

EXCESS CAPACITY PURCHASE AGREEMENT

THE STATE OF TEXAS

§

COUNTY OF DENTON

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THIS EXCESS CAPACITY PURCHASE AGREEMENT (the "Agreement") is made and entered into as of the 25th day of March, 2009, by and between DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-F ("District 1-F") and DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 1-G ("District 1-G"), District 1-F and District 1-G 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 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 their respective boundaries; and

WHEREAS, certain of such facilities have been purchased and constructed with funds which District 1-F is obligated to repay but which, in the opinion of the Districts' engineer, are in excess of that which will be needed by District 1-F; and

WHEREAS, in the opinion of the Districts' engineer such excess capacity will be needed by District 1-G to service the residents of the area located within the boundaries of District 1-G; and

WHEREAS, the Board of Directors of the Districts deem it to be of mutual economic and utilitarian benefit for District 1-F to sell to District 1-G some of the excess capacity purchased and constructed by District 1-F, 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 I

ALLOCATION OF EXCESS CAPACITY COSTS AND BENEFITS

Section 1.01. Drainage Capacity. Based on the respective acres served within the drainage basin, District 1-F estimates that forty percent (40%) of the drainage capacity constructed for the drainage basin north of F.M. 544 between Old Denton Road and S.H. 121 Tollroad represents excess capacity and District 1-G agrees to purchase such from District 1-F.

Section 1.02. Water Meter Facilities. Based on the location of the two Master Water Meters installed pursuant to the Wholesale Water Supply Agreement with the City of Lewisville, one-hundred percent (100%) of the capacity is excess and District 1-G agrees to purchase such from District 1-F.

Section 1.03. Sewer Facilities.

(a) Based on the future development in District 1-G on Tract E1, the conflict that existed on the existing sewer facilities and the requirement of District 1-F to maintain service to the Lewisville Town Crossing development which is in District 1-F, one-hundred percent (100%) of the cost of the relocation of the sewer line to an alignment that follows Windhaven Drive is the burden of District 1-G which agrees to purchase this capacity from District 1-F.

(b) Based on the respective acres served within the drainage basin, District 1-F estimates that fifty percent (50%) of the sewer capacity constructed in the line that extends from Phase V to F.M. 544 which is in District 1-F represents excess capacity and District 1-G agrees to purchase such from District 1-F.

ARTICLE II

PAYMENT

Section 2.01. District 1-G shall pay, when legally available funds are available for such purposes District 1-F the sum of \$665,245 for the excess capacity District 1-G desires to purchase from District 1-F.

ARTICLE III

GENERAL AND MISCELLANEOUS PROVISIONS

Section 3.01. 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-F, to:

Denton County Fresh Water Supply District No. 1-F
2540 King Arthur
Suite 220
Lewisville, Texas 75056

If to District No. 1-G, to:

Denton County Fresh Water Supply District No. 1-G
2540 King Arthur
Suite 220
Lewisville, Texas 75056

Section 3.02. 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 3.03. 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 3.04. 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.

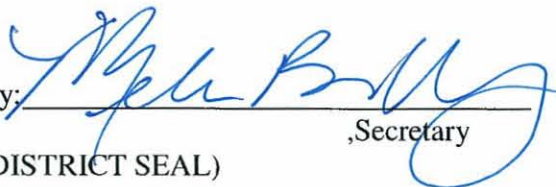
EXECUTED AS OF THIS 25 th day of March, 2009.

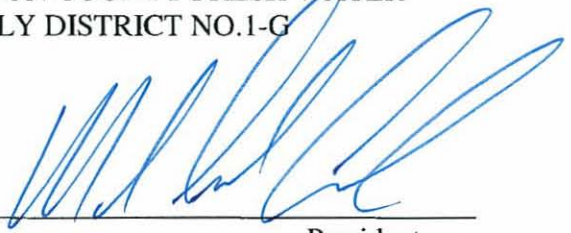
DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO.1-F

By: 
_____, Secretary
(DISTRICT SEAL)

By: 
_____, President

DENTON COUNTY FRESH WATER
SUPPLY DISTRICT NO.1-G

By: 
_____, Secretary
(DISTRICT SEAL)

By: 
_____, President