

EXCESS CAPACITY PURCHASE AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

THIS EXCESS CAPACITY PURCHASE AGREEMENT (the "Agreement") is made and entered into as of the 18th day of April, 2001, by and between DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-A ("District 1-A") and DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-E ("District 1-E"), District 1-A and District 1-E being political subdivisions of the State of Texas created and operating under the provisions of Article XVI, Section 59 of the Texas Constitution and Chapters 51, 49 and 53 of the Texas Water Code, as amended (singly, the "District"; together, the "Districts").

WITNESSETH:

WHEREAS, the Districts and other districts have been created for the purpose of providing roads, bridges, facilities in aid thereof, water facilities and services, sanitary sewer facilities and services, and drainage facilities and services to the land located within the original boundaries of Denton County Fresh Water Supply District No. 1 (collectively the "Facilities"); and

WHEREAS, part of the Facilities shall include a 1.5 Million Gallon Elevated Water Storage Tank (the "Water Tank") at a cost of \$1,686,000 (the "Purchase Price"), which it is anticipated that District 1-E will be obligated to repay; and

WHEREAS, the Water Tank which will be purchased will be for the benefit of all the residents of the area located within the original boundaries of Denton County Fresh Water Supply District No. 1; and

WHEREAS, the Board of Directors of the Districts deem it to be of mutual economic and utilitarian benefit for District 1-A to acquire from District 1-E that portion of the capacity of the Water Tank benefitting residents and property outside the boundaries of District 1-E; and

WHEREAS, pursuant to the laws of the State of Texas, including particularly, but not by way of limitation, the Interlocal Corporation Act, Article 4413(32c), Vernon's Texas Civil Statutes, as amended, and Section 49.213, Texas Water Code, as amended, the Board of Directors of the

Districts have determined that this Agreement is beneficial and advantageous to their respective Districts;

NOW THEREFORE, for and in consideration of the mutual promises, covenants, benefits and obligations hereinafter set forth, the Districts hereby contract as follows:

ARTICLE 1

ALLOCATION OF EXCESS CAPACITY COSTS AND BENEFITS

Section 1. Based on the ultimate ad valorem values of the Districts and the other districts as they have been estimated on April 18, 2001, by the Districts' engineer, District 1-E estimates that 69.02% of the Water Tank capacity represent benefits which can be sold and District 1-A agrees to pay District 1-E accordingly that portion of the Purchase Price.

ARTICLE 2

PAYMENT

Section 2. District 1-A shall pay, when legally available funds are available for such purposes and in no event later than six (6) years from the date hereof, District 1-E the sum of \$1,175,000 for that portion of the Purchase Price representing Water Tank capacity which benefits residents and property outside District 1-E and in consideration therefor shall own 69.02% of the Water Tank's capacity. District 1-E understands and agrees that District 1-A may also sell such capacity to the other districts based on the allocation of benefits and that immediate payment will be made to District 1-E by District 1-A whenever it receives funds from the other districts for the sale of such capacity.

ARTICLE 3

GENERAL AND MISCELLANEOUS PROVISIONS

Section 3.1 Addresses and Notices. Unless otherwise provided in this Agreement, any notice herein provided or permitted to be given, made or accepted by a District 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 District to be notified, with return receipt requested, or by delivering the same to an officer of such District, or by prepaid telegram, when appropriate addressed to the District to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective from and after the expiration of three (3) days

after it is so deposited. Notice given in any other manner shall be effective only if and when received by the district notified. For the purposes of notice, the addresses of the Districts shall, until changed as hereafter provided, be as shown below. The Districts 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 fifteen (15) days written notice to the other District.

If to District No. 1-A, to:

Denton County Fresh Water Supply District No. 1-A
2501 Queen Margaret Lane
Lewisville, Texas 75056

If to District No. 1-E, to:

c/o Leonard Hurt Frost Lilly & Levin
600 N. Pearl
Suite 900
Dallas, Texas 75201

Section 3.2 Parties in Interest. While the provisions of this Agreement are, in part, intended to establish as between the Districts an acceptable manner of providing water, sanitary sewer and drainage service to the residents of the Districts, this Agreement shall be for the sole and exclusive benefit of the District and shall not be construed to confer any benefit or right upon any other parties.

Section 3.3 Severability. The provisions of this Agreement are severable, and, if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or 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 Agreement and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Agreement to other persons or circumstances shall not be affected thereby.

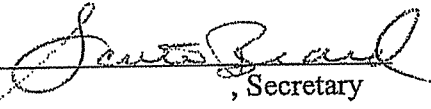
Section 3.4 Amendment. This Agreement shall be subject to change, modification or amendment only by written instrument signed by the Districts.

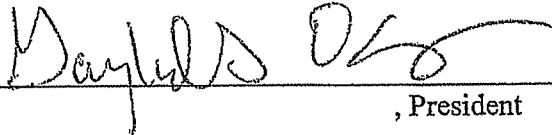
Section 3.5 Cooperation. Each District hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

IN WITNESS WHEREOF, the Districts have executed this Agreement in multiple copies, each of which shall be deemed an original, as of the date and year first written above.

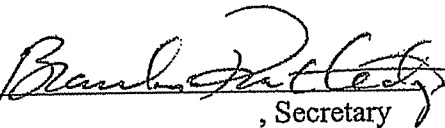
EXECUTED AS OF THIS 18th day of April, 2001.

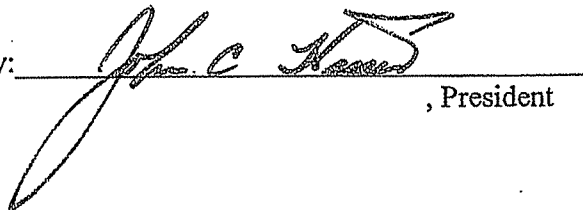
DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO.1-A

By: 
Secretary

By: 
President

DENTON COUNTY FRESH WATER
SUPPLY DISTRICT 1-E

By: 
Secretary

By: 
President

(DISTRICT SEAL)

c:dentona\Excess Capacity Purchase Agreement 1-A - 1-C (water tank) 4.01