

“Commencement of Billing Date” means either the earlier of the 30th day after written notice from Customer to Brazosport Water Authority requesting service to commence or the first (1st) day of the 25th month following the Effective Date of this Contract.

“Contract” shall mean this Water Supply Contract, including any amendments or supplements hereto.

“Contract Quantity of Water” shall mean the Contract Quantity of Water which BWA contracts to deliver to Customer daily.

"Customer" shall mean The Dow Chemical Company, a Delaware corporation doing business at Freeport, TX located at 2301 N. Brazosport Blvd., Freeport, TX 77541 (hereafter "DOW" or "Dow").

"Delivery Point" shall mean where the Customer's pipeline from the Tie Point enters into the Customer's water system.

"Effective Date of this Contract" or "Effective Date" shall mean the date set forth on the first page of this Contract.

"Excess Contract Quantity of Water" shall mean the daily water supplied to Customer above the Contract Quantity of Water.

"Force Majeure" is defined in Section 6.4.

"Interest" refers to Customers interest rate of ten percent (10%) per annum for any invoice which is more than ten (10) days past due.

"Participating Customers," "each Participating Customer" or "any Participating Customer" shall mean the following cities: Angleton, Brazoria, Clute, Freeport, Lake Jackson, Oyster Creek, and Richwood or their successors, assigns or additional Texas cities which become customers of Authority. The Dow Chemical Company is not a "Participating Customer".

"System Capacity" shall mean the actual capacity to produce and deliver treated water daily for one (1) year as determined by the Authority from time to time rather than potential capacity which may not be consistently delivered.

"Tie Point" shall mean where the Customer's line and the Authority's line are joined.

ARTICLE II

CONSTRUCTION OF WATER DELIVERY SYSTEM

Section 2.1. Pipeline from BWA to Dow's Plant A Water System.

- (a) Location of Line to Dow Plant A. The BWA distribution line is routed along Hwy 523 to supply Dow's Plant A at a point on said line selected by BWA and mutually agreed to by Dow. This tie point (Plant A Tie Point) is shown in Exhibit "A."
- (b) Valve and Tap at Plant A Tie Point. The BWA shall purchase the required valve and install the valve at the Plant A Tie Point. This valve will be owned and maintained by the BWA. The line tap at the Plant A Tie Point will be provided by BWA.
- (c) Plant A Tie Point To Delivery Point. Dow shall purchase the required material and install the necessary pipeline to connect to the BWA line at the Plant A Tie Point and convey potable water to the Plant A Delivery Point. This tie point (Plant A Tie Point) is shown in Exhibit "A". The system and structure necessary to distribute water from the Plant A Delivery Point to Dow locations, including the tank and distribution pumps, shall be owned and maintained by Dow (Dow's Water System).
- (d) Metering and Control Valve—Plant A. The BWA shall provide at Dow's expense, the water meter, control valve, process controller, and all required appurtenances to meter and control the water delivered to Dow to the Plant A Delivery Point. The BWA shall assist Dow in the set-up and installation of the metering and control equipment. The water meter, control valve, process controller, and all required appurtenances to meter and control the water delivered to Dow at the Plant A Delivery Point will be owned and maintained by the BWA.

(e) Location of Delivery Point. The Plant A Delivery Point shall be at the tank in the Plant A, A-2500 Block, as shown in Exhibit "A".

Section 2.2. Pipeline from BWA to Dow's Plant B Water System.

(a) Location of Line to Dow Plant B. The BWA distribution line is routed along Hwy 332 to supply Dow's Plant B at a point on said line selected by BWA and mutually agreed to by Dow. This tie point (Plant B Tie Point) is shown in Exhibit "B."

(b) Valve and Tap at Plant B Tie Point. The BWA shall purchase the required valve and install the valve at the Plant B Tie Point. This valve will be owned and maintained by the BWA. The line tap at the Plant B Tie Point will be provided by BWA.

(c) Plant B Tie Point To Delivery Point. Dow shall purchase the required material and install the necessary pipeline to connect to the BWA line at the Plant B Tie Point and convey potable water to the Plant B Delivery Point. This tie point (Plant B Tie Point) is shown in Exhibit "B". The system and structure necessary to distribute water from the Plant B Delivery Point to Dow locations, including the tank and distribution pumps, shall be owned and maintained by Dow (Dow's Water System).

(d) Metering and Control Valve—Plant B. The BWA shall provide at Dow's expense, the water meter, control valve, process controller, and all required appurtenances to meter and control the water delivered to Dow to the Plant B Delivery Point. The BWA shall assist Dow in the set-up and installation of the metering and control equipment. The water meter, control valve, process controller, and all required appurtenances to meter and control the water delivered to Dow at the Plant B Delivery Point will be owned and maintained by the BWA.

(e) Location of Delivery Point. The Plant B Delivery Point shall be at the tank in the Plant B, B-300 Block, as shown in Exhibit "B".

Section 2.3. Other Water Sources. It is agreed and understood that Customer will continue to utilize water from Customer's in-house water system to supply a portion of Customer's daily water requirements in addition to water supplied by Authority. Customer agrees to ensure there is an airgap as is necessary and approved by Authority to prevent Customer's in-house produced water from entering Authority's Water System. Customer agrees that the Brazosport Water Authority transfer line as described in Section 2.1(c) and 2.2(c) will not be connected to any water source other than the Delivery Point.

Section 2.4. Security. Customer shall be solely responsible for the security and integrity of its water system from point of delivery. Authority shall cooperate with Customer on security of Customer's system which shall be at no cost or expense to Authority.

ARTICLE III

QUANTITY, RATE AND TERM FOR PURCHASE AND SALE OF WATER

Section 3.1. Contract Quantity of Water.

Subject to the terms and conditions of this Contract, Authority agrees to sell and deliver to Customer, and Customer agrees to take and pay for or pay for whether taken or not, its **Contract Quantity of Water**. However, if the Authority is not able or willing to provide the Contract Quantity of Water for any reason other than the fault of Customer, then the cost of the Contract Quantity of Water will be reduced proportionally and adjusted on the next Customer billing cycle. The Customer's **Contract Quantity of Water** is designated in Exhibit "C".

Section 3.2. Contract Quantity of Water Rate. It is agreed that the price charged by Authority and payable by Customer is based on price paid by Participating Customers now or as adjusted in the future, plus a factor of \$0.35 as shown in Exhibit "C". Therefore, Customer agrees that its price could fluctuate up or down during the term of this Contract depending on the price Participating Customers are charged in the future. Any change in the Contract Quantity of Water price shall be communicated to Customer as provided to Participating Customers on or before the 1st day of July of each year. Such changes shall become effective for invoicing purposes the following October 1st.

Section 3.3. Unit of Price Measuring. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

Section 3.4. Rate For Excess Contract Quantity of Water. Authority and Customer contract that the "**Contract Quantity of Water**" will be the amount contracted for herein. Customer contracts that the amount it will demand daily will exceed such quantity as an exception rather than routinely. The Authority, however, may deliver water demanded by the Customer on any given day which is in excess of the "**Contract Quantity of Water**" designated in Exhibit "C". Because the Authority wants to ensure that Customer stays within its **Contract Quantity of Water**, the surcharge rate for "**Excess Contract Quantity of Water**" shall be payable at a surcharge rate set out in Exhibit "C" attached hereto and incorporated herein by reference.

3.5. Allocation During Water Shortage.

The Authority will treat Customer the same as Participating Customers in accordance with the Authority's Drought Contingency Plan attached as Exhibit "D" unless hereafter

amended by legislative mandate that Customer be treated differently than Participating Customer.

3.6 **Additional Quantity.** The Authority acknowledges that Customer may request the Authority to grant additional Contract capacity for the Dow Oyster Creek Plant during the Contract term at pricing according to the Contract pricing mechanism up to an additional 300,000 gallons per day of Contract Quantity of Water. Authority agrees to respond to Customer's request within ninety days.

3.7 **Reduction of Quantity.** Customer reserves the right to reduce their take or pay Quantity of Water by twenty-percent (20%) of the Original Contract Quantity of Water per annum with twelve (12) months notice for each such decrease request.

ARTICLE IV

BILLING, PAYMENT AND ACCOUNTS

Section 4.1. Monthly Billing. THE DOW CHEMICAL COMPANY shall pay for treated water received pursuant to this Contract based upon the invoice submitted to it by the Authority each month. Each invoice shall state the Contract Number. It is recommended that the BWA receive payments via electronic funds transfer (EFT), also known as direct deposit. Properly completed invoices shall be mailed to the following address:

The Dow Chemical Company
PO Box 1929
Midland, MI 48641-1929
Attn.: NAPSC

with a copy to:

The Dow Chemical Company
2301 N. Brazosport Blvd.
Freeport, TX 77541
Attn: Environmental Operations Leader
B-3501

Section 4.2. Itemized Billing. The Authority shall issue an itemized monthly invoice to the Customer which shall show gallons of water at each of the account meters for the Contract Quantity of Water and any Excess Contract Quantity of Water. The billing period for the Authority is first of the month to the end of the month.

Section 4.3 Commencement of Billing. The Authority shall commence invoicing Customer at the earlier of the first (1st) day of the 25th month after the Effective Date of this Contract or after the first full or partial calendar month the Authority provides service to Customer.

Section 4.4 Payment. All invoices shall be paid by Customer within 30 days after the receipt of the invoice, unless any items are questioned by Customer. In the event Customer, questions any invoice items, Customer shall have the right to withhold payment of the questioned items until verification of both the amount claimed and validity of the claim. Customer's investigations shall proceed as promptly as possible, and BWA shall provide complete cooperation with such investigations. With respect to invoices questioned and later approved by Customer, payment shall be made as promptly as possible and as reasonably practical after the approval.

Authority shall charge customer interest on unpaid invoices commencing on the thirty-first (31st) day after the invoice is due at the rate of ten percent (10%) per annum.

ARTICLE V

OPERATIONS AND MAINTENANCE

Section 5.1. Point of Delivery and Title. The Delivery Point of water by the Authority to Customer shall be the same point or points designated, heretofore and currently

existing, unless and until the Authority and the customer, by mutual written agreement, designate a substitute or additional Delivery Point. Title to the water shall pass to the Customer when it passes through the meter at or near the Delivery Point. The Customer will be responsible for engineering, right-of-way, construction, installation and maintenance of the line between the meter and the Customer's ground storage tank.

Section 5.2. Delivery and Terminal Storage.

(a) Water will be delivered to the Customer through an airgap connection at an average daily rate and acceptable pressure as needed for the Customer's Contract Quantity.

(b) The Customer shall furnish adequate ground storage tanks into which the water will be deposited from the Authority's System.

Section 5.3. Measuring and Control Equipment. The Authority shall furnish, install, operate, and maintain at its own expense at the Delivery Point the necessary equipment and devices of standard type for properly measuring and controlling the quantity of water delivered under this Contract. Such meter or meters or other equipment so installed shall remain the property of the Authority. Approval and installation of the equipment shall be coordinated with the Customer prior to installation. The Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration and adjustment thereof shall be done only by the employees or agents of the Authority.

Customer has authority to access data signals to monitor flow in the system and tank level. For the purpose of this Contract, the original record or reading of the meter or meters shall be kept in a journal or other record book of the Authority in its office in which the records of the employees or agents of the Authority who take the readings are or may be transcribed. Upon written request of the Customer, the Authority will give the customer a copy of such journal or

record book, or permit the Customer to have access to the same in the office of the Authority during normal business hours.

Not more often than once in each calendar month, on a date as near to the end of such calendar month as practicable, the Authority shall calibrate its meters if requested in writing by the Customer to do so, in the presence of a representative of the Customer, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment shall be necessary, and if the check meters hereinafter provided for shall have been installed, the same shall also be calibrated by the Customer in the presence of a representative of the Authority and the parties shall jointly observe any adjustment in case any adjustment is necessary. If the Customer shall in writing request the Authority to calibrate its meters, the Authority shall give the Customer notice of the time when any such calibration is to be made during normal business hours. If the representative of the customer is not present at the time set, the Authority may proceed with calibration and adjustment in the absence of any representative of the Customer.

The Customer may, at its option and own expense, install and operate a check meter to check each meter installed by the Authority, but the measurement of water for the purposes of this Contract shall be solely by the Authority's meters, except in the cases hereinafter specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Authority but the reading, calibration, and adjustment thereof shall be made only by the Customer.

If upon any test, the percentage of inaccuracy of any meter equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not

ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated by:

- (a) correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation; or
- (b) estimating the quantity of water delivered by deliveries during the preceding period under similar conditions when the meter or meters were registering accurately; or, if applicable;
- (c) by using the Customer's own records of water usage within its water system.

The performance of services under this Contract shall be in accordance with Dow's security systems as well as the more stringent of: (i) BWA's safety rules or (ii) the Site safety rules and policies of the which rules and policies have been given to BWA and BWA deems acceptance thereof. Updates and revisions will be communicated via Dow's standard method of communicating such to affected third parties.

Section 5.4. Quality. The Authority agrees to use reasonable diligence to deliver to the Customer water of sufficient quality to conform to the standards of the Environmental Protection Agency, the Texas Commission on Environmental Quality (TCEQ) and the Clean

Water Act for potable water. However, the Authority, because of its sovereign immunity, hereby represents to the Customer that it has certain contractual and tortious immunity from suit under Texas common law or the Texas Tort Claims Act.

Section 5.5. Data. To permit the Authority to accumulate statistical data which would enable it to render better service and facilitate plans for betterment and future expansion of the System, the Customer agrees to furnish to such potable water demand information as the Authority may reasonably from time to time request. In addition, the Customer shall provide the Authority with a copy of reports to the Texas Commission on Environmental Quality, if any, regarding its potable water usage at the same time the report is submitted to TCEQ. The Authority shall use the aforesaid information to plan for the Customer's future needs for treated water and shall conduct or commission such studies as the Authority deems necessary in order to provide for expansions of the System Capacity. Any such expansions shall be conducted pursuant to the terms of this Contract and other water supply contracts the Authority may have with other customers, as applicable.

Section 5.6. Standard of Operation and contracts with Third Parties. The Authority covenants and agrees that it will use its best efforts to operate, maintain and manage the System or cause the same to be operated, maintained, and managed in an efficient and economical manner, in accordance with standards used by agencies owning like properties. The Authority may from time to time establish standards and rules and regulations for such operations which are not inconsistent with ensuring water service to the Participating Customers.

Section 5.7. Interruptions in Service. The Authority shall use its best efforts to deliver to the Customer a constant and uninterrupted supply of water in accordance with the provisions of this Contract. The Authority may temporarily interrupt and reduce deliveries of

water to the Customer if the Authority determines that such interruption or reduction is necessary in case of emergencies or to install equipment, make repairs, replacements, or inspections, or perform any other maintenance work on its system. After informing the Customer's representative's Water Operations Control Room by phone at 238-2269 and at the address or e-mail locations in Section 8.2, regarding any such planned interruption or reduction, giving the reason therefor, and stating the probable duration thereof, the Authority will attempt to schedule such interruption or reduction at a time which will cause the least interference with the operations of the Customer. Notwithstanding the provisions of Section 9.3, if for any reason beyond the control of the Authority it is unable to deliver all of the contract quantities to all of the Participating Customers and to the Customer, the Authority shall have the right to allocate the water available for delivery to the Participating Customers, Customer and its other customers, if any; provided, however, that any allocation shall be reasonably proportionate and shall conform to the priorities of use established by law.

Section 5.8. Water Conservation Plans. The Authority and the Customer agree to take all reasonable actions required by the appropriate Water Conservation Boards and/or Agencies for the adoption of water conservation and drought contingency plans approved by said Board and/or Agencies. The Customer and the Authority further covenant to comply with such plans.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Default. The following shall be considered a default under this Contract:

- (a) the failure of the Customer to make any monetary payment when due under this Contract and such failure is continuing; or

(b) the failure of either party to perform and observe in a timely manner any non-monetary obligations or covenants contained in this Contract and such failure is not cured within fifteen (15) days after written notice, specifying such default, to the nonperforming party by the other party provided, however, that if the nonperformance cannot reasonably be cured within fifteen (15) days, then no default shall occur if, and as long as, the party has initiated all remedial action reasonably possible within the fifteen (15) days period and thereafter continues diligently to remedy the failure. There shall be no default by the Authority for failure to provide the Contract Quantity of Water during periods of water shortages due to dry weather conditions if the Authority abides by its Drought Contingency Plan shown in Exhibit "D".

Section 6.2. Remedies Upon Default. (a) It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination subject to the provisions of Section 6.2(b)) existing at law or in equity may be availed of by either party and shall be cumulative. Recognizing, however, that the Authority's undertaking to provide and maintain services as provided herein is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees in the event of any material default on its part, that the Customer shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedy which may also be available to the Customer at such time. Authority's position is it has certain sovereign immunity and is not subject to certain liability or suit.

(b) If a monetary default by Dow shall occur and be continuing, the Authority shall have the right to cease delivery of water under this Contract by giving to the Customer thirty (30) days' advance written notice of the Effective Date of such cessation. Such cessation, however, shall not be effective if prior to Effective Date of cessation the Customer shall have duly paid such bill and the interest accrued thereon. In addition, the Authority shall have the right to terminate all of the Customer's other rights, if any, including the Customer's right to receive delivery of water hereunder. If the Authority terminates all of Customer's rights under this Contract, the Customer's Contract Quantity shall be added to and become a part of the reserve capacity and shall thereafter be available for the use of the other Participating Customers pursuant to the provisions of Section 3.3 (b).

(c) Either party may commence suits, actions or proceedings, at law or in equity, including suits for specific performance as may be necessary or appropriate to enforce the obligations of defaulting party.

Section 6.3. No Additional Waiver Implied. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, under any circumstance.

Section 6.4. Force Majeure. If Force Majeure prevents either party hereto from performing any of its obligations under this Contract then the obligations of such party, to the extent affected by such Force Majeure, shall be suspended during the continuance of any liability so caused, so long as such party is exercising due diligence to resume performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the force Majeure relied

upon, the party whose contractual obligations are affected thereby shall give notice and full particulars of such Force Majeure to the other party. The term "Force Majeure," as used herein, shall include, without limitation of the generality thereof, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States, of the State of Texas, of any civil or military, authority, insurrections, riots, epidemics, landstorms, floods, raw water of unusable quality, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or of the Authority to supply water received through third parties and any other incapacities of either party, whether similar to those enumerated or otherwise, which are not within the control of the party claiming such inability, and which such party could not have avoided by the exercise of due diligence and care. It is understood and agreed that the settlement of riots, inmate disturbances, strikes and lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty.

Section 6.5. Dispute Resolution. Any dispute arising under this Contract, which is not disposed of by mutual agreement between Dow and the Authority shall be submitted to an agreed upon dispute resolution process. The parties agree that they will attempt in good faith to resolve their differences prior to a formal dispute resolution process. The parties shall be required to use their reasonable best efforts to, in good faith, resolve their differences before resorting to a formal dispute resolution process. Upon receipt of notice of an unresolved dispute (after consideration of the dispute by the Contract Administrator

for both parties) Dow and BWA agree to appoint within fifteen days a single delegate to resolve the dispute. The delegates then shall have thirty (30) days to meet and resolve the dispute. The parties further agree that the results of the dispute resolution shall not be binding on the parties unless specifically agreed to by the parties at the conclusion of the dispute resolution process.

Section 6.6 Procedures for Resolving Claims and Disputes. At all times during the course of the dispute resolution process, the Authority shall continue with providing services as directed, in a diligent manner and without delay, shall conform to the applicable provisions of this Contract. Records of the services performed shall be kept in sufficient detail to enable payment in accordance with applicable provisions of this Contract, if this should become necessary.

ARTICLE VII

TERM AND RENEWALS OF CONTRACT

Section 7.1. Term. This Contract shall extend ten (10) years, plus those months from the “Effective Date” of this Contract to the Commencement of Billing date as defined herein.

Section 7.2. Termination For Cause. Customer may not terminate Contract for cause, except if Authority is unable to supply Contract Quantity of Water for three consecutive months or longer when Drought Contingency Plan is not in effect subject to the provisions of Section 6.4 herein.

Section 7.3. Termination Without Cause. Customer may terminate Contract, without cause, if written notice of said termination is received by Authority on or before the twelve (12) months prior to the fifth (5th) anniversary date of the Commencement of Billing Date.

Section 7.4: Renewal of Contract. Upon the expiration of the term of this Contract, the Authority agrees in good faith to negotiate with Dow to continue to provide potable water (to the extent then permitted by law). Dow agrees to notify the Authority in writing within six months that it desires to extend the term of this Contract for an additional period of time. Within sixty days (60) of receipt of such notice, the Parties shall begin initial negotiations to extend this Contract.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Insurance. The Authority shall maintain, or cause to be maintained, to the extent available, the following insurance coverage:

(a) Insurance against liability for bodily injury to or death of persons and for damage to or loss of property occurring in any way related to the operations of the Authority (including liability arising out of automobile accidents involving employees or agents of the Authority, while on business related to the Authority and general liability for the torts of the employees and agents of the Authority, both on and off the site of the System while acting within the scope of their employment), at least in the minimum amounts prescribed in the Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code, Ch. 101, as amended, for death and bodily injury claims resulting from any one accident and the minimum amounts for property damage involving motor driven vehicles or equipment, with coverage in excess of the aforesaid limits, to the extent permitted by law for political subdivisions of the State of Texas and in the amounts deemed necessary

by the Authority, under what is commonly known and referred to as “umbrella coverage”;

(b) Workers’ compensation insurance on the employees of the Authority or other workers who typically work in or about the BWA Water Distribution System in such amounts as may be required by the laws of the State of Texas.

(c) Such other insurance as the Authority deems necessary to provide it adequate protection.

All policies evidencing the insurance permitted by this Section 7.1 shall be maintained in generally recognized, responsible insurance companies or associations insuring municipal corporations qualified under the laws of the State of Texas to assume the respective risks undertaken and may be written with reasonable deductible amounts. The Authority shall pass resolutions setting forth a standard of care for emergency actions as the Authority deems necessary in order to minimize the tort liability of the Authority.

Section 8.1.1 Authority Indemnification For Employee Claims. To the extent permitted by applicable law, THE AUTHORITY assumes the entire responsibility and liability for their employees’ claims for personal injury and SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD HARMLESS the DOW Affiliates from and against, any and all Claims which are made, asserted or alleged against DOW Affiliates by THE AUTHORITY Group or which arise in favor of THE AUTHORITY Group, originating from any source in connection with THE AUTHORITY Group’s presence on DOW Premises or in connection with THE AUTHORITY Group Performing Under This Agreement.

It is DOW and THE AUTHORITY’s intent, regarding Claims by Brazosport Water Authority employees only, that to the extent permitted by applicable law, THE

AUTHORITY SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS the DOW Affiliates against all of the consequences of

(1)(A) the NEGLIGENCE, FAULT, AND/OR STRICT LIABILITY of DOW Affiliates occurring jointly, concurrently, and/or comparatively with the negligence, fault, and/or strict liability of THE AUTHORITY Group and/or any other Person that is not a DOW Affiliate, other than the sole negligence, imputed sole negligence, sole fault and/or sole strict liability of DOW Affiliates addressed in Subsection 8.1.1(a)(1)(B) below (this Subsection 8.1.1(a)(1)(A) is subject to the severability and related amendment provisions of this Contract); and

(1)(B) to the extent permitted by applicable law, the SOLE NEGLIGENCE, IMPUTED SOLE NEGLIGENCE, SOLE FAULT, AND/OR SOLE STRICT LIABILITY of DOW Affiliates, unmixed with negligence, fault, and/or strict liability of THE AUTHORITY Group and/or any other Person that is not a DOW Affiliate (this Subsection 8.1.1(a)(1)(B) is subject to the severability and related amendment provisions of this Contract); and

(2) the NEGLIGENCE, FAULT, AND/OR STRICT LIABILITY of THE AUTHORITY Group and/or any other Person that is not a DOW Affiliate, including but not limited to joint, comparative, and/or concurrent negligence, fault, and/or strict liability of THE AUTHORITY Group and/or any other Person that is not a DOW Affiliate (this Subsection 8.1.1(a)(2) is subject to the severability and related amendment provisions of this Contract).

(b) Definitions – as used in this Contract

(1) “Bodily Injury” means any bodily injury of any kind or character, including without limitation, any one or more of the following, collectively and individually: physical

pain and suffering, illness, sickness, disease, impairment of physical condition of the body, or death.

(2) **“Claims”** means all claims of any kind or character, including without limitation, any one or more of the following, collectively and individually: losses, costs (including, but not limited to, attorneys’ fees, court costs, and other costs of suit), demands, damages, judgments, penalties liabilities, debts, expenses, lawsuits and causes of action of whatever nature and character, whether arising out of or related to contract, tort, strict liability, breach of warranty, products liability, misrepresentation, violation of applicable law, and/or any source or cause whatsoever, without limit and without regard to the cause of causes thereof, including, without limitation, Claims arising out of or alleged to arise out of Bodily Injury or loss of property.

(3) **“THE AUTHORITY Group”** means any one or more of the following collectively and individually:

- (A) THE AUTHORITY’s employees; and
- (B) the spouses or relatives of any natural person listed in (A).

(4) **“DOW Affiliates”** means (A) DOW, (B) any participating subsidiaries of DOW, (C) any Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with DOW, and (D) all of the respective officers, directors, shareholders, agents, employees, servants, representatives, and insurers, of the Persons listed in (A), (B) and (C). The concept of “control” (including “controls”, “controlled by”, or “under common control”), as used in this definition of “DOW Affiliates”, means the Person with control has the possession, direct or indirect, of the power to direct or cause the direction of the

management and policies of another Person, whether through the ownership of voting securities, by contract, or otherwise.

(5) **“DOW Premises”** means premises owned, operated, or leased by any one or more of DOW Affiliates or under control of any one or more of DOW Affiliates in the United States of America.

(6) **“Performing Under This Agreement”** means the performance, or the non-performance, of this Contract or any contract or purchase order entered into by THE AUTHORITY and any one or more of DOW Affiliates during the term of this Contract.

(7) **“Person”** means any natural person, or any company, corporation, general or limited partnership, limited liability company, joint venture, organization, association, or other enterprise or entity.

Section 8.2. Addresses and Notice. Unless otherwise provided in this Contract, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, 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 electronic transmission with confirmation of receipt, when appropriate, addressed to the party to be notified. 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 notified. For the purpose of Notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the Authority, to:

Brazosport Water Authority
1251 FM 2004
P.O. Box 816
Lake Jackson, Texas 77566-0816
Attn: General Manager
Name: Landon Roberts or successor
Fax No.: (979) 297-8933
E-mail: landonroberts@sbcglobal.net

If to Dow, to:

Union Carbide Corporation, a Subsidiary of
The Dow Chemical Company
Operations Purchasing
3301 5th Avenue South
Texas City, TX 77590
Attn: Environmental Operations Production Leader
Bldg. B3501
Name: Ernie Schreiber or successor
Phone: (979) 238-7482
E-mail: ECSCHREIBER@dow.com until updated

And to:

The Dow Chemical Company
2301 N. Brazosport Blvd.
Freeport, TX 77541
Attn: Site Growth and Development Leader
Bldg. APB-2011
Name: Bonnie Humphrey or successor
Phone: (979) 238-9888
E-mail: BPHUMPHREY@dow.com

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.

Section 8.3. Modification. The Contract Quantity of Water or the rate charged for such Contract shall be subject to change or modification with notice as provided herein or in the

Drought Contingency Plan. All other material changes shall be in writing signed by the Authority and Customer.

Section 8.4. Assignability. This Contract shall not be assignable by the Authority without the prior consent of the customer and shall not be assignable by the Customer without prior written approval of the Board of Directors of the Authority at the sole discretion of the Board of Directors of the Authority.

Section 8.5. Parties in Interest. This Contract shall be for the sole and exclusive benefit of the Authority, the Customer, the Participating Customer and the owners and holder of the Bonds. The Authority is hereby granted the specific right to assign, mortgage, transfer in trust pledge or otherwise hypothecate or encumber the Customer's obligations to make payments under this Contract.

Section 8.6. Captions. The captions appearing at the first of each number article and section in the Contract are inserted and included solely for convenience and shall never be considered or given any effect in construing this Contract, or any provision hereof, or in connection with the duties, obligations, or liabilities or the respective parties hereto or in ascertaining intent, if any question of intent should arise.

Section 8.7. Severability. The provisions of this Contract are severable, and if any provision or part of this Contract of the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Contract and the application of such provision or part of this Contract and the application of such provision or part of this contract to other persons or circumstances shall not be affected thereby.

Section 8.8. Exhibits. The exhibits attached hereto are incorporated herein for all purposes.

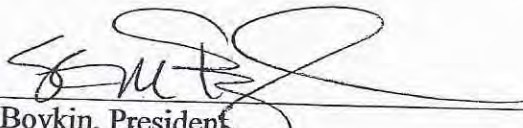
Section 8.9. Miscellaneous Provisions. No sale or interest in water rights is contemplated or intended by this Contract. Additionally, Customer acquires no rights or interest in or to the Authority's Assets or in the management or operation of same. It is specifically understood that the parties hereto do not become the employees of the other or insurer of the other for their or their own negligence.

Section 8.10. State Regulatory Agency. The provision of this Contract are subject to the jurisdiction of the State of Texas agency which regulates rates and conditions of service to the extent provided by law. The governing law for this Contract and all matters regarding the interpretation or enforcement hereof, will be governed by the laws of the State of Texas without regard to its conflict of law provisions.

Section 8.11. Merger. This Contract constitutes the entire agreement between the parties relative to the subject matter hereof. There have been and are no agreements, covenants, representations or warranties between the parties other than those expressly stated herein or expressly provided for herein.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in duplicate as of the date and year first written in this Contract.

BRAZOSPORT WATER AUTHORITY

By: 
Steve Boykin, President
Date: 2/22/05

ATTEST:

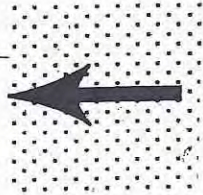
Landon Roberts
Landon Roberts, General Manager

THE DOW CHEMICAL COMPANY

By: Robert C Walker
Robert C. Walker, Vice President
Texas Operations

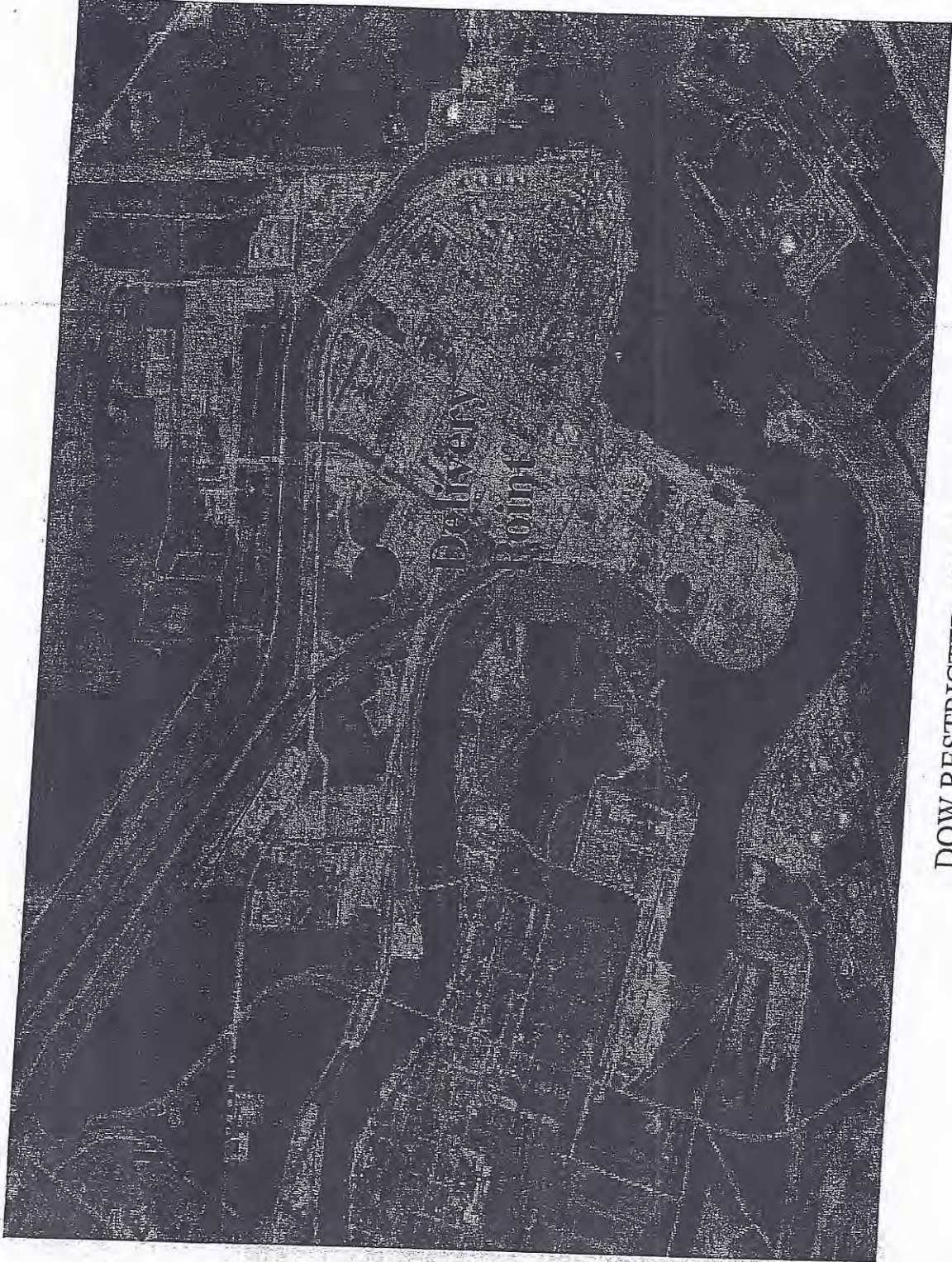
Date: 4/6/05

2301 N. Brazosport Blvd.
Freeport, TX 77541



Plant A Potable Supply Line

EXHIBIT "A"



DOW RESTRICTED - For internal use only

EXHIBIT "B"

Plant B Potable Supply Line



EXHIBIT C
TO
WATER SUPPLY CONTRACT

Brazosport Water Authority agrees to deliver the following quantities of water to Dow Chemical located in Brazoria County, Texas, as follows:

Contract Quantity of Water

- 1.1 1,000,000 gallons per day payable at the rate of \$1.93 per 1000 gallons.

Excess Contract Quantity of Water

- 1.2 Water delivered to Customer on any single day in excess of 1,000,000 gallons per day shall be payable by Customer at the rate of Customer's existing rate per one thousand (1000) gallons multiplied by a factor of 1.22, which totals \$2.3546 per 1,000 gallons per day.

SECOND AMENDMENT
TO
WATER SUPPLY CONTRACT BETWEEN
BRAZOSPORT WATER AUTHORITY AND
TEXAS DEPARTMENT OF CRIMINAL JUSTICE CLEMENS AND WAYNE SCOTT UNITS

This SECOND AMENDMENT TO WATER SUPPLY CONTRACT BETWEEN BRAZOSPORT WATER AUTHORITY AND TEXAS DEPARTMENT OF CRIMINAL JUSTICE CLEMENS AND WAYNE SCOTT UNITS ("Second Amendment") is executed as of the dates set forth in the acknowledgment pages below, to be effective as of the 1ST day of June, 2014, by and between Brazosport Water Authority of Brazoria County, Texas, a conservation and reclamation district, a body politic, and governmental agency of the State of Texas ("**BWA**") and Texas Department of Criminal Justice, a governmental agency of the State of Texas, for the Clemens Unit and Wayne Scott Unit ("**TDCJ**").

RECITALS:

- A. BWA and the TDCJ previously entered into that certain Water Supply Contract dated June 15, 2004, subsequently modified by an amendment, effective September 27, 2011, ("**First Amendment**") pursuant to which BWA agreed to provide a treated water supply to TDCJ ("**Contract**").
- B. The Contract provided for a two (2) year term with four (4) successive renewal terms of (2) years each, which primary term and all renewal terms will expire on or about June 15, 2014.
- C. The Contract, as amended by the First Amendment, also provides that BWA will provide the TDCJ with a Contract Quantity of Water, as that term is defined in the Contract, of 750,000 gallons of treated water per day.
- D. BWA and the TDCJ desire to extend the term of the Contract for an additional period of time and increase the Contract Quantity of Water as set forth herein.
- E. BWA and the TDCJ desire to amend the addresses for the "Billing, Payment and Accounts" Section and "Addresses for Notice" section.
- F. All other terms of the Contract that are not in conflict with this Second Amendment shall remain in force and effect.

I. AMENDMENT TO ORIGINAL CONTRACT

NOW, THEREFORE, for and in consideration of the granting of the mutually beneficial amendments to the Contract and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the parties hereto hereby agree as follows:

1. **Article IV. Billing, Payment and Accounts, Section 4.1 Billing.** Section 4.1 of the Contract shall be amended to reflect new addresses for the TDCJ for billing. Section 4.1 shall be directed to BWA as follows:

Section 4.1 Billing. The TDCJ shall pay for services received pursuant to this Contract based upon the invoice submitted by the Authority each month. Each invoice shall state the Contract Number. It is recommended that the BWA receive payments via electronic funds transfer (EFT), also known as direct deposit.

If the Authority elects to be set up for direct deposit payment, the vendor direct deposit authorization form for setting up direct deposit may be obtained from the Department's Contract Administrator. Authority shall submit a completed authorization form to the following address:

*Texas Department of Criminal Justice
Accounting and Business Services
Attn: Belinda Walker
PO Box 4018
Huntsville, TX 77342-4018*

The Authority shall issue a bill to the TDCJ participating accounts itemized to show gallons of water at each of the account meters. The preferable billing period for Department is first of the month to the end of the month. Terms and conditions regarding bill payment shall be in accordance with Section 2251 of the Government Code.

Properly completed invoices shall be mailed to the following address:

*Texas Department of Criminal Justice
Utilities and Energy Department
P.O. Box 4012
Huntsville, Texas 77342-4012*

2. **Article VII. Term.** Article VII entitled "Term" and Sections 7.1 and 7.2 of the Contract shall be amended and restated in their entirety to state as follows:

7.1 Term. This Contract shall remain in effect from June 1, 2014, and expire at midnight on May 31, 2016.

7.2 Renewal Terms. Unless a party notifies the other party in writing at least sixty (60) days prior to the expiration of any term, this Contract shall automatically renew an additional four (4) successive terms of two (2) years each.

3. **Article IX. Miscellaneous, Section 9.6, Addresses and Notice.** Section 9.6 of the Contract shall be amended to state all notices to BWA shall be as follows:

If to the Authority, to:

*Brazosport Water Authority
Attn: General Manager
1251 FM 2004
Lake Jackson, Texas 77566-0816*

*With copy to
Jason M. Cordoba, Attorney at Law
Mauro & Cordoba, PLLC
208 Parking Way
Lake Jackson, Texas 77566*

4. **Exhibit A:** Exhibit "A", Sections 1.1 Contract Quantity of Water and 1.2 Excess Contract Quantity of Water, of the Contract, as amended by the First Amendment, shall be amended to reflect an increase in the Contract Quantity from 750,000 gallons per day to 900,000 gallons per day as follows:

1.1 Contract Quantity of Water. The Contract Quantity of Water shall be 900,000 gallons per day combined total for the Clemens and Wayne Scott Units payable at the rate of \$2.27 per 1,000 gallons. Payment shall be due within thirty (30) days following date bill mailed to the TDCJ. Rate shall be subject to increase pursuant to Sections 4.2 and 4.3 of Contract related to Annual System Budget and Capital Costs and Operating Costs.

1.2 Excess Contract Quantity of Water. Water delivered to Customer on any single day in excess of 900,000 gallons shall be payable by Customer at the rate of Customer's existing rate per 1000 gallons multiplied by a factor of 1.22.

5. **Parties Bound.** This Second Amendment shall be binding upon and inure to the benefit of BWA, TDCJ, and their respective permitted successors and assigns, as provided in the Contract. Except as specifically amended by the terms of this Amendment, the Contract and the obligations of the BWA and the TDCJ there under shall be and remain in full force and effect and are hereby ratified and affirmed.
6. **Counterparts.** This Second Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this Second Amendment by signing any such counterpart. The facsimile copy of a party's signature to this Second Amendment shall be valid as though such signature was an original.

- 7. **Governing Law.** This Second Amendment shall be governed by and construed according to the Laws of the State of Texas (the "State").
- 8. **Authority to Bind.** The individuals signing this agreement represent and acknowledge they have express authority to bind their principals to this Second Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the dates set forth below, to be effective for all purposes as of the Effective Date.

BRAZOSPORT WATER AUTHORITY:

By: Juan Longoria 5/27/14
 Juan Longoria Date
 President

ATTEST:

By: Joe Damian 5/27/14
 Joe Damian Date
 Secretary

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

By: Jerry McGinty 5/22/14
 Jerry McGinty Date
 Chief Financial Officer

RESOLUTION NO. R-1947

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROSENBERG, TEXAS, RELATING TO THE WATER SUPPLY AGREEMENT, BY AND BETWEEN WITH CITY OF ROSENBERG, TEXAS, AND THE BRAZOSPORT WATER AUTHORITY.

* * * * *

WHEREAS, the City Council previously approved a Water Supply Agreement (Agreement) with the Brazosport Water Authority; and,

WHEREAS, said Agreement provided the City of Rosenberg the option of terminating the Agreement if bonds for the project were not issued by March 31, 2015; and,

WHEREAS, the Brazosport Water Authority did not satisfy this milestone despite diligent efforts and through no fault on its part; and,

WHEREAS, the City Council finds that it is in the best interest of the City and its citizens not to exercise the option to terminate the Agreement; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ROSENBERG:

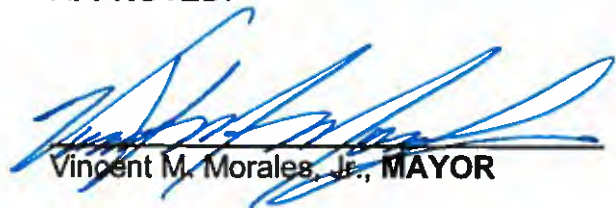
Section 1. The City Council of the City of Rosenberg hereby waives and relinquishes its option to terminate the Water Supply Agreement with Brazosport Water Authority as provided in Section 1.1 of said Agreement.

PASSED, APPROVED, AND RESOLVED this 7th day of April 2015.

ATTEST:

APPROVED:


Linda Cernosek, CITY SECRETARY


Vincent M. Morales, Jr., MAYOR



**ATTACHMENTS –
PART D**

PART D-54: DESCRIPTION OF PROJECT

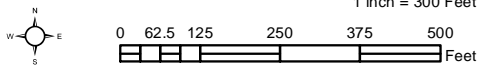
The Brazosport Water Authority (BWA) provides wholesale water service to seven cities in the southern Brazoria County area, in addition to Dow Chemical and two Texas Department of Criminal Justice (TDCJ) units. In December 2013, BWA completed a Texas Water Development Board (TWDB) Regional Water Facility Planning Grant study (Study) that examined the potential for serving the current BWA service area, as well as other portions of Brazoria County in the future. The Study included several recommendations including the development of a reverse osmosis (RO) water treatment plant (WTP) at the site of the current BWA surface water treatment plant to be fed by a brackish groundwater well field in the vicinity of the current plant site. This alternative was preferred for meeting water supply shortages due to availability and cost of water considerations. The proposed project is ready to proceed and includes Phase I (design-preliminary & final; construction) of the RO WTP and wells at this time. The design capacity of the RO WTP would be 6.0 MGD and would normally operate at 2.0 MGD 90 percent of the time and operate at peak capacity (6.0 MGD) 10 percent of the time to mitigate shortages in surface water supply; this plant would function in the following two basic scenarios:

- 1.) When the Brazos River has sufficient flow, including Harris and Brazoria Reservoir diversions, the RO WTP would provide a minimal baseline potable water flow, supplementing the primary, lower cost potable water from the BWA surface water treatment plant.
- 2.) When the Brazos River has insufficient flow, the RO WTP would operate up to its peak capacity to meet the potable water demands.

The proposed brackish groundwater facilities would consist of three wells located in the Gulf Coast Aquifer (Lissie formation) and distribution lines ranging from 12-in. to 36-in. diameter; this infrastructure would be constructed at the current plant site. The WTP would provide cartridge filter pretreatment, chemical additives and final treatment through three RO membrane racks. Discharge from the RO process will be accomplished through discharge to the Brazos River below State Highway 332; this segment does not have a limitation on the concentration of Total Dissolved Solids (TDS).



1 inch = 300 Feet



BWA Proposed Phase 1 Wells

Brazosport Water Authority

BWA Proposed Wells

● Phase 1 R.O.

- 50ft Well Buffer
- 150ft Well Buffer
- Proposed Easement
- Property Boundary

BWA Proposed Pipes

Phase 1

PART D-57: BWA SERVICE AREA – CENSUS TRACTS

Using the American Fact Finder tool on the U.S. Census Bureau website, the following census tracts have been identified within Brazosport Water Authority's service area in Brazoria County (reference attached map):

6621
6622
6623
6624
6625
6629
6630
6631
6632
6633
6634
6635
6636
6638
6639
6640
6641
6642
6643
6644
6645.01

Population Projections for Brazoria Water Authority Customers

Entity	Population Projections						
	2010	2015	2020	2025	2030	2035	2040
City of Angleton	18,862	21,866	25,349	29,386	34,067	39,493	45,783
City of Brazoria	3,019	3,173	3,335	3,505	3,684	3,872	4,069
City of Clute	11,211	11,667	12,141	12,634	13,148	13,682	14,238
City of Freeport	12,049	11,751	11,460	11,176	10,900	10,630	10,367
City of Lake Jackson	26,883	27,999	30,607	33,830	36,130	38,946	39,916
City of Oyster Creek	1,192	1,222	1,253	1,285	1,317	1,350	1,384
City of Richwood	3,510	4,000	4,654	5,349	6,091	6,634	7,233
TDCJ Clemens Unit	1,546	1,546	1,546	1,546	1,546	1,546	1,546
TDCJ Wayne Scott Unit	1,419	1,419	1,419	1,419	1,419	1,419	1,419
Total	79,691	84,643	91,764	100,130	108,302	117,572	125,955

Water Demand Projections for Brazoria Water Authority Customers

Entity	Maximum Day Water Demands (MGD)						
	2010	2015	2020	2025	2030	2035	2040
City of Angleton	3.73	4.33	5.02	5.82	6.74	7.82	9.06
City of Brazoria	0.58	0.61	0.64	0.67	0.70	0.74	0.78
City of Clute	2.00	2.08	2.17	2.25	2.35	2.44	2.54
City of Freeport	1.90	1.85	1.81	1.76	1.72	1.68	1.63
City of Lake Jackson	8.50	8.85	9.68	10.70	11.42	12.31	12.62
City of Oyster Creek	0.33	0.34	0.35	0.36	0.36	0.37	0.38
City of Richwood	0.83	0.94	1.10	1.26	1.43	1.56	1.70
TDCJ Clemens Unit	0.46	0.46	0.46	0.46	0.46	0.46	0.46
TDCJ Wayne Scott Unit	0.39	0.39	0.39	0.39	0.39	0.39	0.39
DOW	1.00	2.00	2.00	2.00	2.00	2.00	2.00
Total	19.72	21.85	23.62	25.67	27.57	29.77	31.56

PROJECT BUDGET - Brazosport Water Authority						
Uses	TWDB Funds Series 1	TWDB Funds Series 2	TWDB Funds Series 3	Total TWDB Cost	Other Funds	Total Cost
Construction						
Construction	\$1,552,000	\$19,943,930	\$0	\$21,495,930	\$0	\$21,495,930
Subtotal Construction	\$1,552,000	\$19,943,930	\$0	\$21,495,930	\$0	\$21,495,930
Basic Engineering Fees						
Planning +	\$15,000	\$0	\$0	\$15,000	\$0	\$15,000
Design	\$1,700,000	\$0	\$0	\$1,700,000	\$0	\$1,700,000
Construction Engineering	\$671,750	\$0	\$0	\$671,750	\$0	\$671,750
Basic Engineering Other						
**	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Basic Engineering Fees	\$2,386,750	\$0	\$0	\$2,386,750	\$0	\$2,386,750
Special Services						
Application	\$0	\$0	\$0	\$0	\$0	\$0
Environmental	\$35,000	\$0	\$0	\$35,000	\$0	\$35,000
Water Conservation Plan	\$0	\$0	\$0	\$0	\$0	\$0
I/I Studies/Sewer Evaluation	\$0	\$0	\$0	\$0	\$0	\$0
Surveying	\$12,000	\$0	\$0	\$12,000	\$0	\$12,000
Geotechnical	\$30,000	\$0	\$0	\$30,000	\$0	\$30,000
Testing	\$50,000	\$0	\$0	\$50,000	\$0	\$50,000
Permits	\$25,000	\$0	\$0	\$25,000	\$0	\$25,000
Inspection	\$500,000	\$0	\$0	\$500,000	\$0	\$500,000
O&M Manual	\$85,000	\$0	\$0	\$85,000	\$0	\$85,000
Project Management (by engineer)	\$0	\$0	\$0	\$0	\$0	\$0
Pilot Testing	\$175,000	\$0	\$0	\$175,000	\$0	\$175,000
Water Distribution Modeling	\$0	\$0	\$0	\$0	\$0	\$0
Special Services Other						
**	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Special Services	\$912,000	\$0	\$0	\$912,000	\$0	\$912,000
Other						
Administration	\$0	\$0	\$0	\$0	\$0	\$0
Land/Easements Acquisition	\$0	\$0	\$0	\$0	\$0	\$0
Water Rights Purchase (If Applicable)	\$0	\$0	\$0	\$0	\$0	\$0
Capacity Buy-In (If Applicable)	\$0	\$0	\$0	\$0	\$0	\$0
Project Legal Expenses	\$0	\$0	\$0	\$0	\$0	\$0
Other **	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Other Services	\$0	\$0	\$0	\$0	\$0	\$0
Fiscal Services						
Financial Advisor	\$35,265	\$62,120	\$0	\$97,385	\$0	\$97,385
Bond Counsel	\$19,618	\$79,450	\$0	\$99,068	\$0	\$99,068
Issuance Cost	\$18,512	\$50,000	\$0	\$68,512	\$0	\$68,512
Bond Insurance/Surety	\$0	\$0	\$0	\$0	\$0	\$0
Fiscal/Legal	\$5,605	\$9,500	\$0	\$15,105	\$0	\$15,105
Capitalized Interest	\$0	\$0	\$0	\$0	\$0	\$0
Bond Reserve Fund	\$475,250	\$1,550,000	\$0	\$2,025,250	\$0	\$2,025,250
Loan Origination Fee	\$0	\$0	\$0	\$0	\$0	\$0
Other **	\$0	\$0	\$0	\$0	\$0	\$0
Subtotal Fiscal Services	\$554,250	\$1,751,070	\$0	\$2,305,320	\$0	\$2,305,320
Contingency						
Contingency	\$200,000	\$1,000,000	\$0	\$1,200,000	\$0	\$1,200,000
Subtotal Contingency	\$200,000	\$1,000,000	\$0	\$1,200,000	\$0	\$1,200,000
TOTAL COSTS	\$5,605,000	\$22,695,000	\$0	\$28,300,000	\$0	\$28,300,000

Other ** description must be entered

+ For Planning applications under the EDAP Program, please break down Planning costs as follows:

Category A			0
Category B			0
Category C			0
Category D			0
Total Planning Costs		0	0

Texas Water Development Board Water Project Information							
A. Project Name		B. Project No.		C. County		D. Regional Planning Group (A-P)	
E. Program(s)		F. Loan <input type="checkbox"/> / Grant <input type="checkbox"/> Amount:		G. Loan Term:			
H. Water Project Description: (Multiphase project, new or expansion; plant, well, storage, pump station, distribution system, etc)							
Attach map of service area affected by Project or other documentation.							
I. Is an Inter Basin Transfer potentially involved? Yes <input type="checkbox"/> No <input type="checkbox"/>				J. Is project located in a Groundwater District (If yes, identify District by name)? Yes <input type="checkbox"/> No <input type="checkbox"/>			
K. Projected Population from application for at least a 20 year period. Attach justification and list service area populations if different from Planning Area.	Year	Reference Year	2010	2020	2030	2040	
	Population Projection						
Project Design Year				Design Population			
L. Is the proposed project included in a current Regional Water Plan? Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know <input type="checkbox"/> (If Yes, please specify on what page in the Regional Water Plan - Regional Water Plan Page Number: _____)							
M. What type of water source is associated directly with the proposed project ? Surface Water <input type="checkbox"/> Groundwater <input type="checkbox"/> Reuse <input type="checkbox"/>							
N. Will the project increase the volume of water supply? Yes <input type="checkbox"/> No <input type="checkbox"/>							
O. What volume of water is the project anticipated to deliver/ treat per year? _____ Acre-Feet/Year							
P. Current Water Supply Information							
Surface Water Supply Source / Provider Names		Certificate No.		Source County		Annual Volume and Unit	
Groundwater Source Aquifer		Well Field location		Source County		Annual Volume and Unit	
Q. Proposed Water Supply Associated Directly with the Proposed Project							
Surface Water Supply Source / Provider Names		Certificate No.		Source County		Annual Volume and Unit	
Groundwater Source Aquifer		Well Field location:		Source County		Annual Volume and Unit	
R. Consulting Engineer Name			Telephone No.		E-mail address		
S. Applicant Contact Name, Title			Telephone No.		E-mail address		

**ATTACHMENTS –
PART E**

RESOLUTION AUTHORIZING THE ISSUANCE OF [\$5,605,000] BRAZOSPORT WATER AUTHORITY WATER SUPPLY SYSTEM REGIONAL REVENUE BONDS, SERIES 2015B; MAKING PROVISION FOR THE PAYMENT OF THE INTEREST THEREON AND THE PRINCIPAL THEREOF; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, pursuant to an application filed with the Texas Water Development Board (the "TWDB"), the Authority has received a loan commitment from the Board for financial assistance in the amount of [\$5,605,000] to finance the costs of constructing improvements to the Authority's water system; and

WHEREAS, such financial assistance is to be evidenced by the TWDB's purchase of the Authority's Water Supply System Regional Revenue Bonds, Series 2015B (the "Bonds");

WHEREAS, the Board finds and declares a public purpose and deems it in the best interests of the Authority to issue the Bonds herein authorized as a series of subordinate lien bonds to be sold and delivered to the TWDB;

WHEREAS, it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 552, Texas Government Code; NOW THEREFORE

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BRAZOSPORT WATER AUTHORITY:

ARTICLE I
STATUTORY AUTHORITY, RECITALS AND FINDINGS

SECTION 1.01 **CREATION OF AUTHORITY.** Pursuant to the provisions of Section 59 of Article XVI, as amended, of the Texas Constitution, the Brazosport Water Authority (the "Authority") was created by 1985 Tex. Laws, Reg. Sess., Ch. 449 at 3063 (the "Act"), as a conservation and reclamation district, a body politic and corporate and a governmental agency of the State of Texas, and the creation thereof was duly and lawfully confirmed at an election held for such purposes on September 14, 1985, as required by law.

The Authority is authorized to conserve, store, transport, treat and purify, distribute, sell, and deliver treated water to customers situated inside or outside the boundaries of the Authority and to acquire all properties and facilities necessary or useful for such purposes, and for any and all of such purposes to enter into contracts with Persons and corporations, both public and private, and political subdivisions of the State for such periods of time and on such terms and conditions as its Board of Directors may deem desirable, and to issue its revenue bonds to provide funds for any and all such purposes.

SECTION 1.02 **AUTHORIZATION.** The Bonds shall be issued in fully registered form in the aggregate principal amount of [\$5,605,000] for the purpose of providing a portion of the funds to construct or otherwise acquire properties, water rights, works and facilities to

transport, treat and purify, distribute, sell and deliver treated surface water to the Authority's customers and to pay expenses in connection with the sale and issuance of the Bonds under it in strict conformity with the Constitution and Laws of the State of Texas.

SECTION 1.03 FINDINGS. It is hereby found and determined that the matters and facts set out in the preamble to this Resolution are true and correct.

(a) It is necessary that the Authority secure a source of water to supply treated water to serve the inhabitants of the Authority's customers and future customers;

(b) The Bonds authorized by this Resolution shall be issued to provide funds to construct or otherwise acquire properties, water rights, works and facilities to transport, treat and purify, distribute, sell and deliver treated water to the Authority's customers and to pay expenses in connection with the sale and issuance of the Bonds under it in strict conformity with the Constitution and Laws of the State of Texas;

(c) The Bonds authorized by this Resolution are issued pursuant to the Contracts (as defined herein) or the Act; and

(d) the Authority has relied on the finding that each Participating Customer is not in default under the Contracts in accordance with Section 8.2 of the Contract.

ARTICLE II

DEFINITIONS AND INTERPRETATIONS

SECTION 2.01 DEFINITIONS. Unless otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 2.01 shall have the respective meanings specified for all purposes of this Resolution (except Article V) and any resolution amendatory or supplemental hereto:

"Act" 1985 Tex. Laws, Reg. Sess., Ch. 449 at 3063.

"Additional Parity Bonds" The additional parity revenue bonds which the Authority expressly reserves the right to issue in Section 16.02 of this Resolution.

"Annual Principal and Interest Requirements" As of any particular time of determination, the aggregate amount of principal and interest scheduled to come due during the remainder of the then current Fiscal Year and any future Fiscal Year on the Outstanding Senior Lien Bonds and Regional Revenue Bonds then Outstanding, but excluding for any such Fiscal Year funded interest on the Regional Revenue Bonds or funded principal of the Regional Revenue Bonds deposited in the Debt Service Fund and available during such Fiscal Year and excluding capitalized interest, if any, deposited into the Debt Service Fund pursuant to a resolution authorizing such Bonds. The Annual Principal and Interest Requirements will be calculated on the assumption (a) that no bonds Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of scheduled principal maturities or scheduled mandatory redemption of such Bonds, and (b) that the principal and interest coming due in any Fiscal Year on any Regional Revenue Bonds bearing interest at a variable rate that cannot be predetermined, shall be assumed to be that which would come due if (i) the interest

rate on such Regional Revenue Bonds for the applicable period was the interest rate that was in effect on the last day of the immediately preceding Fiscal Year (or, if such Regional Revenue was issued during the current Fiscal Year, then the first interest rate in effect on such Regional Revenue Bond) and (ii) the principal amortization schedule would be that which would result in substantially level debt service throughout the remaining term of such Regional Revenue Bonds assuming such interest rate.

“Authority” Brazosport Water Authority and any other public agency succeeding to the powers, rights, privileges and functions of such Authority.

“Authorized Investments” Any obligation, bond or security authorized by Texas law as an authorized investment for the Authority.

“Blanket Issuer Letter of Representations” The Blanket Issuer Letter of Representations between the Authority, the Registrar and DTC.

“Bond Register” The Bond Register for the Bonds as described in Section 3.09.

“Bonds” Any bond or all bonds, as the case may be, of the issue of [\$5,605,000] Brazosport Water Authority Water Supply System Regional Revenue Bonds, Series 2015B, dated _____, 2015, authorized, issued, and authenticated pursuant to this Resolution including any bonds issued in lieu of or in exchange therefor pursuant to the terms of this Resolution.

“Business Day” Any day which is not a Saturday, Sunday, a day on which banking institutions in Dallas, Texas, are authorized by law or executive order to close, or a legal holiday.

“Certified Public Accountant” Any certified public accountant or certified public accountants or accounting corporation of recognized experience and qualifications selected by the Authority.

“Code” The Internal Revenue Code of 1986, as amended.

“Construction Fund” The Brazosport Water Authority Water Supply System Revenue Bonds Construction Fund created and established in Section 7.01 of this Resolution.

“Consulting Engineer” CDM Smith, or such other professional engineering firm at the time retained by the Authority for the purpose of acting as consulting engineer to the Authority.

“Contract” the take-or-pay water supply contract, dated February 20, 1987, with seven member cities of the Authority.

“Debt Service Fund” The Brazosport Water Authority Water Supply System Regional Revenue Bonds Debt Service Fund created and established in Section 7.01 of this Resolution.

“DTC” The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” Brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions.

“Fiscal Year” The twelve-month fiscal year period of the Authority, which is currently the twelve-month period beginning October 1st but which may be changed from time to time.

“Funds” Those certain special Funds created under Section 7.01 of this Resolution.

“Initial Bond” The Initial Bond authorized by Article III of this Resolution.

“Inferior Lien Bonds” Bonds, notes, or other evidences of indebtedness which the Authority reserves the right to issue or enter into that are payable from and equally and ratably secured by a lien on and pledge of the Net Revenues of the System that is junior and inferior to the pledge thereof securing payment of the currently outstanding Senior Lien Bonds, and the Bonds or any Additional Parity Bonds hereafter issued by the Authority.

“Interest Payment Date” The date on which interest on Bonds is due and payable and which shall be each [September 1] and [March 1], commencing [March 1, 2016], while any Bonds are Outstanding.

“MSRB” The Municipal Securities Rulemaking Board.

“Net Revenues” The Revenues of the System available after deducting the Operation and Maintenance Expenses from Revenues.

“Non-Participating Customer Contracts” The water supply contracts entered into between the Authority and any customers other than Participating Customers pursuant to Section 3.4 of the Water Supply Contracts, together with any amendments or extensions thereof, including the contract dated December 2, 2014 entered into by and between the Authority and the City of Rosenberg; provided that such term does not include contracts associated with Special Project Bonds as that term is used on the Water Supply Contracts.

“Operation and Maintenance Expenses” All actual operation and maintenance expenses of the System incurred by the Authority in any particular Fiscal Year or period to which the term is applicable or charges made therefor during that Fiscal Year or period, but only if such charges are made in conformity with generally accepted accounting principles, including amounts reasonably required under generally accepted accounting principles to be set aside in reserves for items of Operation and Maintenance Expenses the payment of which is not then immediately required.

Operation and Maintenance Expenses include, but are not limited to, expenses for ordinary repairs, renewals and replacements of the System, salaries and wages, employees' health, hospitalization, pension and retirement expenses, fees for services, materials and supplies, rents, administrative and general expenses, insurance expenses, legal, engineering, accounting and financial advisory fees and expenses and costs of other consulting and technical services, taxes, payments in lieu of taxes and other governmental charges, payments on take-or-pay contracts and any other current expenses or obligations required to be paid by the Authority

under the provisions of this Resolution or by law, all to the extent properly allocable to the System, and the fees and expenses of the Paying Agent/Registrar.

Operation and Maintenance Expenses do not include any items included in the Project Costs for any Project or depreciation or obsolescence charges or reserves therefor, any items specifically paid by the counterparty in any Non-Participating Customer Contracts, amortization of intangibles or other bookkeeping entries of a similar nature, principal amortization or interest expense, costs or charges made for capital additions, replacements, betterments, extensions or improvements to or retirements from the System which under generally accepted accounting principles are not properly chargeable to the capital account or the reserve for depreciation, and do not include losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties of the System or such property items, including taxes, which are capitalized pursuant to the then existing accounting practice of the Authority.

“Outstanding” With respect to any Regional Revenue Bonds as of the date of determination, all Regional Revenue Bonds theretofore issued and delivered except:

- (1) Regional Revenue Bonds theretofore cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;
- (2) Regional Revenue Bonds for whose payment money in the necessary amount has been theretofore deposited with the Paying Agent/Registrar for the benefit of the Owners of such Bonds;
- (3) Regional Revenue Bonds in exchange for or in lieu of which other Bonds have been registered and delivered pursuant to this Resolution;
- (4) Regional Revenue Bonds alleged to have been mutilated, destroyed, lost, or stolen which have been paid; or
- (5) Regional Revenue Bonds for the payment of the principal of and interest on which money or government securities or both are held in the manner and with the effect specified in Article Ten.

“Outstanding Senior Lien Bonds” The Water Supply System Revenue Refunding Bonds, Series 2013.

“Participating Customers” The Cities of Angleton, Brazoria, Clute, Freeport, Lake Jackson, Richwood, and Oyster Creek, their successors or assigns so long as such entities are parties to Water Supply Contracts and any other Participating Customers hereafter designated by the Authority pursuant to Section 3.4 of the Water Supply Contracts.

“Paying Agent/Registrar” The bank of payment, or its successor, which is authorized to pay the principal of, interest on and any redemption price of the Bonds to the Owners on behalf of the Authority and to maintain the Bond Register.

“*Person*” Any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof, or any other entity, however organized.

“*Project*” Any real or personal properties or facilities for the treatment, conveyance, storage or distribution of raw or treated water acquired or purchased by the Authority which constitutes a part of the System, and shall include any related to real or personal property or facilities or any interest therein, including the acquisition of rights of way, water rights, and any related environmental facilities or facilities for conservation, safety and administration.

“*Project Costs*” All construction costs and reconstruction costs as those terms are generally understood in standard accounting practice as applied to water supply projects of the nature of the 2015B Project, and without limiting the generality of the foregoing, the term shall include the purchase of equipment, property, and rights in property, the costs of land, easements, and rights-of-way, including damages to land and property, all engineering, financing, financial consultants, administrative, auditing and legal expenses incurred in connection with the acquisition and construction of the 2015B Project, the costs of any and all equipment required for the operation and maintenance thereof, start-up costs for initial operation of the Project, and fiscal, legal and other expenses incurred by the Authority in issuing the Bonds.

“*Rate Stabilization Fund*” The Brazosport Water Authority Rate Stabilization Fund created and established in Section 7.01 of this Resolution.

“*Record Date*” The term “Record Date” for the interest payable on any Interest Payment Date shall mean the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“*Regional Revenue Bonds*” The Bonds and any Additional Parity Bonds then Outstanding.

“*Registered Owner or Owner*” The Person in whose name any Bond is registered in the Bond Register.

“*Renewal and Replacement Fund*” The Brazosport Water Authority Renewal and Replacement Fund created and established in Section 7.01 of this Resolution.

“*Reserve Fund*” The Brazosport Water Authority Water Supply System Reserve Fund created and established in Section 7.01 of this Resolution.

“*Reserve Requirement*” The lesser of (i) 10% of the “issue price” of the Regional Revenue Bonds, (ii) 1.25 times the average Annual Principal and Interest Requirements of the Regional Revenue Bonds, or (iii) the maximum Annual Principal and Interest Requirements of the Regional Revenue Bonds.

“*Resolution*” This bond resolution and all amendments thereof and supplements thereto.

“*Revenue Fund*” The Brazosport Water Authority Water Supply System Revenue Fund created and established in Section 7.01 of this Resolution.

“Revenues” All revenues, income, receipts, proceeds and other moneys received by or on behalf of the Authority from or in connection with its ownership, leasing or operation of the System, including specifically all payments received by the Authority under the Contracts, all interest or other income derived from the investment of moneys held pursuant to this Resolution and paid or required to be paid into the Revenue Fund, all amounts transferred from the Rate Stabilization Fund to the Revenue Fund, and all revenues received from the operation of the Authority’s System, all as determined in accordance with generally accepted accounting principles, but, notwithstanding the aforesaid, excluding (i) contractual payments or revenues received as debt service or capital cost components and pledged by the Authority for the security or payment of any series of Special Project Bonds, (ii) the proceeds of any bonds issued or other authorized borrowings by the Authority and income therefrom unless otherwise provided therein with respect to the income; (iii) insurance proceeds other than loss of use or business interruption insurance proceeds; (iv) sales and other taxes collected by the Authority on behalf of the State or any other taxing entity; (v) any amounts deposited or deposited with respect to any program or plan relating to benefits for employees of the Authority and any interest or other investment income derived from such amounts; (vi) deposits subject to refund until the deposits have become the property of the Authority, (vii) any income, fees, charges, receipts, profits or other moneys derived by the Authority from its ownership or operation of any separate utility system of the nature referred to in the last sentence of the definition of System, or (viii) any gifts, grants, donations or other moneys received by the Authority from any state or federal agency or other person if the gifts, grants, donations or other moneys are the subject of any limitation or reservation (a) imposed by the donor or grantor or (b) imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds in a manner inconsistent with the application of Revenues provided for in this Resolution, and any such grants, donations or other moneys shall be held and applied in the manner required by such limitation or reservation.

“Senior Lien Bond Resolution” means resolution approved by the Board of Directors of the Authority on June 25, 2013, which authorized the Outstanding Senior Lien Bonds.

“Series 2015B Project” the planning, design and permitting for construction of a desalination plant, wells and collection lines.

“Special Payment Date” The term “Special Payment Date” shall mean the scheduled payment date of any past due interest, which shall occur fifteen (15) days after the Special Record Date.

“Special Project Bonds” The term “Special Project Bonds” is defined in Section 16.04.

“Special Record Date” In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment will be established by the Paying Agent/Registrar.

“Stated Maturity” With respect to any Bond or any installment of interest thereon, means the date specified in such Bond as the fixed date on which the principal of such Bond or an installment of interest thereon is due and payable as set forth in this Resolution and such Bond.

“*System*” The existing water treatment, conveyance, storage and distribution facilities of the Authority, and, any subsequent Projects, and all other properties and assets, real, personal, tangible and intangible, of the Authority, now or hereafter existing and used or useful for or pertaining to the supply (or any combination of the foregoing) of water and shall include general plant and administrative facilities of the Authority and all interest of the Authority in the water treatment, storage, conveyance and distribution facilities and administrative facilities of the Authority, together with all additions, betterments, extensions and improvements of the Authority’s water treatment and supply system or any part thereof hereafter made, together with all lands, easements and rights-of-way of the Authority and all other works, property or structures of the Authority and contract rights, water rights, permits and other tangible and intangible assets of the Authority in connection with or related to the Authority’s water supply and distribution system, including the agreement between the Authority and Dow Chemical U.S.A., dated as of the first day of January, 1987, as amended from time to time, and any other agreement with a supplier of raw water, raw water storage capacity, or raw water pumping and conveyancing. System shall not include any project, properties or facilities, or any interest therein, which the Authority shall hereafter acquire and which the Authority shall designate as a special project and not a part of the System in connection with the issuance of Special Project Bonds.

“*Water Supply Contracts*” The take-or-pay Water Supply Contracts, dated February 20, 1987, entered into by and between the Authority and each Participating Customer, as amended from time to time, and any other water supply contract between the Authority and a Participating Customer as defined in Section 3.4 of the Water Supply Contracts.

SECTION 2.02 INTERPRETATIONS. The titles and headings of the articles and sections of this Resolution have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Resolution and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the pledge of Net Revenues in payment thereof.

ARTICLE III

AUTHORIZATION, DESCRIPTION AND EXECUTION OF BONDS

SECTION 3.01 AMOUNT, NAME, PURPOSE AND AUTHORIZATION. The bonds of the Authority to be known and designated as Brazosport Water Authority Water Supply System Regional Revenue Bonds, Series 2015B, shall be issued in the aggregate principal amount of [\$5,605,000] for the purposes of (i) [providing funds to construct or otherwise acquire properties, water rights, works and facilities to transport, treat and purify, distribute, sell and deliver treated surface water to the Authority’s customers, including the 2015B Project]; and (ii) paying expenses in connection with the issuance of the Bonds, as authorized by the Constitution and laws of the State of Texas, including in particular the Act; and (iii) to pay interest during construction.

SECTION 3.02 FORM, DATED DATE, AND DENOMINATIONS. The Bonds shall be serial bonds, issued and delivered in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be dated _____, 2015.

SECTION 3.03 INTEREST RATES, NUMBERS AND MATURITIES. The Bonds shall be initially issued bearing the numbers, in the principal amounts and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Resolution. The Bonds shall mature on September 1 in each of the years and in the amounts set out in such schedule. Any Bonds delivered on transfer of or in exchange for other Bonds shall be numbered (with appropriate prefix) in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$5,000 or integral multiples thereof and shall mature on the same date and bear interest at the same rate as the Bond or Bonds in lieu of which they are delivered.

<u>Bond Number</u>	<u>Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
R-1	20__	\$_____	_____%

SECTION 3.04 INTEREST PAYMENT DATES AND MANNER OF PAYMENT.

(a) Interest on the Bonds shall accrue from their date of delivery, and shall be payable on each Interest Payment Date until maturity or prior redemption. The amount of interest on the Bonds payable on each Interest Payment Date shall be computed on the basis of a 360-day year of twelve 30-day months.

(b) The interest which is payable on any Bond on any Interest Payment Date shall be paid to the Person in whose name that Bond is registered at the close of business on the Record Date for such interest. All payments of interest on the Bonds shall be paid by check or draft mailed by the Paying Agent/Registrar to the Registered Owner, first-class postage prepaid, at the address of such Registered Owner as it appears in the Bond Register. Each Bond delivered under this Resolution upon transfer or in exchange for or in lieu of any other Bond shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond, and each such Bond shall bear interest (as specified in this Section) so neither gain nor loss in interest shall result from such transfer, exchange or substitution. So long as the TWDB is the owner of any Bonds, interest payments payable to the TWDB will be wired to the TWDB at no additional cost to the TWDB.

SECTION 3.05 PAYMENT OF PRINCIPAL. The principal of each of the Bonds shall be payable without exchange or collection charges to the Owners at the maturity or prior redemption thereof in any coin or currency of the United States of America which on the respective dates of payment is legal tender for the payment of debts due the United States of America, upon the presentation and surrender of each such Bond for cancellation at the designated payment office of the Paying Agent/Registrar. So long as the TWDB is the owner of any Bonds, principal payments payable to the TWDB will be wired to the TWDB at no additional cost to the TWDB.

SECTION 3.06 SPECIAL PAYMENT DATE. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a Special Record Date will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Authority. Notice of the Special Record Date and of the Special Payment Date shall be sent at least five business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered holder of a Bond appearing on the registration books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 3.07 EXECUTION OF BONDS. The Bonds shall be signed by the President of the Board of Directors and attested by the Secretary, by their manual or facsimile signatures. Any such facsimile signatures shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers. If any officer of the Authority whose facsimile signature appears on the Bonds shall cease to be such officer before the registration of such Bonds or before the delivery of such Bonds, such facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office. Minor typographical and other minor errors in the text of any Bond or minor defects in the facsimile signature of any Bond shall not affect the validity or enforceability of such Bond, if same has been duly registered by the Paying Agent/Registrar.

SECTION 3.08 REGISTRATION AND EXCHANGE OF INITIAL BOND.

(a) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Resolution unless and until there appears thereon the Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Registrar. In lieu of the executed Registrar's Authentication Certificate described above, the Initial Bond shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by her duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the Authority, and has been registered by the Comptroller.

(b) On the Closing Date, the Initial Bond, being a single bond representing the entire principal amount of the Bonds, payable in stated installments to the Underwriter or its designee, executed by manual or facsimile signature of the President and Secretary of the Authority, approved by the Attorney General, and registered and manually signed by the Comptroller of

Public Accounts, shall be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Registrar shall cancel the Initial Bond and deliver definitive bonds to DTC.

SECTION 3.09 REGISTRATION, TRANSFER AND EXCHANGE OF BONDS.

The Paying Agent/Registrar shall keep at its designated payment office in Dallas, Texas, a register (“Bond Register”) in which, subject to such reasonable regulations as it may prescribe, it shall provide for the exchange of Bonds in accordance with the terms of this Resolution. At any time after the date of initial delivery, any Bond may be transferred or exchanged upon its presentment and surrender at the principal corporate trust office of the Paying Agent/Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or the Registered Owner’s authorized representative. Mutilated, lost, destroyed or wrongfully taken Bonds to be replaced must be presented to the Paying Agent/Registrar in accordance with Section 3.12 of this Resolution. The Paying Agent/Registrar shall register and deliver new Bonds, in accordance with the provisions of this Section, within three Business Days after receipt, in proper form, of the request to transfer, exchange or replace the Bonds. No service charge shall be made for any exchange, but the Registered Owner may be required to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the exchange of such Bond.

All Bonds duly registered and delivered in accordance with this Section shall be in denominations of \$5,000 or any multiple thereof, and shall have the same maturity date and interest rate and a like aggregate principal amount to the Bond being transferred or exchanged. Each such Bond shall be entitled to the benefits and security of this Resolution to the same extent as the Bond or Bonds in lieu of which such Bond is delivered. No Bond will be valid or obligatory unless there appears on such Bond a certificate of registration substantially in the form provided in Section 5.02(c) manually executed by an authorized representative of the Paying Agent/Registrar; such certificate shall be conclusive evidence that such Bond has been duly registered and delivered.

SECTION 3.10 MUTILATED, LOST, DESTROYED OR WRONGFULLY TAKEN BONDS. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, or in the event that any Bond is lost, apparently destroyed or wrongfully taken, the Authority, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authorize the Paying Agent/Registrar to register, authenticate and deliver to the Registered Owner a Bond in accordance with Section 3.11 of this Resolution, provided that the Registered Owner shall have:

- (a) furnished to the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (b) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the Authority;
- (c) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and

(d) met any other reasonable requirements of the Authority and the Paying Agent/Registrar.

In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Authority, in its discretion, may order the Paying Agent/Registrar to pay such Bond, instead of issuing a new Bond.

If, after the delivery of such new Bond, a bona fide purchaser of the original Bond for which such new Bond was issued, presents for payment such original Bond, the Authority and the Paying Agent/Registrar shall be entitled to recover upon such replacement Bond from the Person to whom it was delivered or any Person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Authority or the Paying Agent/Registrar in connection therewith.

SECTION 3.11 CANCELLATION OF BONDS. All Bonds paid or prepaid in accordance with this or any subsequent Resolution, and all Bonds for which new Bonds are issued pursuant to the terms of this Resolution, shall be cancelled and destroyed by the Paying Agent/Registrar. The Paying Agent/Registrar shall furnish a certificate of their destruction to the Authority.

SECTION 3.12 PAYING AGENT/REGISTRAR MAY OWN BONDS. The Paying Agent/Registrar, in its individual or any other capacity, may become the Owner or pledgee of the Bonds with the same rights it would have if it were not Paying Agent/Registrar.

SECTION 3.13 SUCCESSOR PAYING AGENT/REGISTRAR. The Authority covenants that at all times while any Bonds are outstanding it will provide a national or state banking association or trust company organized and doing business under the laws of the United States or any State, to act as Paying Agent/Registrar for the Bonds. The Authority reserves the right to change the Paying Agent/Registrar for the Bonds on not less than 60 days written notice to the Paying Agent/Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Owner, by United States mail, first class postage prepaid, of any change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section.

Notwithstanding any other provision of this Resolution, no removal, resignation or termination of the Paying Agent/Registrar shall take effect until a successor has been appointed.

SECTION 3.14 OWNERSHIP OF BONDS. The Authority, the Paying Agent/Registrar and any other Person may treat the Person in whose name any Bond is registered on the Bond Register as the absolute Owner of such Bond for the purpose of making and receiving payment of the principal thereof and interest thereon and for all other purposes, whether or not such Bond is overdue, and neither the Authority nor the Paying Agent/Registrar

shall be bound by any notice or knowledge to the contrary. All payments made to any Registered Owner in accordance with this Resolution shall be valid and effective and shall discharge the liability of the Authority and the Paying Agent/Registrar to the extent of the sums paid.

SECTION 3.15 NOTICES TO OWNERS: WAIVER. Wherever this Resolution provides for notice to Owners of Bonds of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Owner of such Bonds, at the address of such Owner as it appears in the Bond Register. In any case where notice to Owners of Bonds is given by mail, neither the failure to mail such notice to any particular Owner of Bonds, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Resolution provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Owners shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 3.16 BOOK-ENTRY SYSTEM.

(a) The Initial Bond shall be registered in the name of the Texas Water Development Board.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the Authority and the Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such DTC Participant holds an interest in the Bonds, except as provided in this Resolution. Without limiting the immediately preceding sentence, the Authority and the Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Resolution to the contrary, the Authority and the Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal of and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register as provided in this Resolution, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payments of principal, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a Bond certificate evidencing the obligation of the Authority to make payments of amounts due pursuant to this Resolution. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions of

this Resolution with respect to interest checks being mailed to the Owner of record as of the Record Date, the phrase "Cede & Co." in this Resolution shall refer to such new nominee of DTC.

SECTION 3.17 SUCCESSOR SECURITIES DEPOSITORY: TRANSFER OUTSIDE BOOK-ENTRY ONLY SYSTEM. In the event that the Authority in its sole discretion, determines that the beneficial owners of the Bonds should be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the Authority shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts, as identified by DTC. In such event, the Bonds shall not longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Resolution.

SECTION 3.18 PAYMENTS TO CEDE & CO. Notwithstanding any other provision of this Resolution to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Blanket Issuer Letter of Representations.

ARTICLE IV

REDEMPTION OF BONDS BEFORE MATURITY

SECTION 4.01 REDEMPTION.

(a) Optional Redemption. The Bonds maturing on and after _____, 20__ are subject to redemption prior to maturity, in whole or in part, at the option of the Authority, in inverse order of maturity, on _____, 20__, or any date thereafter, at par plus accrued interest to the date fixed for redemption.

(b) Notice of any redemption identifying the Bonds to be redeemed in whole or in part shall be given by the Registrar at least thirty days prior to the date fixed for redemption by sending written notice by first class mail to the Owner of each Bond to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price, the place at which Bonds are to be surrendered for payment and, if less than all Bonds of a particular maturity are to be redeemed, the numbers of the Bonds or portions thereof of such maturity to be redeemed. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Registrar for payment of the redemption price of the Bonds or portions thereof to be redeemed. When Bonds have been called for redemption in whole or in part and due provision has been made to redeem same as

the most recent interest payment date to which interest has been paid or duly provided for. Interest on this bond is payable by check or draft on [September 1, 2015], and each [March 1] and [September 1] thereafter until maturity or earlier redemption, mailed to the registered owner of record as of the fifteenth day of the month prior to each interest payment date (the "Record Date") as shown on the books of registration kept by the Paying Agent/Registrar.

THIS BOND IS ONE OF A DULY AUTHORIZED ISSUE OF BONDS, aggregating [\$5,605,000] (the "Bonds") issued for the purposes of providing funds for the (i) [planning, design and permitting for construction of a desalination plant, wells and collection lines] and (ii) pay costs of issuance of the Bonds, all as authorized by the Constitution and laws of the State of Texas and pursuant to the resolution of the Board of Directors of the Authority approved on _____, 2015 (the "Resolution"). Each Bond of this series is in all respects on a parity with and of equal dignity with every other Bond of this series. Reference is made to the Resolution for a full statement of the rights, duties and obligations of the Authority and the rights of the Owners of the Bonds, to all the provisions of which the Owner hereof, by the acceptance of this Bond, assents. The Resolution contains provisions permitting the Authority to issue additional bonds on a parity with the Bonds of this series, subject to the conditions contained in the Resolution. The Resolution also permits the Authority to amend the Resolution, or any resolution supplemental thereto, and thereby alter the rights and obligations of the Authority and of the Owners of the Bonds under certain conditions. Reference is made to the Resolution for complete details concerning amendment of the Resolution and the manner and procedure therefor.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS A PART, are payable as to principal and interest solely from, and secured by a lien on the Net Revenues (as defined in the Resolution) of the Authority's water supply system, which lien on and pledge of the Net Revenues is subordinate only to the lien on and pledge of the Net Revenues securing the Outstanding Senior Lien Bonds (as defined in the Resolution) currently outstanding.

THE AUTHORITY EXPRESSLY RESERVES THE RIGHT to issue additional bonds and refunding bonds which will be on a parity with and of equal dignity in all respects with the Bonds of this issue, but such bonds may be issued only pursuant to and subject to the restrictions, terms and limitations contained in the Resolution, to which reference is hereby made for complete details. The Authority also reserves the right to issue inferior lien bonds and to issue special project bonds payable from certain revenues received from the use, ownership, operation or lease of the properties, works and facilities constructed or otherwise acquired with the proceeds of special project bonds, but which shall not be payable from the Net Revenues pledged to the payment of the series of which this Bond is a part. Reference is made to the Resolution for a full statement of the reserved right to issue special project bonds.

THIS BOND, AND THE OTHER BONDS OF THE SERIES OF WHICH IT IS APART shall not be deemed to be a debt of the Authority or a pledge of its faith and credit, but shall be payable, as to both principal and interest, solely from, and secured solely by a subordinate pledge of and lien on the Net Revenues of the Authority's System (as defined in the Resolution). The Owner hereof shall never have the right to demand payment of this Bond from any revenues, receipts or assets of the Authority except the Net Revenues. The Authority has no taxing power.

THIS BOND MAY BE TRANSFERRED OR EXCHANGED upon presentation and surrender (or by due execution of the provisions for assignment hereon) at the designated payment office of the Paying Agent/Registrar, in Dallas, Texas, subject to the terms and conditions of the Resolution. Upon any such transfer, assignment or exchange, the Paying Agent/Registrar shall register and deliver one or more exchange bonds, for a like aggregate principal amount in integral multiples of \$5,000.

IT IS HEREBY CERTIFIED, RECITED, AND REPRESENTED that the issuance of this Bond and the series of Bonds of which it is a part is duly authorized by law; that all acts, conditions and things required to exist and to be done precedent to and in the issuance of this Bond and said issue of Bonds to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner as required by law; and that the principal of and interest on this Bond and the series of Bonds of which it is a part, are payable from and secured by a lien on and pledge of the Net Revenues of the Authority's System subordinate only to the Outstanding Senior Lien Bonds; and that the issuance of this series of Bonds does not exceed any Constitutional or statutory limitation.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Resolution unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

IN WITNESS WHEREOF, the Authority has caused this Bond to be executed by the manual or facsimile signatures of the President and Secretary of the Board of Directors of the Authority

(AUTHENTICATION
CERTIFICATE)

BRAZOSPORT WATER AUTHORITY

President, Board of Directors

Secretary, Board of Directors

(b) Form of Registration Certificate.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this _____.

Comptroller of Public Accounts
of the State of Texas

(SEAL)

(c) Form of Authentication Certificate.

AUTHENTICATION CERTIFICATE

It is hereby certified that this Bond has been delivered pursuant to the Bond Resolution described in the text of this Bond.

The Bank of New York Mellon Trust Company, N.A.
As Paying Agent/Registrar

By: _____
Authorized Signature
Date of Authentication _____

(d) Form of Assignment.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns, and transfers unto _____

(Please print or type name, address, and zip code of Transferee)

(Please insert Social Security or Taxpayer Identification Number of Transferee)
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

attorney to transfer said Bond on the books kept for registration thereof, with full power of
substitution in the premises.

DATED: _____

Registered Owner

Signature Guaranteed:

NOTICE: The signature above must
Correspond to the name of the registered
Owner as shown on the face of this Bond in
every particular, without any alteration,
enlargement or change whatsoever.

NOTICE: Signature must be guaranteed
by a member firm of the New York Stock
Exchange or a commercial bank or trust
Company.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (c) of this
Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST
RATE" and "MATURITY DATE" shall both be completed with the words "As Shown
Below" and the word "CUSIP" deleted;

(ii) in the first paragraph of the Bond, the words "on the maturity date
specified above" and "at the rate shown above" shall be deleted and the following shall
be inserted at the end of the first sentence "..., with such principal to be paid in
installments on the dates, in each of the years and in the principal amounts identified in
the following schedule and with such installments bearing interest at the per annum rates
set forth in the following schedule:"

(iii) the Initial Bond shall be numbered I-1.

SECTION 5.02 CUSIP NUMBERS. CUSIP numbers may be printed on the Bonds,
but errors or omissions in the printing of such numbers shall have no effect in the validity of the
Bonds.

ARTICLE VI
SECURITY FOR THE REGIONAL REVENUE BONDS

SECTION 6.01 PLEDGE. The Authority hereby irrevocably pledges the Net Revenues to the payment of the principal of, premium, if any, and interest on the Regional Revenue Bonds, which pledge shall constitute a lien on the Net Revenues hereby pledged, subordinate only to the Outstanding Senior Lien Bonds. Such pledge shall be immediately effective without any further act, and such lien shall be valid and binding as against all parties of any kind having a claim of any kind in tort, contract or otherwise against the Authority, without regard to whether those parties have notice thereof. All moneys in the Funds created by this Resolution are pledged to the purposes provided for such Funds

SECTION 6.02 SECURITY FOR THE REGIONAL REVENUE BONDS. The Regional Revenue Bonds shall be payable both as to principal and interest solely from, and shall be equally and ratably secured by a lien on and pledge of, the Net Revenues subordinate only to the Outstanding Senior Lien Bonds. The Owners of the Regional Revenues, Bonds shall never have the right to demand payment from any revenues, receipts or assets of the Authority except those pledged hereunder to the payment of the Regional Revenue Bonds. The Bonds and any Additional Parity Bonds will be secured by a first lien on the Pledged Revenues after the Outstanding Senior Lien Bonds have been retired or redeemed.

SECTION 6.03 RATES AND CHARGES. The Authority will, at all times while any of the Regional Revenue Bonds are Outstanding, establish, fix, prescribe and collect rates and charges for the sale or use of water or related services produced, transmitted, distributed or furnished by the System which are reasonably expected to yield income sufficient to satisfy each of the following requirements, whether or not the water furnished by the System is suspended, interrupted or reduced:

(a) Net Revenues for each Fiscal Year shall be equal to at least 105% the principal of, premium, if any and interest on the Outstanding Senior Lien Bonds payable during such Fiscal Year;

(b) Net Revenues shall be sufficient to make all deposits required by the terms of the Senior Lien Bond Resolution, to be made into the Funds and Accounts held thereunder and not otherwise provided for;

(c) Net Revenues for each Fiscal Year shall be equal to at least the principal, premium, if any, and interest on the Regional Revenue Bonds payable during such Fiscal Year;

(d) Net Revenues shall be sufficient to make all deposits required by the terms of this Resolution or any resolution authorizing Additional Parity Bonds, to be made into the Funds and Accounts held hereunder or thereunder and not otherwise provided for;

(e) Revenues and other amounts available for such purpose shall be sufficient to pay (i) all Operation and Maintenance Expenses and all taxes, assessments or other governmental charges lawfully imposed on the System or the Revenues therefrom, or payments in lieu thereof, payable by the Authority, (ii) the costs to the Authority of the prevention or correction of any unusual loss or damage and of major repairs, renewals and replacements and of capital additions,

betterments, improvements and extensions less than part, if any, of such costs as is provided for by insurance or by amounts available therefor from the sale of Bonds issued in accordance with this Resolution, and (iii) all other charges or obligations against the Revenues of whatever nature and whether now or hereafter imposed by this Resolution or by law or contract which the Authority expects to pay from Revenues; and

(f) all other charges or obligations against the Revenues of whatever nature and whether now or hereafter imposed by this Resolution or by law or contract which the Authority expects to pay from Revenues.

Promptly upon any material change in the circumstances which were contemplated at the time the rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the Authority shall review the rates and charges for water and related services and shall promptly revise the rates and charges as necessary to comply with the foregoing requirement so that the rates and charges shall produce moneys sufficient to enable the Authority to comply with all its covenants under this Resolution. The Authority further covenants that its rates, charges and income shall in any event produce Revenues sufficient to enable the Authority to comply with all of its covenants under this Resolution and to pay all obligations of the System, and will segregate and apply such Revenues or cause the same to be segregated and applied as provided in this Resolution.

ARTICLE VII
REVENUES AND APPLICATION THEREOF

SECTION 7.01 FUNDS AND ACCOUNTS.

(a) The Authority has created but hereby confirms the following special Funds and Accounts of the Authority which shall be maintained in an authorized depository of the Authority:

(i) Brazosport Water Authority Water Supply System Revenue Fund, hereinafter called the "Revenue Fund" which shall contain an "Operating Reserve Account";

(ii) Brazosport Water Authority Water Supply System Debt Service Fund, hereinafter called the "Senior Lien Debt Service Fund";

(iii) Brazosport Water Authority Water Supply System Reserve Fund, hereinafter called the "Senior Lien Reserve Fund";

(iv) Brazosport Water Authority Water Supply System Renewal and Replacement Fund, hereafter called the "Renewal and Replacement Fund"; and

(v) Brazosport Water Authority Water Supply System Rate Stabilization Fund (the "Rate Stabilization Fund").

(b) There is hereby created for the benefit of the Regional Revenue Bonds and shall be maintained in an authorized depository of the Authority, the following special Funds and

Accounts of the Authority, which shall be maintained in an authorized depository of the Authority:

(i) the “Brazosport Water Authority Regional Revenue Bonds Debt Service Fund” (the “Debt Service Fund”), which shall be used solely to pay the principal of and interest on the Regional Revenue Bonds when due;

(ii) the “Brazosport Water Authority Regional Revenue Bonds Reserve Fund” (the “Reserve Fund”); and

(iii) the “Brazosport Water Authority Water Supply System Regional Revenue Bonds Construction Fund” (the “Construction Fund”), which shall contain a “2015B Project Account” and such other Project Accounts from time to time as the Authority may establish.

(c) The Authority may establish additional accounts within such Funds from time to time.

SECTION 7.02 REVENUE FUND.

(a) All Revenues shall be deposited into the Revenue Fund as received, and the Operation and Maintenance Expenses of the System shall be paid from the Revenue Fund. After paying or providing for the payment of the Operation and Maintenance Expenses, money shall be transferred, first, from the Revenue Fund into the Funds in the manner and amounts provided in the Senior Lien Bond Resolution, and, second, once the requirements of the Senior Lien Bond Resolution have been satisfied, as described in this Article Seven, in the manner and amounts hereinafter provided, and each of such Funds shall have priority as to such deposits, in the order in which they are treated in the following Sections 7.03 through 7.07.

(b) Monies in the Operating Reserve Account shall be used to pay extraordinary operating expenses of the Authority as determined from time to time by the Board of Directors and shall be replenished to the extent required for financially prudent operation as determined from time to time by the Board of Directors.

SECTION 7.03 REGIONAL REVENUE DEBT SERVICE FUND. Immediately after the delivery of any series of Regional Revenue Bonds, all moneys representing accrued interest, if any, received by the Authority upon the sale and delivery of such Regional Revenue Bonds to the initial purchaser thereof, together with all capitalized interest being financed with proceeds of such Regional Revenue Bonds, if any (but in no event in excess of the amount permitted by Section 1201.042(a)(1), Texas Government Code, or other applicable law), shall be deposited to the credit of the Debt Service Fund. In addition, on or before the last Business Day of the first full calendar month after the date of delivery of the Bonds to the Underwriter and on the last Business Day of each calendar month thereafter so long as any Regional Revenue Bonds remain Outstanding, the Authority shall deposit from the Revenue Fund, after making the required deposits into the Senior Lien Debt Service Fund and Senior Lien Reserve Fund, to the Debt Service Fund:

(a) such amounts, in equal monthly installments, as will be sufficient to pay the interest scheduled to come due on the Regional Revenue Bonds on the next Interest Payment Date and the Paying Agent/Registrar's fees related thereto through that date;

(b) such amounts, in equal monthly installments, as will be sufficient to pay the next maturing principal of the Regional Revenue Bonds; and

(c) such amounts, in equal monthly installments, as will be sufficient to pay the redemption price of the next scheduled mandatory redemption of Term Bonds.

Money on deposit in the Debt Service Fund shall be used exclusively for the purpose of paying the Paying Agent/Registrar's fees and the interest on, premium, if any, and principal of the Regional Revenue Bonds (or redemption price) as the same become due and payable.

SECTION 7.04 REGIONAL REVENUE RESERVE FUND. Beginning on or before the last Business Day of the month next following the commencement of operation of the 2015B Project (or beginning on the last Business Day of the month next following the third anniversary of the delivery of the Bonds to the Underwriter, whichever occurs first), after making all required transfers to the Debt Service Fund, there shall be deposited in the Reserve Fund from available Net Revenues in the Revenue Fund, an amount equal to 1/60th of the Reserve Requirement. An equal amount shall be deposited into the Reserve Fund on or before the last Business Day of each month thereafter until such Fund shall contain an amount equal to the aggregate amount of the average Annual Principal and Interest Requirements on all Regional Revenue Bonds calculated as of the date of issuance. No deposit shall be required to be made into the Reserve Fund as long as the Reserve Fund contains said aggregate amount, and an excess amount shall be transferred to the Revenue Fund. The Reserve Fund shall be used to pay the principal of, interest on or redemption price, if money available in the Debt Service Fund for such purpose, and shall be used finally to pay and retire the last of the Outstanding Regional Revenue Bonds. In the event amounts on deposit in the Reserve Fund exceed the Reserve Requirement, such excess will be invested in accordance with Section 8.07(e) hereof.

The Authority expressly reserves the right at any time to satisfy all or any part of the Reserve Requirement by obtaining for the benefit of the Reserve Fund one or more Reserve Fund Surety Policies (as defined below). In the event the Authority elects to substitute at any time a Reserve Fund Surety Policy for any funded amounts in the Reserve Fund, it may apply any bond proceeds thereby released, to the greatest extent permitted by law, to any purposes for which the bonds were issued and any other funds thereby released to any purposes for which such funds may lawfully be used, including the payment of debt service on the Regional Revenue Bonds. A Reserve Fund Surety Policy shall be an insurance policy or other credit agreement (as such term is defined by Section 1371.001, Government Code) in a principal amount equal to the portion of the Reserve Requirement to be satisfied and issued by a financial institution or insurance company with a rating for its long term unsecured debt or claims paying ability in the highest letter category by two major municipal securities evaluation sources. The premium for any such policy shall be paid from bond proceeds or other funds of the Authority lawfully available for such purpose. Any Reserve Fund Surety Policy shall be authorized by resolution and submitted to the Attorney General for examination and approval.

SECTION 7.05. CONSTRUCTION FUND. The money deposited in the Construction Fund, including all money therein and all investments thereof, shall be applied solely as provided in this Section. All proceeds from the sale and delivery of the Bonds shall be deposited in the 2015B Project Account when such funds are released from the Escrow Account pursuant to the provisions of the Escrow Agreement further described and approved pursuant to Section 8.03 hereof. Money in the Series 2015B Account of the Construction Fund shall be subject to disbursements by the Authority for payment of all costs incurred in carrying out the purpose for which the Bonds are issued, including but not limited to costs for construction, engineering, architecture, financing, financial consultants, and legal services related to the projects being financed with proceeds of the Bonds as approved by the TWDB. All funds remaining on deposit in the Series 2015B Account of the Construction Fund upon completion of the 2015B Project shall be used in accordance with Section 8.05.

SECTION 7.06 RATE STABILIZATION FUND. The Authority shall continue to hold \$500,000 in funds and investments in the Brazosport Water Authority Water Supply System Revenue and Refunding Bonds Rate Stabilization Fund. At the end of each Fiscal Year, all Net revenues in excess of those necessary to make the required deposits into the Debt Service Fund and the Reserve Fund shall be deposited into the Rate Stabilization Fund in an amount necessary to maintain a balance of \$500,000. If and whenever the balance in the Rate Stabilization Fund is reduced below such amount, the Authority shall make approximately equal monthly deposits into such Fund in amounts sufficient to restore such deficiency in 36 months. The Rate Stabilization Fund is not pledged to pay the principal of and interest on the Regional Revenue Bonds.

SECTION 7.07 RENEWAL AND REPLACEMENT FUND. At the end of each Fiscal Year the Authority shall transfer Net Revenues in excess of those required to be deposited into the Debt Service Fund, Reserve Fund, and Rate Stabilization Fund in amounts as may be directed by the Board of Directors into the Renewal and Replacement Fund. Money on deposit in the Renewal and Replacement Fund may be used to pay for equipment, repairs and construction of the System or for any lawful purpose. The Renewal and Replacement Fund is not pledged to pay the principal of and interest on the Regional Revenue Bonds.

SECTION 7.08 DEFICIENCIES IN FUNDS. If in any month there shall not be deposited into any Fund maintained pursuant to this Article the full amounts required herein, amounts equivalent to such deficiency shall be set apart and paid into such Fund or Funds from the first available and unallocated money in the Revenue Fund, and such payment shall be in addition to the amounts otherwise required to be paid into such Funds during the succeeding month or months. To the extent necessary, the rates and charges for the System shall be increased to make up for any such deficiencies.

SECTION 7.09 INVESTMENTS; SEPARATE ACCOUNTS. Money in each of the Funds described in Section 7.01 of this Resolution may, at the option of the Authority, be placed in Authorized Investments in such manner that the money required to be expended from any Fund will be available at the proper time or times. Any obligations in which money is so invested shall be promptly sold and the proceeds of sale applied to the making of all payments required to be made from the Fund from which the investment was made. Investment earnings on the Debt Service Fund shall remain in the Debt Service Fund. Investment earnings in all other Funds shall

be transferred to the Revenue Fund at the end of each Fiscal Year, or more frequently at the direction of the Board of Directors.

SECTION 7.10 EXCESS REVENUES. The Net Revenues of the System, in excess of those necessary to establish and maintain the Funds described above, or as hereafter may be required in connection with the issuance of Additional Parity Bonds, may be used for any lawful purpose.

SECTION 7.11 SECURITY FOR FUNDS. All Funds described or created in this Resolution shall be secured in the manner and to the fullest extent permitted or required by Texas law, and such funds shall be used only for the purposes and in the manner permitted or required by this Resolution.

SECTION 7.12 APPLICATION OF CHAPTER 1208, GOVERNMENT CODE. Chapter 1208, Government Code, applies to the issuance of the Bonds and the pledge of the revenues granted by the Authority under Section 6.01 of this Resolution, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the revenues granted by the Authority under Section 6.01 of this Resolution is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the Authority agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

ARTICLE VIII
PROVISIONS CONCERNING SALE AND
APPLICATION OF PROCEEDS OF BONDS

SECTION 8.01 SALE. The Bonds shall be sold and delivered to the Texas Water Development Board at a price of the par value thereof. It is hereby officially found, determined and declared that the above price and terms are the most advantageously reasonable obtainable by the Authority. The President and all other officers, agents and representatives of the Authority are hereby authorized to do any and all things necessary to provide for the issuance and delivery of the Bonds.

SECTION 8.02 COVENANTS TO MAINTAIN TAX-EXEMPT STATUS.

(a) Definitions. When used in this Section, the following terms have the following meanings:

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in section 1.148-1(b) of the Regulations.

“Gross Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

“Investment” has the meaning stated in section 1.148-1(b) of the Regulations.

“Issue Date” for the Obligations or other obligations of the Authority is the respective date on which such bonds or other obligations of the Authority are first delivered against payment therefor.

“Issue Price” has the meaning stated in section 1.148-1(b) of the Regulations.

“Net Sale Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

“Nonpurpose Investment” has the meaning stated in section 1.148-1(b) of the Regulations.

“Obligations” means the Bonds and the Contractual Obligations.

“Proceeds” has the meaning stated in section 1.148-1(b) of the Regulations.

“Rebate Amount” has the meaning stated in section 1.148-3 of the Regulations.

“Regulations” means the temporary or final Income Tax Regulations applicable to the Obligations issued pursuant to sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to sections 141 through 150 of the Code and applicable to the Obligations.

“Yield of”

(1) any Investment shall be computed in accordance with section 1.148-5 of the Regulations, and

(2) the Obligations shall be computed in accordance with section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Authority shall not use, permit the use of or omit to use Gross Proceeds of the Obligations or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds of the Obligations) in a manner which, if made or omitted, respectively, would cause the interest on any Contractual Obligations to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Authority shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Obligation, the Authority shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the regulations and rulings thereunder, the Authority shall, at all times prior to the last stated maturity of the Obligations.

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Obligations and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of the Obligations or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the regulations and rulings thereunder, the Authority shall not use Gross Proceeds of the Obligations to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service :from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the regulations and rulings thereunder, the Authority shall not, at any time prior to the earlier of the final stated maturity or final payment of the Obligations, directly or indirectly invest Gross Proceeds of the Obligations in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Obligations.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the regulations and rulings thereunder, the Authority shall not take or omit to take any action which would cause any Obligation to be federally guaranteed within the meaning of section 149(b) of the Code and the regulations and rulings thereunder.

(g) Information Report. The Authority shall timely file with the Secretary of the Treasury the information required by section 149(e) of the Code with respect to the Contractual Obligations on such forms and in such place as such Secretary may prescribe.

(h) Payment of Rebate Amount. Except to the extent otherwise provided in section 148(f) of the Code and the regulations and rulings thereunder, the Authority shall:

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) of the Obligations on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all

records of such accounting for at least six years after the final Computation Date, although the Authority may, however, to the extent permitted by law, commingle Gross Proceeds of the Obligations with other money of the Authority, provided that the Authority separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Obligations, not less frequently than each Computation Date, in accordance with rules set forth in section 148(f) of the Code, section 1.148-3 of the Regulations, and the rulings thereunder and maintain a copy of such calculations for at least six years after the final Computation Date,

(iii) as additional consideration for the purchase of the Obligations by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (ii) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by section 148(f) of the Code and the regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (ii) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the regulations and rulings thereunder, the Authority shall not, at any time prior to the earlier of the final stated maturity or final payment of the Obligations, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Obligations not been relevant to either party.

(j) Not Hedge Bonds. The Authority will not invest more than 50 percent of the Proceeds of each series of the Obligations and the original bonds refunded with the Obligations, if any, in Nonpurpose Investments having a substantially guaranteed yield for four years or more. As of the respective Issue Dates of the Obligations and the original bonds refunded with the Obligations, the Authority reasonably expects that at least 85 percent of the Net Sale Proceeds of the Obligations will be used to carry out the governmental purpose of the Obligations within three years after such respective Issue Date.

SECTION 8.03 DEPOSIT OF BOND PROCEEDS; ESCROW AGREEMENT. The proceeds from the sale of the Bonds shall be deposited to the Construction Fund established pursuant to Section 7.01(b) of this Ordinance and used only for the purposes set forth in Section 3.01 of this Ordinance and to pay all expenses arising in connection with the issuance of the Bonds.

Notwithstanding the foregoing, immediately following the delivery of the Bonds and prior to the deposit of the proceeds from the sale of such Bonds in the Construction Fund, such proceeds shall be held in trust and in escrow pursuant to the written escrow agreement described below at an official depository of the City pending written authorization to release said proceeds. A "Special Escrow Deposit Agreement" by and between the Authority and the official depository, attached hereto as Exhibit A and incorporated herein by reference as a part of this Resolution for all purposes, is hereby approved as to form and content, and the President and the Secretary of the Board are hereby authorized and directed to execute such Agreement in substantially the same form and content herein approved.

SECTION 8.04 INVESTMENT OF THE CONSTRUCTION FUND. All funds deposited to the credit of the Construction Fund shall be held at a state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Texas Government Code, Chapter 2256, and the Public Funds Collateral Act, Texas Government Code, Chapter 2257. Until such time as it is needed to pay Project Costs, money in the Construction Fund may be invested and reinvested in Authorized Investments. All realized earnings from such investments shall become a part of the Construction Fund.

SECTION 8.05 SURPLUS CONSTRUCTION FUNDS. After completion of the 2015B Project and payment of the Project Costs, to the extent that there is money remaining in the Construction Fund, such money will be used pursuant for the following purposes as approved by the Executive Administrator of the TWDB: (1) to redeem the Bond in inverse annual order, (2) deposited into the Debt Service Fund for the payment of interest or principal on the Bonds; or (3) eligible project costs as authorized by the Executive Administrator.

ARTICLE IX **DEFAULT PROVISIONS**

SECTION 9.01 REMEDIES IN EVENT OF DEFAULT. In addition to any other rights and remedies provided by the laws of the State of Texas, the Authority covenants and agrees that in the event of default in payment of principal or interest on any of the Bonds when due, or, in the event the Authority fails to make the payments required to be made into the Debt Service Fund or any other Fund or defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Resolution, the following remedies shall be available:

(a) the Owners shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the Authority and the officials thereof to observe and perform the covenants, obligations or conditions prescribed in this Resolution; and

(b) any delay or omission to exercise any right or power accruing upon any default shall not impair any such right or power nor be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.

Notwithstanding anything to the contrary set forth herein, as long as the TWDB is the holder of any of the Bonds, the TWDB may exercise all remedies available to in law or equity, and any provision of the Bonds that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect.

SECTION 9.02 RESOLUTION IS CONTRACT. In consideration of the purchase and acceptance of the Bonds authorized to be issued hereunder by the Owners, the provisions of this Resolution shall be deemed to be and shall constitute a contract between the Authority and the Owners; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal benefit, protection and security of the Owners. The Bonds, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided herein.

ARTICLE X
DISCHARGE BY DEPOSIT

SECTION 10.01 AUTHORITY. The Authority may discharge its obligation to the Owners of any or all of the Bonds to pay principal, interest and redemption premium (if any) thereon in any manner now or hereafter permitted by law.

ARTICLE XI
AUTHORIZING SALE OF BONDS

SECTION 11.01 APPROVAL AND REGISTRATION. The President of the Board of Directors of the Authority and the Authority's attorneys and financial advisors are hereby authorized to have control of the Bonds and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination and approval by the Attorney General of the State of Texas and their registration by the Comptroller of Public Accounts of the State of Texas and their registration by the Paying Agent/Registrar.

SECTION 11.02 DELIVERY. Delivery of the Bonds is hereby authorized in accordance with the terms and conditions of this Resolution upon receipt of the full purchase price therefor, and the President and Secretary of the Board of Directors and all other officers and agents of the Authority are hereby authorized to take all actions necessary to have the Bonds delivered to the Underwriter in accordance with the terms of this Resolution.

SECTION 11.03 RELATED MATTERS. To satisfy in a timely manner all of the Authority's obligations under this Resolution, the President or Vice President of the Board of Directors, and all other appropriate officers and agents of the Authority are hereby authorized and directed to take all other actions that are reasonably necessary to provide for the sale and delivery of the Bonds, including, without limitation, executing and delivering on behalf of the Authority all certificates, consents, receipts, requests, and other documents as may be reasonably necessary to satisfy the Authority's obligations under this Resolution and to direct the application of funds of the Authority consistent with the provisions of this Resolution.

ARTICLE XII
MAINTENANCE AND OPERATION: INSURANCE

SECTION 12.01 DUTY TO MAINTAIN AND INSURE. While any of the Regional Revenue Bonds are Outstanding, the Authority covenants and agrees to: (a) maintain the System in good condition and operate the same in an efficient manner and at reasonable expense; and (b) maintain insurance on the System for the benefit of the Owner or Owners of Regional Revenue Bonds, of a kind and in an amount which usually would be carried by public agencies engaged in a similar type of business.

SECTION 12.02 RECONSTRUCTION OF SYSTEM: APPLICATION OF INSURANCE OR CONDEMNATION PROCEEDS. If any useful portion of the System shall be damaged or destroyed, or taken by eminent domain, the Authority shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the reconstruction or replacement thereof, and the proceeds of any insurance or condemnation award paid on account of the damage, destruction or taking, other than business interruption loss insurance, shall be held by the Authority in a special account and made available for, and to the extent necessary applied to, the cost of the reconstruction or replacement, if any. Pending that application, the proceeds may be invested by the Authority in Authorized Investments which mature not later than such times as shall be necessary to provide moneys when needed to pay such cost of reconstruction or replacement. Notwithstanding the foregoing, the Authority shall not be required to effect any such reconstruction or replacement if the Authority obtains an engineer's certificate from the consulting engineer certifying that the reconstruction or replacement is not in the best interests of the Authority and the Owners of the Regional Revenue Bonds, in which event the proceeds of any insurance or condemnation award paid on account of the damage, destruction or taking, other than business interruption loss insurance, shall be paid (i) if the proceeds are not in excess of \$100,000, (A) into the Funds and Accounts as necessary to make up any deficiencies in required deposits in the Funds and Accounts, (B) into the Debt Service Fund and applied to the purchase or redemption of Regional Revenue Bonds, or (C) applied by the Authority for the purpose of constructing extensions, betterments or improvements to the System, as the Authority may determine.

SECTION 12.03 EXCESS PROCEEDS. Any insurance proceeds or condemnation award remaining after the completion of and payment for any such reconstruction or repair shall be deposited to the credit of the Funds created hereunder, to the extent necessary to cure any deficiencies in such Funds, and any excess over such deficiencies, if any, may be used for any lawful purpose.

ARTICLE XIII
ACCOUNTING

SECTION 13.01 ACCOUNTING AND FISCAL YEAR. The Authority shall keep proper books of records and accounts, separate and apart from all other records and accounts of the Authority, in which complete and correct entries shall be made of all transactions relating to the System, and shall have said books audited once each Fiscal Year by a Certified Public Accountant. The Authority agrees to operate and keep its books of records and accounts pertaining to the System on the basis of its current Fiscal Year; provided, however, that the

governing body of the Authority may change such Fiscal Year if such change is deemed necessary or appropriate.

SECTION 13.02 INSPECTION. Any Owner of any Regional Revenue Bond shall have the right at all reasonable times to inspect the Authority's System and all records, accounts, and data of the Authority relating thereto.

ARTICLE XIV
CONTINUING DISCLOSURE OF INFORMATION

As used in this Section, the following terms have the meanings ascribed to such terms below:

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2-12, as amended from time to time.

“*SEC*” means the United States Securities and Exchange Commission

(a) The Authority will provide certain updated financial information and operating data to the MSRB annually in an electronic format as prescribed by the MSRB and available via the Electronic Municipal Market Access (“EMMA”) system at www.emma.msrb.org. The Authority shall update such information within six months after the end of each fiscal year. Any financial statements so to be provided shall be (1) prepared in accordance with the Accounting Principles described in this Resolution and (2) audited, if the Authority commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not so provided, then the Authority shall provide unaudited financial statements for the applicable fiscal year by the required time, and audited financial statements when and if audited financial statements become available.

If the Authority changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Authority otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to documents (i) available to the public on the MSRB's internet web site or (ii) filed with the SEC. All filings shall be made electronically, in the format specified by the MSRB.

(b) The Authority shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner (not in excess of ten (10) days after the occurrence of the event), of any of the following events with respect to the Bonds:

- (i) Principal and interest payment delinquencies;
- (ii) Non-payment related defaults, if material;

- (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) Substitution of credit or liquidity providers or their failure to perform;
- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership or similar event of the Authority;
- (xiii) The consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of the assets of the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The Authority shall notify the MSRB in an electronic format prescribed by the MSRB, in a timely manner, of any failure by the Authority to provide financial information or operating data in accordance with this Section by the time required by such Section.

All documents provided to the MSRB shall be accompanied by identifying information, as prescribed by the MSRB.

(c) The Authority shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the District remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Authority in any event will give the notice required by this Section of any Bond calls and defeasance that cause the Authority to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Registered Owners and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Authority undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Authority's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Authority does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE AUTHORITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE AUTHORITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Authority in observing or performing its obligations under this Section shall constitute a breach of or default under the Resolution for purposes of any other provision of this Resolution.

Nothing in this Section is intended to or shall act to disclaim, waive, or otherwise limit the duties of the Authority under federal and state securities laws.

(d) The provisions of this Section may be amended by the Authority from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Authority, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell the Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Registered Owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Authority (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Registered Owners and beneficial owners of the Bonds. If the Authority so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. The Authority may also amend or repeal the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the Authority also may amend the provisions of this Section in its discretion in any other manner or circumstance,

but in any case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule.

ARTICLE XV
SPECIAL COVENANTS

SECTION 15.01 COVENANT NOT TO ENCUMBER. The Authority covenants that while any of the Regional Revenue Bonds are Outstanding, the Authority will not encumber the System other than in the ordinary course of business, without the prior consent of the Owners of a majority in aggregate principal amount of all Regional Revenue Bonds Outstanding, and that, with the exception of the Outstanding Senior Lien Bonds and the Additional Parity Bonds expressly permitted to be issued by this Resolution, it will not encumber the Net Revenues of the System, unless such encumbrance is made junior and inferior in all respects to the Regional Revenue Bonds and all liens and pledges in connection therewith.

SECTION 15.02 CHARGES FOR USE OF SYSTEM. None of the water or any other commodity, service or facility owned, controlled or supplied by the Authority shall be furnished or supplied free of charge to any person, firm or corporation, public or private, but on the contrary shall always be sold or furnished so as to produce Revenues. If the Authority shall sell water or other salable commodities developed or made available by or for the System, a reasonable charge therefor shall be made and the revenue received by the Authority therefrom shall be Revenues and accounted for as such.

SECTION 15.03 PUNCTUAL PAYMENT OF BONDS. The Authority will punctually pay or cause to be paid the principal and the interest to become due in respect of all Regional Revenue Bonds, in strict conformity with the terms of the Regional Revenue Bonds and of this Resolution.

SECTION 15.04 AGAINST SALE OR OTHER DISPOSITION OF PROPERTY. The Authority will not sell or otherwise dispose of any property necessary to the proper operation of the System or to the maintenance of the Revenues, except as follows:

(a) The Authority may sell or exchange at any time and from time to time for not less than fair value such property only if (i) it shall determine that such property is not useful in the operation of the System, or (ii) the proceeds of such sale are \$100,000 or less, or it shall obtain an engineer's certificate stating, in the opinion of the signer, that the fair value of the property exchanged is \$100,000 or less or (iii) if such proceeds or fair value exceeds \$100,000, it shall obtain such an engineer's certificate stating, in the opinion of the signer, that the sale or exchange of such property will not impair the ability of the Authority to comply during the current or any future year with the provisions of Section 6.03 hereof. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the System shall forthwith be deposited in the Debt Service Fund; and

(b) The Authority may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part

of the System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation of the System, and (ii) does not in any manner impair or adversely affect the rights or security of the Owners under this Resolution; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement or other right is in excess of \$500,000, the Authority shall first obtain an engineer's certificate from an independent professional consulting engineer stating that the action of the Authority with respect thereto does not result in a breach of the conditions under this Section. Any payments received by the Authority under or in connection with any such lease, thereof shall constitute Revenues and shall be deposited forthwith into the Revenue Fund.

SECTION 15.05 PAYMENT OF TAXES AND CLAIMS. The Authority will, from time to time, duly pay and discharge, or cause to be paid and discharged, any taxes, assessments or other governmental charges lawfully imposed upon any of the properties of the System or upon the Revenues or payments in lieu of taxes and other charges, when the same shall become due, and will duly observe and conform to all valid requirements of any governmental authority relative to any such properties. The Authority will pay and discharge all claims that may give rise, directly or indirectly, to mechanics' and materialmen's liens and shall keep the System and all parts thereof free from all other pledges, liens, claims, demands, charges and encumbrances prior to, or of equal rank with, the pledge created by this Resolution, except as otherwise expressly provided herein, to the end that the priority of the lien of this Resolution on the Net Revenues and the other moneys, funds, securities and accounts pledged pursuant hereto may at all times be maintained and preserved free from any claim or liability which might embarrass or hamper the Authority in conducting its business or operating the System. This section shall not prevent the Authority from contesting any lien or claim in good faith, and so long as the Authority is contesting a lien and existence of the lien does not prevent the Authority from meeting its obligations under this Resolution, the Authority may permit the lien to continue while it is being contested.

SECTION 15.06 COMPLIANCE WITH RESOLUTION. The Authority will not issue, or permit to be issued, any Bonds in any manner other than in accordance with the provisions of this Resolution, and will not suffer or permit any default to occur under this Resolution, but will faithfully observe and perform all the covenants, conditions and requirements contained in this Resolution and in the Regional Revenue Bonds executed, authenticated and delivered hereunder and at all proceedings pertaining thereto. The Authority will make, execute and deliver any and all such further resolutions, instruments, assurances, filings and recordings as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for assuring and confirming unto the Owners of the Regional Revenue Bonds the pledge of rights, benefits and security provided in this Resolution. The Authority will make, execute and deliver any and all such further resolutions, instruments, assurances, filings and recordings as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Resolution, and for assuring and confirming unto the Owners of the Regional Revenue Bonds the pledge of rights, benefits and security provided in this Resolution. The Authority, for itself, its successors and assigns, represents, covenants, and agrees with the Owners of the Regional Revenue Bonds, as a material inducement to the purchase of the Regional Revenue Bonds, that so long as any of the Regional Revenue Bonds shall remain Outstanding and the principal thereof or interest thereon shall be unpaid or unprovided for, it will faithfully perform

all of the covenants and agreements contained in this Resolution and the Regional Revenue Bonds.

SECTION 15.07 POWER TO ISSUE BONDS AND PLEDGE REVENUES AND OTHER FUNDS. The Authority is duly authorized under all applicable laws and the Contracts to create and issue the Regional Revenue Bonds and to execute, deliver and perform its obligations under this Resolution and to pledge the Net Revenues and other moneys, securities and funds purported to be pledged by this Resolution in the manner and to the extent provided in this Resolution. The Net Revenues and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto, in any manner, except as otherwise expressly provided herein, and all corporate action on the part of the Authority to that end has been duly and validly taken. The Regional Revenue Bonds and the provisions of this Resolution are and will be the valid and legally enforceable obligations of the Authority in accordance with their terms and the terms of this Resolution. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Revenues and other moneys, securities and funds pledged under this Resolution and all the rights of the Owners of Regional Revenue Bonds against all claims and demands of all persons whomsoever.

SECTION 15.08 POWER TO CONSTRUCT AND OPERATE SYSTEM AND COLLECT RATES AND FEES. The Authority has, and will have so long as any Regional Revenue Bonds are Outstanding, good right and lawful power to execute, deliver and perform its obligations under the Contracts, to construct, reconstruct, improve, maintain, operate and repair the facilities of the System, to finance the Project Costs of such facilities in the manner contemplated by this Resolution, to maintain its corporate existence, and to fix and collect rates, fees and other charges in connection with the System, subject to the jurisdiction of any applicable regulatory authority.

SECTION 15.09 MAINTENANCE OF CONTRACTS AND REVENUES. The Authority will at all times comply with all terms, covenants and provisions, expressed and implied, of each of the Contracts and agreements entered into by it for the sale of water furnished by or available through the System. The Authority shall promptly collect all charges due for the supply or availability of water by it as the same become due and shall at all times maintain and promptly and vigorously enforce its rights against the parties to each of the Contracts and against any other entity which does not pay such charges when due and shall enforce the covenants and agreements thereunder. The Authority will not consent or agree to or permit any rescission or amendment of any Contract which will impair or adversely affect any material rights of the Authority thereunder or the rights or security of the owners or holders of any Bonds or Additional Parity Bonds under this Resolution or the resolution authorizing the Additional Parity Bonds. In the event a monetary default shall occur and be continuing by a party to a Contract, the Authority shall promptly and diligently enforce the provisions of the Contract and take all such action as may be necessary or appropriate to assure that the Net Revenues are adequate to pay the Annual Principal and Interest Requirements of the Outstanding Senior Lien Bonds and the Regional Revenue Bonds in a punctual manner. Further, to the extent that there is a monetary default by a party to a Water Supply Contract which shall be continuing, the Authority covenants and agrees to promptly reallocate the defaulting parties' contract quantity to become a part of the reserve capacity of the System pursuant to the terms of the Water Supply Contract to the extent

required to assure that the Net Revenues will be adequate to pay the Annual Principal and Interest Requirements on the Outstanding Senior Lien Bonds and Regional Revenue Bonds.

SECTION 15.10 COMPLIANCE WITH THE TEXAS WATER DEVELOPMENT BOARD'S RULES AND REGULATIONS. The Authority will comply with all of the requirements contained in the resolution or resolutions adopted by the TWDB with respect to the issuance of the Bonds. In addition, in compliance with the TWDB's Drinking Water State Revolving Fund Loan Program Rules, the Authority agrees and covenants:

(a) to keep and maintain full and complete records and accounts pertaining to the construction of the project financed with the proceeds of sale of the Bonds, including the construction fund account created below, in accordance with the standards set forth by the Government Accounting Standard Board;

(b) that all funds deposited to the credit of the Construction Fund shall be disbursed in a timely and expeditious manner only for the payment of costs and expenses incurred in connection with the planning and building of such projects as approved by the TWDB in accordance with a project scheduled approved by the Executive Administrator of the TWDB which shall not be altered except for good cause shown and only with the written approval of the Executive Administrator); and as otherwise allowed by the rules and in accordance with the provisions of Chapter 15 or 17 of the Texas Water Code, as amended;

(c) to provide the TWDB with copies of "as built plans" pertaining to the projects financed, in whole or in part, with any funds of the TWDB;

(d) upon completion of the construction of the projects financed, in whole or in part, by the loan evidenced by the Bonds, to provide a final accounting to the TWDB of the total costs of the projects. If the projects, as finally completed, are built at a total cost less than the amount of available funds for building the projects, the Authority agrees to return to the TWDB the amount of any such excess to the nearest multiple of the authorized denominations for the Bonds, upon the surrender and cancellation of a like amount of the appropriate series of such Bonds held by the TWDB in inverse order of their maturities;

(e) to maintain adequate insurance coverage on the projects financed with the proceeds of the Bonds in amounts adequate to protect the TWDB's interest;

(f) to maintain current, accurate, and complete records and accounts necessary to demonstrate compliance with financial assistance related legal and contractual provisions;

(g) to implement any water conservation program required by the TWDB until all financial obligations to the TWDB have been discharged;

(h) to ensure (i) that all laborers and mechanics employed by contractors and subcontractors for projects be paid wages at rates not less than those prevailing on projects of a similar character in the Authority in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations and (ii) that all project contracts mandate compliance with the Davis-Bacon Act;

(i) to (i) provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, (ii) obtain a Data Universal Numbering System Number, and (iii) register with the System for Award Management and maintain such registration while the Bonds are outstanding;

(j) to timely and expeditiously use all loan proceeds, as required by federal statute and EPA regulations;

(k) to comply with any special conditions specified by the TWDB's environmental determination until all financial obligations to the TWDB have been discharged;

(l) it will not use Bond proceeds to acquire or replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments which produce a yield materially higher than the yield on the TWDB's bonds that were issued to provide financing for the loan of the TWDB (the "Source Series Bonds") to the Authority, evidenced by the Bonds, other than Nonpurpose Investments acquired with:

a. proceeds of Source Series Bonds invested for a reasonable temporary period of up to three (3) years (reduced by the period of investment by the TWDB) until such proceeds are need for the facilities to be financed;

b. amounts invested in a bona fide debt service fund, within the meaning of §1.148-1(b) of

c. amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of the maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds;

(m) so long as any Bonds are held by the TWDB, to provide to the TWDB's Executive Administrator, within 180 days of the end of the Authority's fiscal year, a copy of each of its annual audited financial statements, to be submitted without charge;

(n) to abide by the TWDB's rules and relevant state statutes;

(o) to pay a 2.25% origination fee to the TWDB prior to or at the delivery of the Bonds;

(p) to provide documentation, prior to the release of Bond proceeds for goods or professional services, that the Authority has met the procurement requirements under the Disadvantaged Business Enterprises Program;

(q) to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;

(r) to abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by the 2015 Federal Appropriations Act and related State Revolving Fund Policy Guidelines;

(s) to notify the Executive Administrator prior to taking any actions to alter its legal status in any manner, such as by conversion to a conservation and reclamation district or a sale-transfer-merger with another retail public utility; and

(t) that, prior to any action by the Authority to convey its Bonds held by the TWDB to another entity, the conveyance and the assumption of the Bonds must be approved by the TWDB.

ARTICLE XVI
ADDITIONAL PARITY BONDS AUTHORIZED

SECTION 16.01 NO ADDITIONAL SENIOR LIEN BONDS. The Authority covenants, so long as the Regional Revenue Bonds are outstanding, not to issue any bonds on parity with the Outstanding Senior Lien Bonds, or issue any additional bonds, notes, or other obligations or create or issue evidences of indebtedness for any purpose possessing a lien on the Net Revenues superior to that possessed by the Regional Revenue Bonds.

SECTION 16.02 ADDITIONAL PARITY BONDS. The Authority reserves the right to issue, for any lawful purpose (including the refunding of any previously issued bonds or obligations of the Authority issued in connection with or payable from the revenues of the System), one or more series of Additional Parity Bonds payable from and secured by a lien on the Net Revenues of the System on a parity with the Bonds and any previously issued Additional Parity Bonds and subordinate only to the lien securing the Outstanding Senior Lien Bonds; provided, however, that no Additional Parity Bonds may be issued unless:

(a) The Additional Parity Bonds mature on, and interest is payable on, the same days of the year as the Bonds;

(b) The Debt Service Fund and the Reserve Fund each contains the amount of money then required to be on deposit therein; and

(c) For either the preceding fiscal year or a 12 consecutive calendar month period ending no more than 90 days prior to adoption of the resolution authorizing such Additional Parity Bonds, Net Revenues were equal to 105% of the average annual principal and interest requirements on all Outstanding Senior Lien Bonds and all Regional Revenue Bonds that will be outstanding after the issuance of the series of Additional Parity Bonds then proposed to be issued, as certified by an independent certified public accountant or registered professional engineer of the State of Texas. For purposes of such calculation, the Authority may take into account and treat as if received, any Revenues to be paid to the Authority during the first 12 months after the commencement of such payments under any new or revised Contract then in effect but, pursuant to the terms of which, payments have yet to commence or complete.

(d) If the Authority cannot meet the test described in (c) above, but a change in the rates and charges applicable to the System becomes effective at least thirty (30) days prior to the

adoption of the resolution authorizing Additional Parity Bonds and the Authority's General Manager certifies that, had such change in rates and charges been effective for the preceding fiscal year or 12 consecutive calendar month period ending no more than 90 days prior to adoption of said resolution, the Net Revenues for such period would have met the test described in (c) above.

Notwithstanding the aforesaid, if the series of proposed bonds are being issued for refunding purposes, the requirements of Section 16.02(c) and 16.02(d) are not applicable.

SECTION 16.03 INFERIOR LIEN BONDS. The Authority reserves the right to issue and refinance bonds payable from the Net Revenues, the payment of which will be junior and inferior to payment of all Regional Revenue Bonds.

SECTION 16.04 SPECIAL PROJECT BONDS. The Authority reserves the right to issue Special Project Bonds, the proceeds of which will be used to finance the construction or otherwise acquire special projects, properties, works and facilities to enable the Authority to conserve, store, transport, treat and purify, distribute, sell or deliver water to any Persons, including any Participating Customers or non-Participating Customers who contract to purchase treated surface water from the Authority, and to pay all Project Costs, costs of issuance of the Special Project Bonds, and to fund any reserve funds authorized in connection with the Special Project Bonds. Such Special Project Bonds shall only be payable from and secured by a lien on and pledge of certain contractual payments from any such Person who contracts to pay for such special projects and shall not be secured by the Revenues or Net Revenues of the Authority. It is specifically provided that such Special Project Bonds shall not be payable from the Net Revenues of the System. Such Special Project Bonds may be issued only on the condition that the President and Secretary of the Board execute a certificate to the effect that the Authority is not in default as to any covenant, condition or obligation prescribed in the Senior Lien Bond Resolution, this Resolution or any resolution authorizing Additional Parity Bonds.

ARTICLE XVII **AMENDMENTS**

SECTION 17.01 AMENDMENT OF RESOLUTION. The Owners of not less than two-thirds in aggregate principal amount of the Regional Revenue Bonds then Outstanding shall have the right, at any time and from time to time, to consent to and approve any amendment of this Resolution that may be deemed desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this Resolution; provided, however, that nothing in this Article shall permit (a) an extension of the Maturity of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the rate of interest thereon, or (c) a privilege or priority of any Regional Revenue Bonds over any other Regional Revenue Bond, or (d) a reduction in the percentage of Owners of an aggregate principal amount of the Regional Revenue Bonds required for consent to such amendment. Regional Revenue Bonds owned or held by or for the account of or the benefit of the Authority shall not be deemed to be Outstanding for the purpose of amending this Resolution. No such amendment shall be effective without the consent of the Insurer.

This Resolution or any resolution supplemental hereto or any resolution amending this Resolution and the rights and obligations of the Authority and of the Owners of the Regional Revenue Bonds may also be modified or amended at any time by a supplemental resolution without the consent of any Owners of the Outstanding Bonds, but only to the extent permitted by law and only for any one or more of the following purposes:

(1) to add to the events constituting events of default under this Resolution, to add to the covenants and agreements of the Authority contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power herein reserved or confirmed upon the Authority;

(2) to confirm as further assurance any lien, pledge or charge, or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Resolution or to grant to or confer upon the Owners of the Regional Revenue Bonds any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon them;

(3) to make such provisions for the purpose of curing any ambiguity, or of curing or correcting any defect, in any provision contained in this Resolution, or in regard to questions arising under this Resolution, as the Authority may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Regional Revenue Bonds; and

(4) to provide for the issuance of a series of Additional Bonds, and to provide the terms and conditions under which the Series of Bonds may be issued, subject to and in accordance with the provisions hereof.

SECTION 17.02 NOTICE OF ADOPTION OF AMENDMENT. If the Authority desires to amend the Resolution, it shall cause notice of the proposed amendment to be mailed to the Registered Owners and the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the Authority's principal office for inspection by all Registered Owners. If, within thirty days, or such longer period as shall be prescribed by the Authority, following the mailing of such notice, the Registered Owners of not less than two-thirds in aggregate principal amount of the Regional Revenue Bonds Outstanding shall have consented to the amendment as herein provided, no Registered Owners shall have any right to object to any of the terms and provisions contained therein, or in any manner to question the propriety of the execution thereof, and all the rights of all Registered Owners shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such amendment.

SECTION 17.03 REVOCATION OF CONSENT. Any consent given by any Registered Owners pursuant to the provisions of this Article shall be irrevocable for a period of six months from the date of the first publication or the mailing of such notice, and shall be conclusive and binding on all future Registered Owners of the same Bond during such period. Such consent may be revoked at any time after six months from the date of first publication or the mailing of such notice by the Registered Owners who gave such consent or by a successor in title, by filing notice thereof with the Authority, but such revocation shall not be effective if the

Registered Owners of a majority in aggregate principal amount of the Regional Revenue Bonds Outstanding have, prior to the attempted revocation, consented to and approved the amendment.

ARTICLE XVIII
MISCELLANEOUS PROVISIONS

SECTION 18.01 BONDS ARE SPECIAL OBLIGATIONS. The Bonds are and shall be special obligations of the Authority, and the Registered Owner or Owners thereof shall never have the right to demand payment of said obligations out of any source other than the Net Revenues or any funds raised or to be raised by taxation. The Authority has no taxing power.

SECTION 18.02 AUTHORITY'S SUCCESSORS AND ASSIGNS. Whenever, in this Resolution, the Authority is named and referred to it shall be deemed to include its successors and assigns, and all covenants and agreements in this Resolution by or on behalf of the Authority, except as otherwise provided herein, shall bind and inure to the benefit of its successors and assigns whether or not so expressed.

SECTION 18.03 NO RECOURSE AGAINST AUTHORITY OFFICERS. No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on this Resolution against any officer of the Authority or any person executing the Regional Revenue Bonds.

SECTION 18.04 LEGAL HOLIDAYS. In any case where the date of Maturity of interest on or principal of the Bonds or the date fixed for redemption of any Bonds shall be in the State of Texas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal, interest or redemption price need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of Stated Maturity or the date fixed for redemption, and no further interest shall accrue.

SECTION 18.05 BENEFITS OF RESOLUTION. Nothing in this Resolution or in the Bonds, expressed or implied, shall give or be construed to give any Person, other than the Authority, the Paying Agent/Registrar, the Bond Insurer and the Owners of the bonds, any legal or equitable right or claim under or in respect of this Resolution, or under any covenant, condition or provision herein contained, all the covenants, conditions and provisions contained in this Resolution or in the Bonds being for the sole benefit of the Authority, the Paying Agent/Registrar, the Bond Insurer, if any, and the Owners of the Bonds.

SECTION 18.06 SEVERABILITY CLAUSE. If any word, phrase, clause, sentence, paragraph, section or other part of this Resolution, or the application thereof to any Person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Resolution and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Resolution to any Persons or circumstances shall not be affected thereby.

SECTION 18.07 FURTHER PROCEEDINGS. The President and Secretary of the Board of Directors and other appropriate officials of the Authority are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution.

SECTION 18.08 REPEALER. All orders and resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 18.09 OPEN MEETING. It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and that public notice of the time, place and purpose of said meeting was given, all as required by the Texas Open Meetings Act.

[Execution Page Follows.]

PASSED AND APPROVED on this _____ day of _____ 2015.

/s/ Juan Longoria, III

President, Board of Directors

ATTEST:

/s/ Joe Damian

Secretary, Board of Directors

Signature Page
S-1

PRIVATE PLACEMENT MEMORANDUM *Draft* DATED JUNE 4, 2015

NEW ISSUE BOOK-ENTRY-ONLY

On the date of initial delivery of the Obligations (defined below), Issuer Bond Counsel (defined on page 2) will render its opinion substantially in the form attached in APPENDIX C - FORM OF OPINION OF BOND COUNSEL.

\$5,605,000
BRAZOSPORT WATER AUTHORITY
WATER SUPPLY SYSTEM REGIONAL REVENUE BONDS
SERIES 2015 (the "Obligations")

Dated: September 1, 2015

Due: September 1

Interest Date: Interest on the Obligations will be payable on March 1 and September 1 each year, commencing March 1, 2016 (each an "Interest Payment Date"). The Obligations will bear interest at the rates per annum set forth in "APPENDIX A - MATURITY SCHEDULE."

Record Date: The term "Record Date" for the interest payable on any Interest Payment Date shall mean the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

Date Interest Accrues: Each Bond shall bear interest from the Delivery Date thereof or the most recent Interest Payment Date to which interest has been paid or provided for at the rate set forth, such interest payable semiannually on March 1 and September 1 of each year until the earliest of maturity or prior redemption, commencing on March 1, 2016, or the first interest payment date, immediately following the Delivery Date.

Redemption: The Obligations are subject to redemption prior to maturity as provided herein. See "THE OBLIGATIONS - Redemption Provisions" herein.

Authorized Denominations: The Obligations are being issued as fully registered bonds in denominations of **\$5,000**, or any integral multiple thereof.

Paying Agent/Registrar/Registrar: The paying agent ("Paying Agent/Registrar/Registrar") for the Obligations is The Bank of New York Mellon Trust Company, N.A.

Book-Entry-Only System Upon initial issuance, the ownership of the Obligations will be registered in the registration books of the Issuer kept by the Paying Agent/Registrar, in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") to which principal, redemption premium, if any, and interest payments on the Obligations will be made. The purchasers of the Obligations will not receive physical delivery of bond certificates. Principal of, interest, and premium if any, on the Obligations will be payable at the designated office of the Paying Agent/Registrar in Dallas, Texas as the same become due and payable.

Issuer: Brazosport Water Authority

Official Action: Resolution authorizing the issuance of \$5,605,000 Brazosport Water Authority Water Supply System Regional Revenue Bonds, Series 2015B; making provision for the payment of the interest thereon and the principal thereof; and containing other provisions relating to the subject dated -----, 2015

Purpose: See "APPENDIX B - OFFICIAL ACTION."

Security for the Obligations: See APPENDIX B - OFFICIAL ACTION."

Ratings: See "OTHER INFORMATION - Ratings"

Delivery Date: -----, 2015

See "APPENDIX A - MATURITY SCHEDULE" for Principal Amounts, Maturities, Interest Rates, Prices or Yields, and Initial CUSIP Numbers

BRAZOSPORT WATER AUTHORITY

BOARDMEMBERS

Juan Longoria, III, President

Jessie Knight, Vice President

Johnny Ray Norris, Secretary

Brian Garrett, Assistant Secretary

Joe Damian, Director

Calvin R. Wise, Director

Carl Morrison, Director

STAFF AND CONSULTANTS

Ronnie Woodruff, General Manager

Tom Sage, Andrews Kurth LLP, Bond Counsel

Joe Morrow, First Southwest Company, Financial Advisor

Brian Jensen, The Bank of New York Mellon Trust Company, N.A., Paying Agent/Registrar

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**Private Placement Memorandum
relating to

\$5,605,000
BRAZOSPORT WATER AUTHORITY
WATER SUPPLY SYSTEM REGIONAL REVENUE BONDS
SERIES 2015B (the “Obligations”)**

INTRODUCTION

This Private Placement Memorandum, including the cover page and appendices, contains brief descriptions of the Issuer, provides certain information with respect to the issuance by the Issuer, and summaries of certain provisions of the “Obligations” pursuant to the Official Action. Except as otherwise set forth herein, capitalized terms used but not defined in this Private Placement Memorandum have the meanings assigned to them in the Official Action. See “APPENDIX B – “FORM OF OFFICIAL ACTION” attached hereto.

APPENDIX A contains the maturity schedule for the Obligations. APPENDIX B contains the Official Action and a description of the purpose for the proceeds of the Obligations. APPENDIX C contains a copy of the proposed opinion of Bond Counsel with respect to the Obligations. The summaries of the documents contained in the forepart of this Private Placement Memorandum are not complete or definitive, and every statement made in this Private Placement Memorandum concerning any provision of any document is qualified by reference to such document in its entirety.

THE OBLIGATIONS

General Description

The Obligations are being issued in the aggregate principal amount set forth in APPENDIX A of this Private Placement Memorandum and will mature and be subject to redemption prior to maturity as described therein. The Obligations are being issued as fully registered bonds in denominations of \$5,000, or any integral multiple thereof. The Obligations will be dated as of the stated date of issue and will mature on the dates referenced thereon, and will bear interest at the rates per annum set forth in “APPENDIX A - MATURITY SCHEDULE.”

Interest on the Obligations is payable semiannually on each Interest Payment Date, and will be calculated on the basis of a 360-day year consisting of twelve 30-day months. Principal of and the redemption price with respect to the Obligations will be payable to the Owners upon presentation and surrender at the principal office of the Paying Agent/Registrar.

Purpose

See “APPENDIX B - FORM OF OFFICIAL ACTION.”

Authority for Issuance

The Obligations are issued pursuant to the general laws of the State of Texas, the legislation creating and defining the powers of the Brazosport Water Authority, 1985 Tex Laws, Reg. Sess., Ch. 449 at 3063, as amended, and the Official Action adopted by the Issuer.

Security for the Obligations

See “APPENDIX B - FORM OF OFFICIAL ACTION.”

Redemption Provisions

On September 1, ____, or on any date thereafter, the Obligations maturing on and after September 1, ____ may be redeemed prior to their scheduled maturities, upon the written direction of the Issuer, with funds provided by the Issuer, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and if less than all of a maturity is to be redeemed the Paying Agent/Registrar will determine by lot the Obligations, or portions thereof within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in Authorized Denominations).

Notice of Redemption; Selection of Obligations to Be Redeemed

See “APPENDIX B - FORM OF OFFICIAL ACTION.”

The Paying Agent/Registrar, so long as a Book-Entry-Only System is used for the Bonds, will send any notice of redemption of the Bonds, notice of proposed amendment to the Order or other notices with respect to the Bonds only to DTC. Any failure by DTC to advise any DTC participant, or of any DTC participant or indirect participant to notify the beneficial owner, shall not affect the validity of the redemption of the Bonds called for redemption or any other action premised on any such notice. Redemption of portions of the Bonds by the Issuer will reduce the outstanding principal amount of such Bonds held by DTC.

Book-Entry-Only System

The information in this caption concerning The Depository Trust Company, New York, New York (“DTC”) and DTC’s book entry system has been obtained from DTC and the Issuer makes no representation or warranty nor takes any responsibility for the accuracy or completeness of such information.

DTC will act as securities depository for the Obligations. The Obligations will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Obligations and deposited with DTC. See APPENDIX B - “FORM OF OFFICIAL ACTION.”

DTC is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity, corporate and municipal debt issues, and money market instrument (from over 100 countries) that DTC’s participants (the “Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions, in deposited securities, through electronic computerized book entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearance Corporation, and Fixed Income Clearance Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: “AAA.” The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

TAX MATTERS

Opinion

Bond Counsel will deliver its opinion on the date of delivery of the Obligations substantially in the form as attached in “APPENDIX C - FORM OF OPINION OF BOND COUNSEL.”

OTHER INFORMATION

Forward Looking Statements

The statements contained in this Private Placement Memorandum, including the cover page, appendices, and any other information or documents provided by the Issuer, that are not purely historical, are forward-looking statements, including statements regarding the Issuer’s expectations, hopes, intentions, or strategies regarding the future. Holders and beneficial owners of the Obligations have placed reliance on forward-looking statements. All forward looking statements included in this Private Placement Memorandum are based on information available to the Issuer on the date hereof. It is important to note that the Issuer’s actual results could differ materially from those in such forward-looking statements.

Ratings

No application has been made to any ratings agency or municipal bond insurance company for qualification of the Obligations for ratings or municipal bond insurance, respectively.

LITIGATION

General

On the date of delivery of the Obligations to the initial purchasers thereof, the Issuer will execute and deliver a certificate to the effect that, except as disclosed herein, no litigation of any nature has been filed or is pending, as of that date, to restrain or enjoin the issuance or delivery of the Obligations or which would affect the provisions made for their payment or security or in any manner questioning the validity of the Obligations.

The Issuer

There is no litigation, proceeding, inquiry, or investigation pending by or before any court or other governmental authority or entity (or, to the best knowledge of the Issuer, threatened) that adversely affects the power, authority or obligation of the Issuer to deliver the Obligations, the security for, or the validity of, the Obligations or the financial condition of the Issuer.

CONTINUING DISCLOSURE OF INFORMATION

In the Official Action, the Issuer has made the following agreement for the benefit of the holders and beneficial owners of the Obligations. The Issuer is required to observe the agreement for so long as it remains obligated to advance funds to pay the Obligations. Under the agreement, the Issuer will be obligated to provide certain updated financial information and operating data, and timely notice of specified material events, to the Municipal Securities Rulemaking Board through the Electronic Municipal Market Access System. SEE APPENDIX B - “FORM OF OFFICIAL ACTION.”

Compliance with Prior Undertakings

[During the last five years, the Issuer has complied in all material respects with its continuing disclosure agreements in accordance with SEC Rule 15c2-12.

MISCELLANEOUS

Any statements made in this Private Placement Memorandum involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized. Neither this Private Placement Memorandum nor any statement that may have been made verbally or in writing is to be construed as a contract with the owners of the Obligations.

The information contained above is neither guaranteed as to accuracy or completeness nor to be construed as a representation by the Issuer. The information and expressions of opinion herein are subject to change without notice and neither the delivery of this Private Placement Memorandum nor any sale made hereunder is to create, under any circumstances, any implication that there has been no change in the affairs of the Issuer or the Issuer from the date hereof.

The Private Placement Memorandum is submitted in connection with the sale of the securities referred to herein to the Texas Water Development Board on the Delivery Date and may not be reproduced or used, as a whole or in part, for any other purpose.

ADDITIONAL INFORMATION

The Private Placement Memorandum speaks only as of its date and the information contained herein is subject to change. Descriptions of the Obligations and the Official Action and any other agreements and documents contained herein constitute summaries of certain provisions thereof and do not purport to be complete. This Private Placement Memorandum was approved by the Issuer.

APPENDIX A
MATURITY SCHEDULE

<u>Maturity 9/1</u>	<u>Principal</u>	<u>Rate</u>	<u>Price or Yield</u>	<u>CUSIP Number</u>	<u>Maturity 9/1</u>	<u>Principal</u>	<u>Rate</u>	<u>Price or Yield</u>	<u>CUSIP Number</u>
2019	290,000				2027	325,000			
2020	290,000				2028	330,000			
2021	295,000				2029	335,000			
2022	300,000				2030	345,000			
2023	305,000				2031	355,000			
2024	305,000				2032	360,000			
2025	310,000				2033	370,000			
2026	320,000				2034	380,000			
					2035	390,000			

APPENDIX B
FORM OF OFFICIAL ACTION

APPENDIX C

FORM OF OPINION OF BOND COUNSEL

**ATTACHMENTS –
TWDB TECHNICAL REVIEW COMMENTS OF INITIAL
SWIFT APPLICATION & EMAIL RESPONSES**



Susan Roth <susan@srothconsulting.com>

Notice of Incomplete Application - Brazosport Water Authority SWIFT Project No. 51013

Susan Roth <susan@srothconsulting.com>
To: Tammy Oliver <Tammy.Oliver@twdb.texas.gov>
Cc: WSI-RWPD-Team6 <WSI-RWPD-Team6@twdb.texas.gov>

Mon, Jun 15, 2015 at 10:06 AM

Tammy,

Thank you for your email last week regarding the review of BWA's SWIFT application. As a follow up to your request, I've attached the following:

Section A. – General

A.6: Example contracts between BWA and all its consultants are attached; BWA will execute contracts following the closing of SWIFT funding.

Section C. - Financial

C.47. BWA's FY 2014 audited financial statements are attached.

Section D. – Project Information

D.54: Preliminary engineering data and additional relevant information is included in the *TWDB-BWA Regional Water Facility Planning Study (December 2013)*; I'll send a link to download a copy of the study via separate email due to the large file size.

D.57: A list of the census tract numbers and map are attached showing the applicant's service area.

Please let me know if you have any questions or need additional information for BWA's application.

Thanks for your help,

Susan

Susan K. Roth, P.E., PMP
Susan Roth Consulting, LLC

512.796.6692 (cell)

512.231.9851 (fax)

susan@srothconsulting.com

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3 attachments



PART A-6 Example Contracts with Consultants.pdf
7384K

 **BWA 2014 Annual Financial Report - Final.pdf**
395K

 **PART D-57 Census Tracts.pdf**
238K



Susan Roth <susan@srothconsulting.com>

Technical Review Comments- Brazosport Water Authority SWIFT Project No. 51013

Mireya Loewe <Mireya.Loewe@twdb.texas.gov>

Thu, Jun 18, 2015 at 3:07 PM

To: "jason@maurolaw.com" <jason@maurolaw.com>, "joe.morrow@firstsw.com" <joe.morrow@firstsw.com>, "susan@srothconsulting.com" <susan@srothconsulting.com>, "tomsage@andrewskurth.com" <tomsage@andrewskurth.com>, "woelkead@cdmsmith.com" <woelkead@cdmsmith.com>
Cc: WSI-RWPD-Team6 <WSI-RWPD-Team6@twdb.texas.gov>

Dear Ms. Roth:

After our technical review of the application, we request you provide us with the following information by no later than this Tuesday, June 23, at 5:00 pm:

1. Please provide draft copies of the engineering and the legal/bond counsel services contracts that are specific to this project. Please note that we will require the actual executed contracts for all consultants prior to closing of the funding.
2. Budget -
 - a. Fiscal Services Costs: Please breakdown the lump sum costs allocated to this category into the different services (e.g. Financial advisor, bond counsel, etc.), as applicable to this project.
 - b. Testing and Permitting: Please clarify what will these costs cover.
 - c. Will the project be phased? If so, how many phases are anticipated and what is the Series 1 Construction cost expected to fund?
 - d. Series 2 has no engineering or soft costs associated with it. Please clarify how the Authority anticipates covering any soft costs associated with this series or if no soft costs are anticipated.

If you have any questions, please let me know.

Regards,

Mireya

Mireya Loewe ("Me-ray-ah" "Low-eee")

Team Manager, South Region

Regional Water Planning and Development

Texas Water Development Board

P.O. Box 13231

Austin, TX 78711-3231

(512) 475-0590



Susan Roth <susan@srothconsulting.com>

Technical Review Comments- Brazosport Water Authority SWIFT Project No. 51013

Susan Roth <susan@srothconsulting.com>

Fri, Jun 26, 2015 at 4:22 PM

To: Mireya Loewe <Mireya.Loewe@twdb.texas.gov>

Cc: WSI-RWPD-Team6 <WSI-RWPD-Team6@twdb.texas.gov>

Hi Mireya,

As a follow up, here's an initial response to your questions from last week:

1. Draft copies of the engineering and the legal/bond counsel services contracts that are specific to this project are attached below.

2. Budget

a. Fiscal Services Costs: A breakdown of the lump sum costs allocated to this category into the different services (e.g. Financial advisor, bond counsel, etc.) are shown in the revised budget (see attachment).

b. Testing and Permitting: In general, these costs are for the Brazoria County Groundwater Conservation District permit for the pilot/production well, approvals from TCEQ for the pilot/production well and testing associated with the construction of the well.

c. Will the project be phased? Yes---two phases. The Series 1 Construction Cost is expected to fund the pilot/production well and the RO pilot plant.

d. Series 2 does not have engineering or soft costs associated with it. All the engineering costs are listed in Series 1; Series 2 would be just for the construction of the remaining production wells, equipping the wells with pumps, the piping and RO Facility.


I'll provide a response to the additional questions sent today in a separate email. Please let me know if you have any other questions or need additional information.

Thanks for your help,
Susan

Susan K. Roth, P.E., PMP
Susan Roth Consulting, LLC
512.796.6692 (cell)
512.231.9851 (fax)
susan@srothconsulting.com

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5 attachments

 **CDM Smith Standard Form Agreement 6mgd Brackish GW RO WTP 6-22-2015.pdf**
58K

 **Exhibit A -Brackish Groundwater Study Report Design and Construction Services 6-22-15.pdf**
109K

 **BWA-Andrews Kurth Engagement Letter.pdf**
94K

 **BWA-First Southwest Company FA Agreement.pdf**
123K

 **TWDB-1201 (BWA SWIFT) FINAL2.pdf**
27K





Susan Roth <susan@srothconsulting.com>

Technical Review Comments- Brazosport Water Authority SWIFT Project No. 51013

Susan Roth <susan@srothconsulting.com>
To: Susan Roth <susan@srothconsulting.com>

Mon, Jul 13, 2015 at 2:31 PM

----- Forwarded message -----

From: **Mireya Loewe** <Mireya.Loewe@twdb.texas.gov>
Date: Fri, Jun 26, 2015 at 11:18 AM
Subject: RE: Technical Review Comments- Brazosport Water Authority SWIFT Project No. 51013
To: "jason@maurolaw.com" <jason@maurolaw.com>, "joe.morrow@firstsw.com" <joe.morrow@firstsw.com>, "susan@srothconsulting.com" <susan@srothconsulting.com>, "tomsage@andrewskurth.com" <tomsage@andrewskurth.com>, "woelkead@cdmsmith.com" <woelkead@cdmsmith.com>, "karamalegosam@cdmsmith.com" <karamalegosam@cdmsmith.com>
Cc: Connie Townsend <Connie.Townsend@twdb.texas.gov>, Donald Dawkins <Donald.Dawkins@twdb.texas.gov>, "Francia C. Harutunian" <Francia.Harutunian@twdb.texas.gov>, "Javier A. Pena" <Javier.Pena@twdb.texas.gov>, Joe Reynolds <Joe.Reynolds@twdb.texas.gov>, Nicki Hise <Nicki.Hise@twdb.texas.gov>, Tammy Oliver <Tammy.Oliver@twdb.texas.gov>

Ms. Roth,

We also have a few additional items we need clarification on:

Environmental:

- Please note that the project does not qualify for a Categorical Exclusion (CE) due to the construction of a reverse osmosis plant and necessary permitting requirements. A full environmental review will be required, including the preparation of an Environmental Data Form (EDF). Instructions on the preparation of an EDF for the SWIFT program may be found online (<http://www.twdb.texas.gov/financial/instructions/doc/TWDB-0800.pdf>). If you have any questions, please contact me.

Project Schedule:

- Please provide an updated schedule for project development that includes loan commitment, the submission of a complete EDF (including all agency coordination and responses), EDF review and issuance of an Environmental Determination by TWDB staff, approval of the engineering feasibility report, completion of planning, and completion of design.

Engineering:

1. Can you please clarify whether the groundwater district has issued or will issue a permit and when.
2. Can you please clarify how the lease will be setup with the City of Lake Jackson for the third well site regarding water rights and pumping permits.
3. Will you need to first do test wells on all three well sites to quantify yields before permitting?
4. Will there be any restrictions on how much water can be pumped?

Please let us know if you have any questions.



Susan Roth <susan@srothconsulting.com>

Technical Review Comments- Brazosport Water Authority SWIFT Project No. 51013

Susan Roth <susan@srothconsulting.com>

Mon, Jun 29, 2015 at 7:24 AM

To: Mireya Loewe <Mireya.Loewe@twdb.texas.gov>

Cc: Connie Townsend <Connie.Townsend@twdb.texas.gov>, Donald Dawkins <Donald.Dawkins@twdb.texas.gov>, "Francia C. Harutunian" <Francia.Harutunian@twdb.texas.gov>, "Javier A. Pena" <Javier.Pena@twdb.texas.gov>, Joe Reynolds <Joe.Reynolds@twdb.texas.gov>, Nicki Hise <Nicki.Hise@twdb.texas.gov>, Tammy Oliver <Tammy.Oliver@twdb.texas.gov>

Hi Mireya,

Thanks again for your email reminder. As a follow up, here's an initial response to the additional questions received on Friday:

Environmental - Project Update:

A full environmental review has been completed for the infrastructure within the BWA property/fenced area (location of 2 of the 3 wells and RO WTP), based on BWA's current DWSRF project (initiated in Fall 2014); no endangered species or historical sites have been identified. However, a full environmental review still needs to be completed for the pipeline and the third well site.

Revised Project Schedule:

*Please let me know if you're available to visit today; I have a few questions about the timing of the submission of a complete EDF (including all agency coordination and responses), EDF review and issuance of an Environmental Determination by TWDB.

Engineering:

1. Can you please clarify whether the groundwater district has issued or will issue a permit and when.

The permit application will be submitted to Brazoria County Groundwater Conservation District (BCGCD) after BWA closes on TWDB funding since the well has to be completed within 12 months of receiving a permit. BCGCD will issue a permit approximately 3 months after BWA submits an application.

2. Can you please clarify how the lease will be setup with the City of Lake Jackson for the third well site regarding water rights and pumping permits.

BWA met with the City of Lake Jackson last Tuesday (6/23) to discuss signing a 99-year lease agreement. The City Manager and City Attorney for Lake Jackson are currently verifying any covenants or restrictions with leasing approximately 1-2 acres of the parkland to BWA.

3. Will you need to first do test wells on all three well sites to quantify yields before permitting?

No; one test well will be drilled on the northernmost corner of the BWA property (within fenced area).

4. Will there be any restrictions on how much water can be pumped?

Not at this point

Please let me know if you have any other questions or need additional information.

Thanks for your help,

Susan

Susan K. Roth, P.E., PMP

Susan Roth Consulting, LLC

512.796.6692 (cell)

512.231.9851 (fax)

susan@srothconsulting.com



Susan Roth <susan@srothconsulting.com>

FW: Brazoport WA

Mireya Loewe <Mireya.Loewe@twdb.texas.gov>

Wed, Jul 1, 2015 at 1:53 PM

To: "susan@srothconsulting.com" <susan@srothconsulting.com>

Susan, just FYI.

*SR comment —
⊗ Revised
TWDB-1201 Budget
provided in Section D
Attachments*

Thanks.

Mireya

From: Javier A. Pena
Sent: Wednesday, July 01, 2015 1:52 PM
To: Joe Morrow
Cc: Mireya Loewe; Donald Dawkins
Subject: Brazoport WA

Good afternoon,

In reviewing the project's budget, we noticed a line item of \$85,000 for Bond Insurance/Surety. I was wondering why the Authority would need that item since the interest rates for this financing will be based on the TWDB's cost of funds. Purchasing insurance or a surety bond would not provide them a better interest rate.

Please let me know if you have any questions.

Sincerely,

Javier Pena

Financial Analyst

South Region

512-475-0581



Susan Roth <susan@srothconsulting.com>

FW: Brazoport WA

Mireya Loewe <Mireya.Loewe@twdb.texas.gov>
To: Susan Roth <susan@srothconsulting.com>

Wed, Jul 1, 2015 at 6:00 PM

Susan,

Just FYI again, attached is Joe's response.

Regards,

Mireya

From: Susan Roth [mailto:susan@srothconsulting.com]
Sent: Wednesday, July 01, 2015 5:51 PM
To: Mireya Loewe
Subject: Re: FW: Brazoport WA

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 **noname.eml**
11K

Susan Roth

From: "Javier A. Pena" <Javier.Pena@twdb.texas.gov>
To: "Donald Dawkins" <Donald.Dawkins@twdb.texas.gov>; "Mireya Loewe" <Mireya.Loewe@twdb.texas.gov>
Sent: Wednesday, July 01, 2015 1:55 PM
Subject: FW: Brazoport WA
See Joe's email below.

From: Joe Morrow [mailto:Joe.Morrow@firstsw.com]
Sent: Wednesday, July 01, 2015 1:54 PM
To: Javier A. Pena
Subject: RE: Brazoport WA

Good Enough, We can flow that into construction.

Joe Morrow
Senior Vice President
FirstSouthwest

direct 713.654.8690 fax 713.654.8658
700 Milam Street, Suite 500, Houston, TX 77002

From: Javier A. Pena [mailto:Javier.Pena@twdb.texas.gov]
Sent: Wednesday, July 01, 2015 1:52 PM
To: Joe Morrow
Cc: Mireya Loewe; Donald Dawkins
Subject: Brazoport WA

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Please let me know if you have any questions.

Sincerely,
Javier Pena
Financial Analyst
South Region
512-475-0581

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