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ORDINANCE NO. 1293

AUTHORIZING EXECUTION OF A REGIONAL WASTEWATER
SYSTEM CONTRACT


THE STATE OF TEXAS :
COUNTY OF DALLAS :
CITY OF MESQUITE :

WHEREAS, it is necessary and advisable that the City enter into the Regional Wastewater System Contract with North Texas Municipal Water District hereinafter authorized.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE:

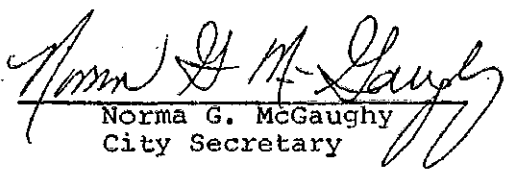
Section 1. That the Mayor and the City Secretary are authorized and directed, for and on behalf of the City, to date, sign, seal, and otherwise execute a Regional Wastewater System Contract shall be binding upon the City for all purposes.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 3rd day of November, 1975.

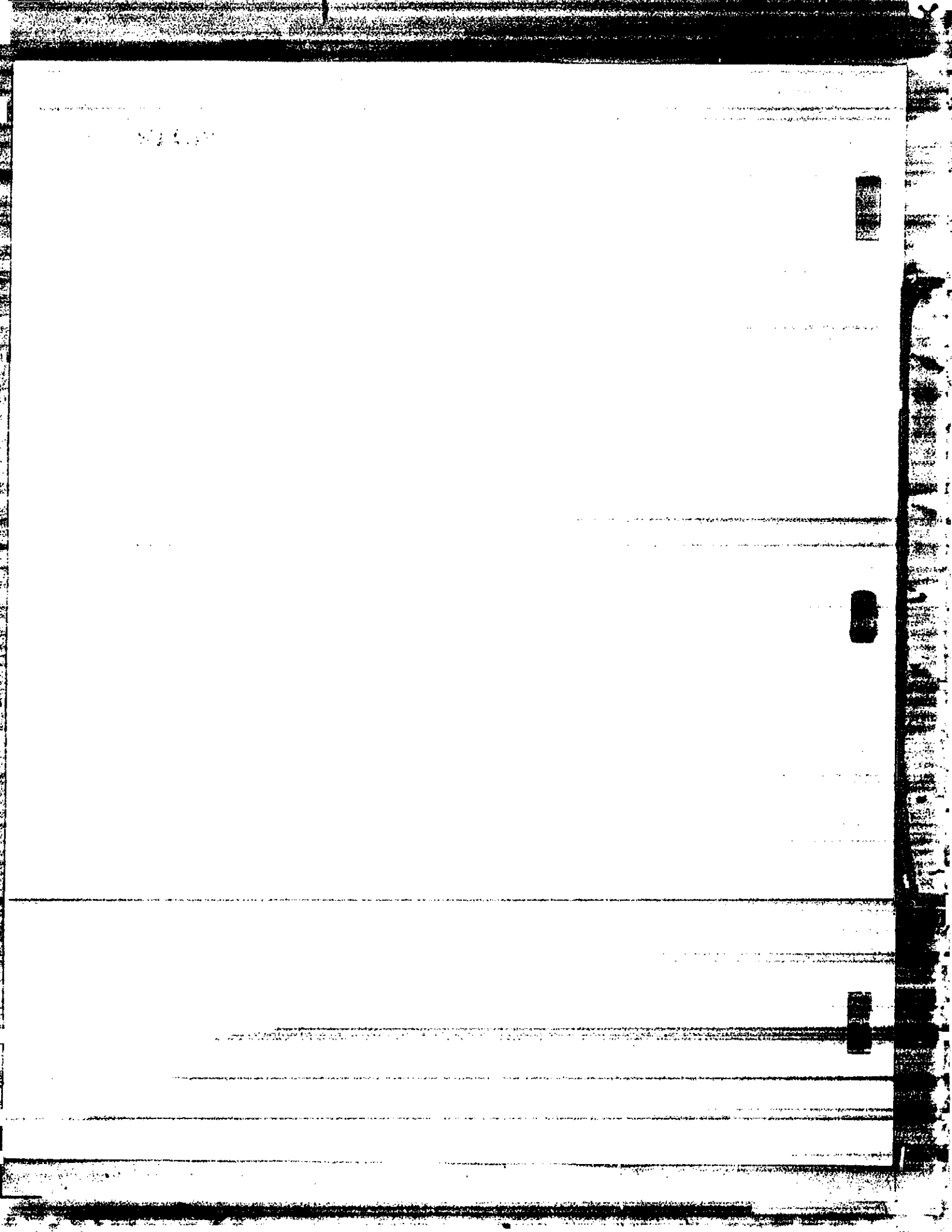


Bob Beard
Mayor

ATTEST:



Norma G. McGaughy
City Secretary



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CERTIFICATE FOR
ORDINANCE AUTHORIZING EXECUTION OF A REGIONAL
WASTEWATER SYSTEM CONTRACT

THE STATE OF TEXAS :
COUNTY OF DALLAS :
CITY OF MESQUITE :

We, the undersigned officers of said City, hereby certify as follows:

1. The City Council of said City convened in REGULAR MEETING ON THE 3RD DAY OF NOVEMBER, 1975, at the Municipal Building, and the roll was called of the duly constituted officers and members of said City Council, to-wit:

Norma G. McGaughy, City Secretary	Bob Beard, Mayor
Mrs. Brunhilde Nystrom	Jim Attaway
Vernie Erwin	Bill J. Smith
Jerry Sharp	Emitt Evans

and all of said persons were present, except the following absentees:

thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

ORDINANCE AUTHORIZING EXECUTION OF A REGIONAL
WASTEWATER SYSTEM CONTRACT

was duly introduced for the consideration of said City Council and read in full. It was then duly moved and seconded that said Ordinance be passed; and, after due discussion, said motion, carrying with it the passage of said Ordinance, prevailed and carried by the following vote:

AYES: All members of said City Council shown present above voted "Aye".

NAVS: None.

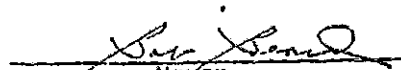
2. That a true, full, and correct copy of the aforesaid Ordinance passed at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Ordinance has been duly recorded in said City Council's minutes of said Meeting; that the above and foregoing paragraph is a true, full, and correct excerpt from said City Council's minutes of said Meeting pertaining to the passage of said Ordinance; that the persons named in the above and foregoing paragraph are the duly chosen, qualified, and acting officers and members of said City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the aforesaid Meeting, and that said Ordinance would be introduced and considered for passage at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose; and that said Meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Vernon's Ann. Civ. St. Article 6252-17.

3. That the Mayor of said City has approved, and hereby approves, the aforesaid Ordinance; that the Mayor and the City Secretary of said City have duly signed said Ordinance; and that the Mayor and the City Secretary of said City hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Ordinance for all purposes.

SIGNED AND SEALED the 3rd day of November, 1975.



City Secretary



Mayor

(SEAL)

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ORDINANCE No. 1293
AUTHORIZING EXECUTION OF A REGIONAL
WASTEWATER SYSTEM CONTRACT

THE STATE OF TEXAS :
COUNTY OF DALLAS :
CITY OF MESQUITE :

WHEREAS, it is necessary and advisable that the City enter into the Regional Wastewater System Contract with North Texas Municipal Water District hereinafter authorized.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE:

Section 1. That the Mayor and the City Secretary are authorized and directed, for and on behalf of the City, to date, sign, seal, and otherwise execute a Regional Wastewater System Contract in substantially the form and substance set forth in "Exhibit A", which is attached hereto and made a part hereof.

Section 2. That, upon execution, said Regional Wastewater System Contract shall be binding upon the City for all purposes.

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"EXHIBIT A"

THE STATE OF TEXAS :
COUNTIES OF COLLIN, DALLAS, KAUFMAN, AND ROCKWALL:
NORTH TEXAS MUNICIPAL WATER DISTRICT:

TRINITY EAST FORK
REGIONAL WASTEWATER SYSTEM
CONTRACT

WHEREAS, North Texas Municipal Water District, a conservation and reclamation district created under Article 16, Section 59 of the Texas Constitution, pursuant to Vernon's Article 8280-141 (the "District") has been designated by the Texas Water Quality Board to be the regional agency to provide and develop a Regional System for Wastewater Treatment in the general area of the East Fork of the Trinity River lying in Collin, Dallas, Kaufman, and Rockwall Counties; and

WHEREAS, there have been prepared for and filed with the District the following:

Report on a Regional Sewerage Plan for the Upper East Fork Basin, by Shimek, Roming, Jacobs & Finklea, Consulting Engineers, Dallas, Texas; and Lower East Fork Trinity River Basin Regional Sewerage System Study, by Henningson, Durham & Richardson, Inc. of Texas, Consulting Engineers, Dallas, Texas (collectively, the "Engineers Reports"); and

WHEREAS, the parties hereto wish to further implement the Engineers Reports and provide for the establishment, operation, and maintenance of a Regional Wastewater System for the purpose of providing facilities to adequately receive, transport, treat, and dispose of Wastewater; and

WHEREAS, the parties hereto are entering into this contract in order to control water pollution, and protect, improve, and enhance the water quality of the East Fork of the Trinity River and the water supplies impounded therein; and

WHEREAS, each of the Cities of Mesquite ("Mesquite") in Dallas County, and Plano ("Plano") in Collin County, (collectively

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the "Cities") presently owns, operates, and maintains its respective combined waterworks and sanitary sewer systems; and

WHEREAS, the Cities are desirous of contracting with the District to achieve efficiencies of cost and operation; and

WHEREAS, the District is willing to accept the responsibility of providing improved waste treatment in the service area to protect water quality and develop reuse potential; and

WHEREAS, the District and the Cities are authorized to make and enter into this contract under the Regional Waste Disposal Act, compiled as Chapter 25 Water Code of Texas (the "Code"); and

WHEREAS, the parties hereto recognize these facts:

- (a) That the District will use the payments to be received under this and similar contracts for the payment of Operation and Maintenance Expense of the System and for the payment of the principal of, redemption premium, if any, and interest on its Bonds, and to establish and maintain debt service reserves and other funds if and as provided in any Bond Resolution; and that the revenues under such contracts will be pledged to such purposes; and
- (b) That contracts similar to this instrument may be executed between the District and Additional Member Cities; and
- (c) That District will issue Bonds from time to time in the future to acquire, construct, extend, enlarge, improve, and/or repair the System.

NOW, THEREFORE, the District, Mesquite, and Plano hereby contract and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. DEFINITION OF TERMS. In addition to the definitions stated in the preamble hereof, the terms and expressions as used in this contract, unless the context clearly shows otherwise, shall have the following meanings:

- (a) "Additional Member City" or "Additional Member Cities" means any city or cities in addition to Mesquite and Plano with which the District makes a contract for receiving, transporting, treating, and/or disposing of Wastewater through the System.

- (b) "Adjusted Annual Payment" means the Annual Payment, as adjusted in accordance with Section 5.03 of this contract during or after each Fiscal Year.
- (c) "Annual Payment" means the amount of money estimated as provided in Section 5.03 of this contract to be paid to District by Member Cities as their proportionate share of the Annual Requirement.
- (d) "Annual Requirement" means the total amount of money required for District to pay all Operation and Maintenance Expense of the System and to pay the principal of, and redemption premium, if any, and interest on its Bonds, and to pay any amounts required to be deposited in any special or reserve funds, including a debt service reserve fund and a repair and replacement fund, as required to be established and/or maintained by the provisions of any Bond Resolution.
- (e) "Bond Resolution" means any resolution of the Board of Directors of the District authorizing the issuance of Bonds and providing for their security and payment, as such resolution(s) may be amended from time to time as therein permitted.
- (f) "Bonds" means any bonds to be issued by the District pursuant to this contract and similar contracts with Additional Member Cities for the acquisition, construction, enlargement, improvement, extension, repair, or replacement of the System or any part thereof, whether in one or several issues, or any bonds issued by the District to refund any or all of same.
- (g) "Contract", or "this contract", means this contract and any similar contracts executed between the District and Additional Member Cities with respect to the System.
- (h) "District's System", "Regional System", "Regional Wastewater System", or "System" means all of District's facilities acquired, constructed, used, or operated by the District for receiving, transporting, treating, and disposing of Wastewater of and for Member Cities, pursuant to this contract and all similar contracts with Additional Member Cities (but excluding any facilities acquired or constructed with "Special Facilities Bonds" as hereinafter described, and excluding any facilities required to transport Wastewater to any Point of Entry of the District's System), together with any improvements, enlargements, or additions to said System facilities and any extensions, repairs, or replacements of said System facilities acquired, constructed, used, operated, or otherwise incorporated into or made a part of said System facilities in the future by the District. Said terms shall include only those facilities which are acquired, constructed, used, or operated by the District to provide service to Member Cities pursuant to this contract and all similar contracts with

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Additional Member Cities, and which, as determined by the District, can economically and efficiently provide service to Member Cities. Said terms do not include any District facilities which provide Wastewater services of any kind to cities, political subdivisions, or persons which are not Member Cities, nor do they in any way include or affect the District's water supply system. Said terms do not include any facilities acquired or constructed by the District with the proceeds from the issuance of "Special Facilities Bonds", which are hereby defined as being revenue obligations of the District which are not secured by or payable from Annual Payments under this contract and similar contracts with Additional Member Cities, but which are payable solely from other sources; but Special Facilities Bonds may be made payable from payments from any person, including any Member City, under a separate contract whereunder the facilities to be acquired or constructed are declared not to be part of the System and are not made payable from the Annual Payments as defined in this contract.

- (i) "Fiscal Year" means the twelve (12) month period beginning each October 1 and ending the following September 30, or such other twelve (12) month period as may be established in the future to constitute District's Fiscal Year.
- (j) "Local Wastewater Facilities" means the waste collection and treatment facilities owned and operated by the Member Cities.
- (k) "Member Cities" means Mesquite, Plano, and all Additional Member Cities.
- (l) "Member City" means any of the Member Cities.
- (m) "Operation and Maintenance Expense" means all costs of operation and maintenance of the District's System including, but not limited to, repairs and replacements for which no special fund is created in a Bond Resolution, the cost of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, and any other supplies, services, administrative costs, and equipment necessary for proper operation and maintenance of the District's System, payments made for the use or operation of any property, payments of fines, and payments made by District in satisfaction of judgments or other liabilities resulting from claims not covered by District's insurance or not paid by one particular Member City arising in connection with the operation and maintenance of the District's System. Depreciation shall not be considered an item of Operation and Maintenance Expense.
- (n) "Point of Entry" means any point at which Wastewater enters the property on which any Wastewater treatment plant operated by the District is located.

- (o) "Wastewater" means Sewage, Industrial Waste, Municipal Waste, Recreational Waste, and Agricultural Waste, as defined in the Code, together with Properly Shredded Garbage, and such Infiltration Water that may be present.

ARTICLE II

PROVIDING OF FACILITIES BY DISTRICT

Section 2.01. FACILITIES. In order to provide services for receiving, transporting, treating, and disposing of Wastewater for Member Cities, District will design, acquire, construct, and complete the System, as generally described in the Engineering Report with respect to Mesquite and Plano, and will operate and maintain the System, and from time to time enlarge, improve, repair, replace, and/or extend the System to provide service to Mesquite and Plano and to Additional Member Cities. The District shall obtain and hold in its name all required discharge permits from the appropriate Federal and State agencies, and each Member City shall assist District in obtaining same. The District shall provide, manage, operate, and maintain the System in such manner as it determines is necessary for providing adequate, efficient, and economical service to Member Cities, and shall have the right to provide single plants, multiplants, or combine two or more plants, and to use or discontinue the use of any facilities of the System as District deems necessary.

ARTICLE III

DISCHARGE OF WASTEWATER AND METERING

Section 3.01. DISCHARGE. In consideration of the payments to be made under this contract, each of the Cities of Plano and Mesquite, respectively, shall have the right to discharge all of its Wastewater from its sewage system into District's System, provided that such Wastewater meets the requirements for quantity set forth in this Article of the Contract, and the requirements for quality as set forth in Article IV of the Contract; but as to Additional Member Cities,

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discharges shall be made only after notice by the District that it is ready to receive the same pursuant to this contract. For the purposes of this contract the Wastewater from the City of Allen which Plano has agreed to receive and treat (under the present contract between Plano and the City of Allen, and any amendments thereto or optional extensions thereof) shall constitute and be regarded as Wastewater of Plano.

Section 3.02. POINT OF ENTRY. Each Member City may discharge all such Wastewater generated from the City's sewer system into the designated Point or Points of Entry for such Member City, unless such Member City and District mutually agree that like service can be provided elsewhere in the System. It is the intent of District to provide facilities to receive and dispose of all such Wastewater generated by each of the Member Cities sewer systems.

Section 3.03. CONVEYANCE TO POINT OF ENTRY. It shall be the sole responsibility of each Member City to transport its Wastewater to the Point or Points of Entry.

Section 3.04. QUANTITY AT POINT OF ENTRY. (a) The quantity of Wastewater conveyed to the Point or Points of Entry shall be metered and the total annual contributing flow of Wastewater received during any Fiscal Year shall be used to determine each Member City's Annual Payment and the Basic Charge for service as set forth in Article V.

(b) The maximum discharge rate is defined as a rate in MGD, exceeded for a period of sixty minutes, which, if continued over a period of 24 hours, would be equal to 3.50 times the City's average daily flow during that Fiscal Year.

(c) Any Member City exceeding the maximum discharge rate shall have a surcharge applied to the next Fiscal Year's Annual Payment equal to 1% of the Annual Payment in that Fiscal Year for each 1/10th that the ratio of the maximum discharge to the average daily flow exceeds 3.50.

Section 3.05. LIABILITY FOR DAMAGES AND RESPONSIBILITY FOR TREATMENT AND DISPOSAL OF WASTEWATER. Liability for damages arising from the reception, transportation, delivery, and disposal of all Wastewater discharged hereunder shall remain in each Member City to Points of Entry, and upon passing

through District's meters installed at Points of Entry liability for such damages shall pass to District. As between the District and each Member City, each party agrees to indemnify and to save and hold the other party harmless from any and all claims, demands, causes of action, damages, losses, costs, fines, and expenses, including reasonable attorney's fees, which may arise or be asserted by anyone at any time on account of the reception, transportation, delivery, and disposal while Wastewater is in the control of such responsible party, or on account of a prohibitive discharge by a Member City. District has the responsibility as between the parties for the proper reception, transportation, treatment, and disposal of all Wastewater, but not for prohibitive discharges, received by it at Points of Entry.

Section 3.06. METERING. District will furnish, install, operate and maintain at its own expense at each Point of Entry the necessary equipment and devices of standard type for measuring properly all Wastewater to be discharged under this agreement. Such meters and other equipment shall remain the property of the District. Each Member City shall have access to such metering equipment at all reasonable times for inspection and examination, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of District in the presence of a representative of the Member City if requested by such Member City. All readings of meters will be entered upon proper books of record maintained by the District. Upon written request the Member City may have access to said record books during reasonable business hours.

Not more than three times in each year of operation, District shall calibrate its meters, if requested in writing by a Member City to do so, in the presence of a representative of such Member City, and the parties shall jointly observe any adjustments which are made to the meters in case any adjustment is found to be necessary.

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If, for any reason, any meters are out of service or out of repair, or if, upon any test, the percentage of inaccuracy of any meter is found to be in excess of five (5%) per cent, registration thereof shall be corrected for a period of time 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 date of the last calibration, but in no event further back than a period of six (6) months.

Each Member City may, at its option and its own expense, install and operate a check meter to check each meter installed by District, but the measurement for the purpose of this agreement shall be solely by District's meters.

Section 3.07. UNIT OF MEASUREMENT. The unit of measurement for Wastewater delivered hereunder shall be 1,000 gallons, U. S. Standard Liquid Measure.

ARTICLE IV

QUALITY

Section 4.01. GENERAL. Each Member City agrees to limit discharge into District's System to Wastewater that complies with Quality Requirements the District finds it necessary from time to time to establish in order to meet standards imposed by regulatory agencies having appropriate jurisdiction or to protect the Water Quality for water supply purposes. To enable the highest degree of treatment in the most economical manner possible, certain solids of liquids and gases are hereby prohibited from entering District system in excess of standards, and the prohibited discharges will be listed and furnished to all Member Cities, with a minimum of sixty days of notice before any action or approval.

Section 4.02. NORMAL QUALITY. To determine normal quality of Wastewater, District will collect twenty-four (24) hour composite samples of Wastewater at each Point of Entry and cause same to be analyzed in accordance with testing procedures as set forth in the latest edition of Standard Methods of Examination of Water and Wastewater, published by American Public Health Association, Inc. Composite samples will normally be taken once a month, or at more frequent intervals if necessary to determine Wastewater quality. Such Wastewater shall not exceed the limits of concentration specified for Normal Wastewater as follows:

Normal Wastewater Concentration

BOD	275 mg/l
SS	300 mg/l
pH, not less than	6 nor greater than 9
Hydrogen Sulfide	0.1 mg/l

Should the analysis disclose concentrations higher than those listed, District will at once inform the Member City of such disqualification. With approval of the District, Wastewater with concentrations of BOD and SS greater than normal may be discharged into System with the payment of a surcharge, which shall be in addition to the basic charge as outlined in Article V of this contract, and this surcharge shall be sufficient to cover and pay for the additional cost of treatment.

ARTICLE V

PAYMENTS

Section 5.01. FINANCING. District will issue its Bonds, in amounts and at times as determined by the District, to provide the System.

Section 5.02. ANNUAL REQUIREMENT. It is acknowledged and agreed that payments to be made under this contract and similar contracts with Additional Member Cities will be the

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only source available to District to provide the Annual Requirement; and that the District has a statutory duty to establish and from time to time to revise the charges for services to be rendered and made available to Member Cities hereunder so that the Annual Requirement shall at all times be not less than an amount sufficient to pay or provide for the payment of:

- (a) An "Operation and Maintenance Component" equal to the amount paid or payable for all Operation and Maintenance Expense; and
- (b) A "Bond Service Component" equal to:
 - (1) the principal of, redemption premium, if any, and interest on, its Bonds, as such principal, redemption premium, if any, and interest become due, less interest to be paid out of Bond proceeds if permitted by any Bond Resolution; and
 - (2) during each Fiscal Year, the proportionate part of any special or reserve funds required to be established and/or maintained by the provisions of any Bond Resolution; and
 - (3) an amount in addition thereto sufficient to restore any deficiency in any of such funds required to be accumulated and maintained by the provisions of any Bond Resolution; and
 - (4) the charges of paying agents for paying principal of, redemption premium, if any, and interest on, all Bonds.

Section 5.03. PAYMENTS BY CITY. (a) For services to be rendered to each Member City by District under this contract each Member City agrees to pay, at the time and in the manner hereinafter provided, its proportionate share of the Annual Requirement, which shall be determined as hereafter described and shall constitute a Member City's Annual Payment or Adjusted Annual Payment. For the Fiscal Year beginning October 1, 1975, and for each Fiscal Year thereafter, each Member City's proportionate share of the Annual Requirement shall, subject to the subsequent provisions hereof, be a percentage obtained by dividing such Member

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City's estimated contributing flow to the System by the total estimated contributing flow to the System by all Member Cities during such Fiscal Year. The calculation of each Annual Payment as determined herein, and each Adjusted Annual Payment, shall be determined as provided in this Section. The terms "contributing flow to the System" and "contributing flow" as used in this contract with respect to any Fiscal Year shall mean the actual metered contributing flow of a Member City or, as to an Additional Member City, any minimum annual contributing flow for which it has agreed to pay, whichever of the foregoing is the greater. Each Member City's Annual Payment shall be calculated by the District by multiplying such Member City's estimated percentage of the estimated total contributing flow times the Annual Requirement. Each Member City's Annual Payment shall be made to District in monthly installments, on or before the twentieth (20th) day of each month, for its required part of the Annual Requirement for each Fiscal Year. Such payments shall be made in accordance with a Schedule of Payments for each Fiscal Year which will be supplied to each Member City. At the close of the 1975 Fiscal Year, and at the close of each Fiscal Year thereafter District shall redetermine each Member City's percentage by dividing each Member City's contributing flow to the System by the total contributing flow of all Member Cities. Each Member City's Adjusted Annual Payment shall be calculated by multiplying each Member City's redetermined percentage times the Annual Requirement. The difference between the Adjusted Annual Payment and the Annual Payment, if any, when determined, shall be applied as a credit or a debit to each Member City's account with District and shall be credited or debited to such Member City's next subsequent monthly payment or payments. It is further specifically agreed, however, that for each Fiscal Year prior to the Fiscal Year commencing October 1, 1981, each

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Member City shall be obligated to pay, as its additional part of the Annual Requirement, and shall be debited for, any sum by which its actual Direct Cost, as hereinafter defined, for any Fiscal Year exceeds its Adjusted Annual Payment calculated on the basis of contributing flow as provided above; and each Member City shall be entitled to a credit for any amount in excess of its actual Direct Cost when the District has actually received the aggregate of all of the Annual Requirement from all Member Cities for that Fiscal Year. Each Member City's Adjusted Annual Payment shall be further adjusted by giving any applicable debits and credits on subsequent monthly payments for the next Fiscal Year to reflect such additional adjustments due to Direct Cost. For the Fiscal Year commencing October 1, 1981, and for each Fiscal Year thereafter, the District may continue to fix and collect each Member City's Annual Payment and Adjusted Annual Payment on the basis set forth above, or, at its sole option and within its discretion, may fix and collect each Member City's Annual Payment and Adjusted Annual Payment on the sole basis of contributing flow. In such case each Member City agrees to pay its Annual Payment and Adjusted Annual Payment solely on the basis of contributing flow, without regard to debits or credits for any Direct Cost, except for any Additional City entitled to pay on a Direct Cost basis for a temporary period as hereinafter provided. If the District, at its option as provided above, changes the method of making Annual Payments and Adjusted Annual Payments to a contributing flow basis, such basis shall then become the permanent method, and it shall not thereafter be changed. It is further provided, however that if in any contract with an Additional Member City the District agrees to provide new or additional facilities to serve such Additional Member City, then such contract may provide that during the temporary period until the end of the Fiscal Year during which such new or additional facilities are placed in operation

(but in no event later than the end of the third Fiscal Year following the execution of the contract) such Additional Member City's Adjusted Annual Payment shall be further adjusted by credits or debits according to its Direct Cost, in the same manner as if, with respect to such Additional Member City, the District were operating on a Direct Cost basis, even though the District actually has changed to a contributing flow basis for the other Member Cities. As used in this contract the term "Direct Cost" shall mean the following:

- (1) that part of the annual Operation and Maintenance Component of the Annual Requirement which is attributable to any Local Wastewater Facilities of a Member City which are acquired, operated, or used by the District as part of the System, and any new and additional facilities of the System provided and designated by the District to serve such Member City, less any amount thereof attributable to the use of any part of said facilities for the benefit of any other Member City or Cities, and
 - (2) that part, if any, of the Bond Service Component of each Annual Requirement which is attributable to any Bonds issued to acquire or improve any existing Local Wastewater Facilities of such Member City or to provide all or any part of any new and additional facilities for the System provided and designated by the District to serve such Member City, and
 - (3) a percentage of that part, if any, of the Bond Service Component of each Annual Requirement attributable to any other Bonds issued to provide any other facilities for the System equal to the percentage of actual use by such Member City of any such facilities during that Fiscal Year.
- (b) Monthly payments by Member Cities, as set forth in each Schedule of Payments, shall be in the following amounts:
- (i) the amount necessary to provide the Bond Service Component of the Annual Requirement so as to enable the District to make all payments with respect to the Bonds when due; and
 - (ii) such amounts as will cause the District to have on hand, on or before the twentieth (20th) day of each month, an amount not less than 1/6th of the then current Annual Budget required for Operation and Maintenance Expenses.

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It is specifically covenanted and agreed that each Member City shall pay its Annual Payment and Adjusted Annual Payment calculated as provided in this Section, and that the Annual Payment shall be its appropriate percentage based on contributing flow or Direct Cost, whichever is the greater; provided that such Member City is entitled to receive if and when available any credit provided for herein during any Fiscal Year when the provisions hereof relating to Direct Cost are applicable and in effect. If a Member City fails to pay its monthly charge on or before the twentieth (20th) day of any month, it shall incur and pay a penalty of ten percent of the amount due together with any legal or other costs incurred by the District in collecting the amount due. District is authorized to discontinue service to any Member City which fails to make any monthly payment, and which, after written notice, does not make such payment.

(c) If, during any Fiscal Year, District begins providing services to an Additional Member City or Cities, each Member City's Annual Payment for such Fiscal Year shall be redetermined consistent with the provisions of this Contract.

(d) Each Member City's Annual Payment also shall be adjusted and redetermined for the balance of any applicable Fiscal Year, consistent with the provisions of this Contract, and initially based on estimated contributing flow, at any time during any Fiscal Year if:

- (i) Additions, enlargements, repairs, extensions, or improvements to the System are placed in service by District which require an increase and redetermination of the Annual Requirement;
- (ii) Unusual or extraordinary expenditures for operation and maintenance of the System are required which are not provided for in the Annual Budget or in a Bond Resolution; or
- (iii) A Member City's contributing flow to the System, after the beginning of the Fiscal Year, is estimated to be substantially different from that on which Annual Payments are based as determined by District, to the extent that such difference in flow will substantially affect such Member City's Budget, and consequently such Member City's Annual Payment to District; or

(iv) The District issues additional Bonds, the payments in connection with which require an increase and redetermination of the Annual Requirement.

(v) It appears to the District that for any other reason it will not receive the full amount of the Annual Requirement unless such adjustment and redetermination are made.

(e) The District shall give all Member Cities at least 21 days written notice prior to consideration by the Board of Directors of the District of making any Adjusted Annual Payment for any Member City during any Fiscal Year.

(f) The Annual Payment set forth in this section shall be considered the Basic Charge for service hereunder, and each Member City shall pay a surcharge for excess BOD and/or SS as provided in Section 4.04, and for excessive discharge in the manner set forth in Section 3.05(c).

(g) The Operation and Maintenance Component of the Annual Requirement allocable to such Member City shall be determined finally by the contributing flow and/or the Direct Cost of each Member City, as provided above. However, notwithstanding any other provisions of this contract to the contrary, the Bond Service Component of the Annual Requirement shall be allocated to each Member City, including each Additional Member City, and shall be computed and paid during each Fiscal Year as part of its Annual Payment and Adjusted Annual Payment, either (1) on the basis of the amount of such Member City's contributing flow into the System or (2) its Direct Cost during any such Fiscal Year when the provisions of this contract relating to Direct Cost are applicable and in effect, or (3) on the basis of the amount of such Member City's contributing flow into the System during the Fiscal Year in which such Member City's contributing flow into the System was the greatest, or (4) as to Additional Member Cities, on the basis of the amount of any minimum flows for which an Additional Member City agrees to pay in its contract similar to this contract, whichever of the foregoing

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amounts (1), (2), (3), or (4) is the greatest; provided that each Member City is entitled to receive, if and when available, any credit provided for herein during any Fiscal Year when the provisions of this contract relating to Direct Cost are applicable and in effect. It is the intention hereof that the Bond Service Component allocable to each Member City and to be paid by each Member City shall be computed for each Fiscal Year in such manner that no reduction will be allowed to a Member City because the amount of its actual contributing flow to the System is reduced below a previous high, or because the amount of its actual contributing flow is less than the amount of any minimum flow for which it has agreed to pay, subject to the foregoing provisions relating to Direct Cost.

(h) The facilities and services of the System to be provided to each Member City pursuant to this contract are and will be essential and necessary to the operation of each Member City's combined waterworks and sanitary sewer system, respectively, and all payments to be made hereunder by each Member City will constitute reasonable and necessary "operating expenses" of such Member City's combined waterworks and sanitary sewer system, within the meaning of Vernon's Article 1113, and the provisions of all ordinances authorizing the issuance of all waterworks and sanitary sewer system revenue bond issues of such Member City with the effect that such Member City's obligation to make payments from its waterworks and sanitary sewer system revenues under this contract shall have priority over its obligations to make payments of the principal of and interest on any and all of its waterworks and sanitary sewer system revenue bonds. Each Member City agrees to fix and collect such rates and charges for waterworks and sanitary sewer services to be supplied by its waterworks and sanitary sewer system as will make possible the prompt payment of all expenses of operating and maintaining its entire waterworks and sanitary sewer system, including all payments, obligations, and indemnities contracted hereunder, and

the prompt payment of the principal of and interest on such Member City's bonds payable from the net revenues of its water-works and sanitary sewer system. The District shall never have the right to demand payment of the amounts due hereunder from funds raised or to be raised from taxation by any Member City. Each Member City's payments hereunder shall be made pursuant to the authority granted by Section 25.030 of the Texas Water Code, as well as Vernon's Article 1113. Recognizing the fact that each Member City urgently requires the facilities and services covered by this contract, and that such facilities and services are necessary for actual use and for stand-by purposes; and further recognizing that the District will use the payments received from each Member City hereunder to pay, secure, and finance the issuance of its Bonds, it is hereby agreed that if and when any Bonds are delivered, each Member City shall be obligated unconditionally, and without offset or counterclaim, to make the payments designated as the "Bond Service Component" of the Annual Requirement, in the manner provided in this Contract, regardless of whether or not the District actually provides such facilities and services, or whether or not any Member City actually receives or uses such facilities and services, and regardless of the validity or performance of the other parts of this contract, and such "Bond Service Component" shall in all events be applied and used for providing debt service and other requirements of the Bonds, and the holders of the Bonds shall be entitled to rely on the foregoing agreement and representation, regardless of any other agreement between the District and any Member City. Each Member City further agrees that it shall be obligated to make the payments designated as the "Operation and Maintenance Component" of the Annual Requirement as described in Section 5.02 of this Contract, so long as the District is willing and able to provide the facilities and services contemplated hereunder to such Member City.

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(i) On, or before August 1 of each year District will furnish each Member City with a tentative budget and an estimated schedule of monthly payments to be made by such Member City for the ensuing Fiscal Year. On July 1 of each year, the District shall be in a position to furnish any Member City an estimate of the City's annual requirement. On or before October 1 of each year, District shall furnish such Member City with a finalized schedule of the monthly payments to be made by such Member City to the District for the ensuing Fiscal Year. Each Member City agrees that it will make such payments to the District on or before the twentieth (20th) day of each month of such Fiscal Year. If any Member City shall dispute the Annual Budget, and proceed as provided in Article VII, such Member City nevertheless promptly shall make the payment or payments determined by District, and if it is subsequently determined by agreement that such disputed payments made by such Member City should have been less, District shall promptly revise, reallocate, and readjust the charges among all Member Cities then being served by District in such manner that such Member City will recover its overpayment. In the event any Member City is assessed a surcharge for excess BOD and/or SS, District will bill such Member City for such surcharge on or before the tenth (10th) day of the month following the determination of the surcharge and such Member City shall pay such surcharge on or before the twentieth (20th) day of the month of receipt of any such bill. Any such surcharge collected by District shall be applied by District against the total cost of Operation and Maintenance Expense of the System.

(j) If any Member City's Annual Payment is redetermined as is herein provided, District will promptly furnish such Member City with an updated schedule of monthly payments reflecting such redetermination.

(k) All interest income earned by the investment of any Funds created pursuant to any Bond Resolution shall be credited towards the payment of the Bond Service Component and taken into account in determining the Annual Requirement; except that as to any Acquisition or Construction Fund created from any Bond proceeds all interest income earned by the investment thereof may, at the option of the District, be credited to such Acquisition or Construction Fund and used for the System purposes for which the Bonds are issued, or be credited towards the payment of the Bond Service Component.

Section 5.04. USE OF OTHER REVENUES OF SYSTEM. (a) If the District receives any net income from the sale of treated Wastewater from the System prior to its discharge into a public stream of the State of Texas, the District will apply and credit said net income towards payments of Operation and Maintenance Expenses.

(b) Notwithstanding any other provisions of this contract, the District may provide any excess available capacity or service of the System to any person, as defined by the Code, provided that such service does not interfere with or impair the rights of any Member City under this contract, and any such service shall in all events be subordinate and subject to such rights; and provided further that the District must charge for such service in amounts at least sufficient to pay all Operation and Maintenance Expense attributable thereto plus an amount which will produce an estimated reasonable allocation as determined by the District, plus an additional amount of not less than 20% of the foregoing to cover prior incurred costs, to be credited to the Bond Service Component of the Annual Requirement. The District is not authorized to issue Bonds, as defined in this contract, to provide the services of the System to any persons other than Member Cities.

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ARTICLE VI

GENERAL PROVISIONS

Section 6.01. FORCE MAJEURE. In case by reason of "Force Majeure" the District or any Member City shall be rendered unable wholly or in part to carry out its obligations under this agreement, then if such party shall give notice and full particulars of such "Force Majeure" in writing to the other parties within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure (with the exception of the obligation of each Member City to make the payments required in Section 5.03 of this contract, which in all events shall be made as provided therein) shall be suspended during the continuance of the inability then claimed, but for no longer periods, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipe lines or canals, partial or entire failure of water supply, and inability on the part of a Member City to provide water necessary for operation of its water and Local Wastewater Facilities hereunder, or of District to receive Wastewater on account of any other causes not reasonably within the control of the party claiming such inability. 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

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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 6.02. INSURANCE. District will carry insurance for such purposes and in such amounts as are determined by the District to be necessary or advisable.

Section 6.03. REGULATORY BODIES. This contract shall be subject to all valid rules, regulations and laws applicable hereto passed or promulgated by the United States of America, the State of Texas, or any authorized representative or agency of any of them.

Section 6.04. EFFLUENT REUSE: (a) District will make the effluent discharged from its Wastewater treatment plants available for any lawful and beneficial reuse purpose, and a charge shall be made to the customer receiving such effluent sufficient to cover any additional cost involved in providing the service, plus a reasonable portion of the cost of treating the Wastewater which produced such effluent; provided that such portion of the cost allocable to treatment shall not be required to exceed an amount which would, in the judgment of the District, render the use of such effluent by a customer economically infeasible.

(b) Notwithstanding the provisions of subsection 6.04(a), each Member City shall have the first right to use all effluent produced from its Wastewater for reuse solely for its own municipal purposes (i.e. golf course irrigation, recreation, etc.), without any charge except for any additional costs to the District necessary to provide the effluent for such municipal use; provided that no Member City shall sell such effluent or make it available to any other customer, and subject to the aforesaid first right of each Member City, the District shall have the

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right to use all such effluent for District purposes without any charge except for additional costs necessary to provide the effluent for District purposes. As to Plano, however, it is understood and agreed that the reuse of its effluent to fulfill its obligations under its present contracts with the Plano Municipal Golf Course and the Los Rios Country Club (for the primary term and any optional extensions of the contract with Plano Municipal Golf Course and for the primary term of the contract with Los Rios Country Club) shall constitute a reuse for its own municipal purposes, and the foregoing restrictions with respect to selling and making available effluent shall not apply to such present contracts during the terms thereof as aforesaid.

Section 6.05. ANNUAL AUDIT OF SYSTEM. The District shall, at the close of each Fiscal Year, cause an Annual Audit of the System to be prepared.

Section 6.06. PUBLICATIONS, REFERENCE WORKS, GOVERNMENTAL REGULATIONS. In each instance herein where reference is made to a publication, reference work or Federal or State regulation, it is the intention of the parties that at any given time the then current edition of any such publication or reference work or Federal or State regulation shall apply. If a publication or reference work is discontinued or ceases to be the generally accepted work in its field or if conditions change or new methods or processes are implemented by the District, new standards shall be adopted which are in compliance with State and Federal laws and any valid rules and regulations issued pursuant thereto.

Section 6.07. OPERATION OF THE SYSTEM. District covenants that it will operate and maintain the System in accordance with accepted good business and engineering practices.

ARTICLE VII

DISTRICT ANNUAL BUDGET

Section 7.01. FILING WITH CITY. (a) Not less than sixty

(60) days before the commencement of Fiscal Year 1976 and not less than sixty (60) days before the commencement of each Fiscal Year thereafter while this contract is in effect, District shall cause its tentative budget for operation and maintenance of the System for the ensuing Fiscal Year to be prepared and a copy thereof filed with each Member City. If no protest or request for a hearing on such tentative budget is presented to District within thirty (30) days after such filing of the tentative budget by one or more Member Cities, the tentative budget for the System, when adopted by District's Board of Directors, shall be considered for all purposes as the "Annual Budget" for the ensuing Fiscal Year. But if a protest or request for a hearing is duly filed, it shall be the duty of the District to fix the date and time for a hearing on the tentative budget. The Board of Directors of the District shall consider the testimony and showings made in such hearing. The Board of Directors of the District may adopt the budget or make such amendments thereof as to it may seem proper. The budget thus approved by the Board of Directors of the District shall be the Annual Budget for the next ensuing Fiscal Year.

(b) The Annual Budget may be amended to provide for transfers of budgeted funds between expenditure accounts, provided however that said transfers do not result in an overall increase in budgeted funds as provided in the Annual Budget. The Annual Budget may be amended and increased through formal action by the Board of Directors of District, if required. Certified copies of any amended Annual Budget and the resolution authorizing same shall be filed immediately by the District with each Member City.

ARTICLE VIII

THE SYSTEM

Section 8.01. INITIAL FACILITIES OF THE SYSTEM. (a) Immediately after execution of this contract it is the intention

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of the District, Mesquite, and Plano that the District shall establish the System initially to consist of facilities at Mesquite and Plano.

(b) As permitted and authorized by Section 25.04, Texas Water Code, and other provisions of law, the District and Mesquite agree that this contract shall constitute an operating agreement with respect to the following described treatment and disposal facilities (the "Mesquite Facilities") which constitute a part of the Local Wastewater Facilities of Mesquite:

All wastewater treatment facilities, structures, apparatus, equipment, and devices located on the following described property:

TRACT I

BEING a tract of land situated in the County of Dallas, Texas, City of Mesquite and out of the John Harding survey Abstract 569, M. L. Swing Survey Abstract 1398 and the C. Taylor survey Abstract 1482, and described as follows:

BEGINNING at a point 1227.00 feet North 45° West of the most Southerly corner of a tract of land deeded to the City of Mesquite by J. C. Lathem and wife by deed dated May 12, 1958 and recorded May 21, 1958 in volume 4896, Page 83 in the deed records of Dallas County, Texas

THENCE North 45°00'00" West with the Southwest line of said Lathem tract 879.47 feet to a point for corner; said point being in the centerline of South Mesquite Creek;

THENCE in a Northwesterly direction with the meanders of the centerline of South Mesquite Creek as follows:

THENCE North 58°16'35" West a distance of 122.53 feet;
THENCE North 14°25'35" East a distance of 104.10 feet;
THENCE North 34°54'45" West a distance of 174.80 feet;
THENCE North 13°34'00" West a distance of 225.95 feet
THENCE North 53°36'10" West a distance of 82.90 feet;
THENCE North 66°28'55" West a distance of 99.80 feet;
THENCE South 72°44'15" West a distance of 99.80 feet;
THENCE North 63°00'30" West a distance of 104.80 feet;
THENCE North 3°57'00" East a distance of 82.00 feet;

THENCE North 45°00'00" East leaving South Mesquite Creek a distance of 2108.90 feet to a point for corner;

THENCE South 41°31'00" East a distance of 1298.13 feet to a point for corner;

THENCE South 23°29'00" West a distance of 616.00 feet to a point for corner;

THENCE South 47°30'40" East a distance of 303.84 feet to a point for corner;

THENCE South 46°14'00" West a distance of 1572.73 feet to the PLACE OF BEGINNING and containing 82.4066 acres of land.

TRACT II

BEING a tract of land situated in the County of Dallas, City of Mesquite and out of the H. L. Swing Survey Abstract 1398 and described as follows:

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BEGINNING at a point 447.16 feet South 45°00'00" West from the North corner of Tract I as described above;

THENCE South 45°00'00" West a distance of 50 feet to a point for corner;

THENCE North 45°00'00" West a distance of 1353.00 feet to the beginning of a curve to the left;

THENCE Around a curve to the left having a radius of 90 feet, and a central angle of 90 degrees, a distance of 62.83 feet to a point for corner; said point being in the Southeast line of Lawson Road;

THENCE North 45°00'00" East with the Southeast line of Lawson Road a distance of 130.00 feet to a point for corner;

THENCE Around a curve to the left having a tangent bearing of South 45°00'00" West, a tangent length of 40 feet, a radius of 40 feet, a central angle of 90 Degrees; a distance of 62.83 feet to a point;

THENCE South 45°00'00" East a distance of 1353.00 feet to the PLACE OF BEGINNING and containing 1.614 acres.

TRACT III

BEING a tract of land situated in the County of Dallas, Texas, City of Mesquite and out of the John Harding Survey Abstract 569 and described as follows:

BEGINNING at a point North 46°14'00" East 1472.73 feet from the South corner of Tract I as described above.

THENCE North 46°14'00" East along the most Southerly line of mentioned Tract I a distance of 30 feet a point for corner;

THENCE South 43°48'00" East a distance of 400 feet to a point corner in the centerline of South Mesquite Creek;

THENCE South 46°14'00" West a distance of 30 feet to a point for corner;

THENCE North 43°46'00" West a distance of 400 feet to the PLACE OF BEGINNING and containing 0.275 acres.

Total Acreage Tracts I, II, III 84.296.

The District agrees to manage, administer, operate, maintain, and use the Mesquite Facilities as part of the System, subject to the provisions and during the term of this contract, and in consideration thereof, it is agreed that District shall pay to Mesquite, in each of the Fiscal Years, respectively, the annual amounts, respectively, as set forth in the following schedule:

<u>EACH FISCAL YEAR ENDING SEPTEMBER 30:</u>	<u>ANNUAL AMOUNT:</u>
1976 through 1979	\$41,106
1980 through 1983	\$40,576
1984 through 1987	\$40,325
1988 through 1991	\$61,769
1992 through 1995	\$94,908
1996 and each year thereafter	\$ 0.00

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Such payments shall constitute a part of the fixed Operation and Maintenance Expenses of the System, and the District shall include such amount in each Annual Budget, to be paid, along with all other items of Operation and Maintenance Expense, according to the formulae and methods provided in this contract for the payment of the Annual Requirement.

(c) As permitted and authorized by Section 25.04, Texas Water Code, and other provisions of law, the District and Plano agree that this contract shall constitute an operating agreement with respect to the following described treatment and disposal facilities (the "Plano Facilities") which constitute a part of the Local Wastewater Facilities of Plano:

All wastewater treatment and disposal facilities, structures, apparatus, equipment, and devices located on the following described property:

TRACT I

BEING a tract of land situated in the James Ledbetter Survey, Abstract No. 545, Collin County, Texas, being a part of that certain 10.75 acre tract of land out of Tract No. 3 of the Paul Wyche property in said Survey which was conveyed by Paul Wyche to W. H. Hunt by Warranty Deed dated April 23, 1959, and being more particularly described as follows:

BEGINNING at a point on the north line of said Tract No. 3, a distance of 300 feet S 87° 45' E of the northwest corner of said Tract No. 3;

THENCE South 87°45'E. along the north line of said Tract No. 3 a distance of 550 feet to a corner, said corner also being the northeast corner of the land conveyed by Paul Wyche to W. H. Hunt;

THENCE South 2° 15' West a distance of 550 feet to a corner, said corner also being the southeast corner of the land conveyed by Paul Wyche to W. H. Hunt;

THENCE North 87° 45' West a distance of 550 feet to a corner;

THENCE North 2° 15' East a distance of 550 feet to the place of beginning, and containing 6.9 acres of land more or less.

TRACT II

BEING a tract of land situated in the James Ledbetter Survey, Abstract No. 545, Collin County, Texas, being a part of that

Certain 10.75 acre tract of land out of Tract No. 3 of the Paul Wyche property in said Survey which was conveyed by Paul Wyche to W. H. Hunt by Warranty Deed dated April 23, 1959 and being more particularly described as follows:

BEGINNING at a point on the north line of Tract No. 3;

THENCE South $87^{\circ} 47'$ East along the north line of said Tract No. 3 a distance of 300 feet to a point for corner, said corner also being the Northwest corner of Tract I;

THENCE along the West line of Tract I South $2^{\circ} 15'$ West 550 feet to a point for corner, said corner also being the Southwest corner of Tract I;

THENCE North $87^{\circ} 45'$ West 300 feet to a point for corner;

THENCE North $2^{\circ} 35' 30''$ East 550.01 feet to the place of beginning and containing 3.85 acres, more or less.

TRACT III

BEING a tract of land located in the James Ledbetter Survey, Abstract No. 545, City of Plano, Collin County, Texas, and being more particularly described as follows:

BEGINNING at a point in the northwest property corner of the W. H. Hunt 3.85 acre tract as recorded in Volume 551, Page 284, of the Deed Records of Collin County, Texas, and also being an interior southeast corner of the General Portland Land Development Company tract conveyed in August, 1972, said tract being the same as previously called Tract II;

THENCE South $00^{\circ} 25' 10''$ West, 1478.17 feet along the west line of the Hunt tract and the M. L. Godwin tract to a southeast corner of the General Portland Land Development Company tract;

THENCE North $88^{\circ} 45' 14''$ West, 274.42 feet;

THENCE North $84^{\circ} 55' 31''$ West, 226.35 feet to the east right-of-way line of Los Rios Boulevard (a 100 foot right-of-way);

THENCE North $00^{\circ} 25' 10''$ E., 565.24 feet along the east right-of-way line of Los Rios Boulevard to the beginning of a curve to right having a central angle of $25^{\circ} 42' 21''$, a radius of 2051.95 feet and a tangent length of 468.18 feet;

THENCE in a northeasterly direction along said curve 920.61 feet to the end of curve and a point for corner;

THENCE South $89^{\circ} 41' 22''$ E., 296.92 feet to the Point of Beginning and containing 15.527 acres of land, more or less.

Total Acreage Tracts I, II, III - 26.27 Ac.

The District agrees to manage, administer, operate, maintain, and use the Plano Facilities as part of the System, subject to the provisions and during the term of this contract, and in consideration thereof, it is agreed that District shall pay to Plano, in each of the Fiscal Years, respectively, the

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annual amounts, respectively, as set forth in the following schedule:

<u>EACH FISCAL YEAR ENDING SEPTEMBER 30:</u>	<u>ANNUAL AMOUNT:</u>
1976 through 1979	\$113,274
1980 through 1983	\$104,074
1984 through 1987	\$ 94,792
1988 through 1991	\$ 83,661
1992 through 1995	\$ 65,617
1996 through 1998	\$ 41,041
1999 and each year thereafter	\$ 0.00

Such payments shall constitute a part of the fixed Operation and Maintenance Expenses of the System, and the District shall include such amount in each Annual Budget, to be paid, along with all other items of Operation and Maintenance Expense, according to the formulae and methods provided in this contract for the payment of the Annual Requirement.

(d) Upon the execution of this contract, all other agreements, contracts, and other arrangements with respect to Wastewater or any other sewage facilities or services, including any Local Wastewater Facilities, between the District and Mesquite and the District and Plano, shall be void and of no further force or effect, and this contract shall supersede the same and become the sole and entire present agreement between the parties with respect thereto.

Section 8.02. DISTRICT CONTRACTS WITH ADDITIONAL MEMBER CITIES. (a) The District reserves the right to contract with Additional Member Cities to provide the services of the System to such Additional Member Cities; provided that the terms and provisions of such contracts with Additional Member Cities shall be, to the extent practicable and applicable, the same as the terms and provisions of this contract, except that with respect to any Local Wastewater Facilities of such Additional Member City which are to be acquired, operated, or used by the District as a part of the System as a result of such contract, the District and the Additional Member City may agree in such contract for mutually acceptable payments in connection therewith from

Bond proceeds or as an Operation and Maintenance Expense of the System (provided that in any formula used for determining such payments, the value attributed to such Local Wastewater Facilities shall not exceed a sum equal to the principal amount of all then outstanding bonds or other obligations issued by the Additional Member City to acquire and construct such Local Wastewater Facilities), and except that such contract shall provide for payments calculated on the basis of adequate minimum flows as hereinafter provided. All Member Cities shall be bound by this contract and the similar contracts with Additional Member Cities. The District shall not enter into contracts for any services by the System except with cities which become Member Cities, or as otherwise provided in this contract.

(b) A city may become an Additional Member City in the following manner and under the following conditions:

(i) A formal request must be submitted to the District furnishing information on the area to be served, a description of existing facilities, and the latest annual audit of such proposed Additional Member City's waterworks and/or sewer systems, if any.

(ii) Such proposed Additional Member City must provide funds for any necessary engineering studies if funds are not available from the appropriate Federal or State agencies. The preliminary studies must determine or estimate, for the ensuing five year period, the size and type of any proposed facilities, their estimated cost, and estimated flows of Wastewater, so as to enable the District to ascertain or estimate the requirements of the proposed Additional Member City for the ensuing five year period.

(iii) After all preliminary data is developed, the Board of Directors of the District shall call a hearing and notify all Member Cities to review the

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then outstanding Bonds equal to the then estimated percentage of use by such proposed Additional Member City of any portion of then then existing System, plus

(iii) an annual amount (to be credited to the Bond Service Component of the Annual Requirement and/or to the Operation and Maintenance Component of the Annual Requirement, at the option of the District) as estimated and determined by the District to equalize the previous capital cost (including the cost of previously constructed excess capacity) of facilities to be used to provide service to the Additional Member City.

(d) The provisions of this Section and the payments to be made under an Additional Member City's contract are further subject to the provisions of Section 5.03 of this Contract.

Section 8.03. ADDITIONAL CAPACITY AND FACILITIES. As the responsible agency for the establishment, administration, management, operation, and maintenance of the System, the District will, from time to time, determine when and to what extent it is necessary to provide additions, enlargements, improvements, repairs, and extensions to the System to receive, transport, treat, and dispose of Wastewater of any Member Cities, including all Additional Member Cities, and to issue its Bonds to accomplish such purposes, and all Member Cities, including Additional Member Cities, shall be obligated to pay both the Operation and Maintenance Component and the Bond Service Component included in the Annual Requirement with respect to the entire System, as expanded, as provided in Section 503; provided that this Section shall not be construed so as to reduce or alter the requirements of Section 8.02 with respect to minimum payments.

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request of the proposed Additional Member City. The Board of Directors of the District then shall determine if the proposed Additional Member City shall become a Member City.

(c) Each Additional Member City must agree to make minimum payments under its contract, on the basis of estimated annual minimum flows, that would provide amounts annually at least sufficient, as determined by the District, to pay:

(i) all of the annual Operation and Maintenance Component of the Annual Requirement which is attributable to any Local Wastewater Facilities of such Additional Member City which are to be acquired, operated, used, or improved by the District as part of the System and any other new and additional facilities of the System provided and designated by the District to serve such Member City, less any amount thereof attributable to the use of any part of said facilities for the benefit of any other Member City or Cities, and

(ii) an amount (to be credited and applied to the Bond Service Component of each Annual Requirement), at least equal to:

(a) all of that part of the Bond Service Component of each future Annual Requirement attributable to Bonds issued to acquire or improve any existing Local Wastewater Facilities of such Additional Member City to be a part of the System, and all Bonds issued within five years from the date of such contract to provide any other new and additional facilities for the System to serve such Additional Member City, plus

(b) a percentage of the Bond Service Component of each future Annual Requirement for all

ARTICLE IX

REMEDIES

Section 9.01. Any party to this Contract, and any holder of the District's Bonds, may require any party hereto, and its officials and employees, to carry out, respect, and enforce the covenants and obligations of this Contract, by all legal and equitable means, including specifically, but without limitation, the use and filing of mandamus proceedings, in any court of competent jurisdiction, against such party, and its officials and employees.

ARTICLE X

EFFECTIVE DATE AND TERM

Section 10.01. EFFECTIVE DATE. This contract shall become effective as of the date of execution hereof.

Section 10.02. TERM OF CONTRACT. This contract shall continue in force from the effective date hereof at least until all Bonds, including any Bonds issued to refund same, shall have been paid in full; and shall also remain in force thereafter throughout the useful life of the System.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this contract to be duly executed in several counterparts, each of which shall constitute an original, all as of the 1st day of October, 1975, which is the date of this contract.

NORTH TEXAS MUNICIPAL WATER DISTRICT

BY _____
President, Board of Directors

ATTEST:

Secretary, Board of Directors

APPROVED:

General Counsel for North Texas
Municipal Water District

(SEAL)

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CITY OF MESQUITE, TEXAS

BY _____
Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney

(SEAL)

CITY OF PLANO, TEXAS

BY _____
Mayor

ATTEST:

City Secretary

APPROVED:

City Attorney

(SEAL)

