



2. The CITY hereby agrees that all right, title, and interest in the water rights and facilities being purchased under this agreement and an agreement between the CITY and the Roy Water Conservancy Subdistrict, and particularly Application 35-4640(a42056) and (a14774), and Application 35-5440(a14974), and that certain well and related facilities located N. 1455 ft. and E. 2030 ft. from the SW corner of Section 13, T5N, R2W, SLB&M, shall be conveyed to the STATE by the Roy Water Conservancy Subdistrict. The CITY hereby assigns to the STATE its contractual rights with Roy Water Conservancy Subdistrict until such time as all payment obligations under this agreement are completed.

2a. The CITY further agrees that title to the 2.0 M.G. storage reservoir and appurtenant facilities constructed by the STATE under this agreement shall remain in the STATE throughout the life of this agreement.

3. The CITY agrees to supply the necessary manpower and facilities and agrees to complete the construction of the PROJECT in accordance with plans, specifications, and work items, a copy of which is hereby incorporated by reference and made a part hereof.

4. The STATE agrees to pay to the CITY Eighty Percent (80%) of the total cost of constructing the PROJECT, but in no event shall the amount paid by the STATE exceed One Million Dollars (\$1,000,000.00), and the CITY agrees to pay all costs in excess of the amount paid by the STATE.

5. All payments made by the STATE to the CITY under this agreement shall be made payable to RIVERDALE CITY CORPORATION and mailed to V. Dean Steel, City Administrator, 4600 South Weber River Drive, Riverdale, Utah 84405, Phone: 394-5541, or such person as may hereafter be designated by the CITY. The CITY shall, during the construction period under this agreement, establish in a bank of its choice, a special checking account for the PROJECT, and all monies from any source to be used for payment of obligations towards the construction work shall be deposited in this special account and disbursed by check to meet the obligations of the PROJECT construction. Said account must require all checks be signed by two CITY Officers specified by the Board of Directors of the CITY. All items of labor and equipment shall be fully accounted for, and once each month the CITY shall send to the DIVISION OF WATER RESOURCES a photocopy of each check issued from the said special account during the month. A copy of each Bank statement shall also be provided to the DIVISION OF WATER RESOURCES.

6. It is further agreed that payment of the STATE'S share of the construction costs shall be made periodically to the CITY upon the presentation by the CITY to the STATE of a certified statement of the payment requirement which shall be in the nature of a partial estimate of the work completed to date by the CITY on each work item. The CITY shall withhold Ten Percent (10%) of each payment to the construction contractor until Fifty Percent (50%) of the work has been completed, at which time the remaining partial payments may be made in full, if the work is progressing satisfactorily. Also, whenever the work is substantially complete, the amount withheld may be further reduced. The amounts withheld as set forth hereinabove shall be deposited by the CITY in a separate interest-bearing account, with the interest accruing to the benefit of the contractors and subcontractors on a pro rata basis according to the work performed by each. The withholdings and the interest earned thereon shall become due and payable to the said contractors and subcontractors upon satisfactory completion of the construction work under this agreement, or sub-agreements, and upon final inspection and acceptance of the work by an engineer designated by the STATE.

7. It is further agreed that the CITY shall complete the construction of the PROJECT on or before June 1, 1990, and that title to the entire PROJECT, including all appurtenant facilities and water rights, shall immediately vest in the STATE.

8. The STATE agrees to sell, and the CITY agrees to purchase, the land, water rights, the constructed works, and all appurtenant facilities acquired by the STATE in this agreement and Assignments at a total purchase price defined to be the combined total of all funds paid by the STATE for the design and the construction of the PROJECT, but not to exceed One Million Dollars (\$1,000,000.00), plus all expense incurred by the STATE for the investigation, development, and administration of the PROJECT, plus interest on this total amount at the rate of Five Percent (5.0%). Interest shall accrue on the outstanding balance from the date of the first progress payment by the STATE. The actual cost of investigation, development, and administration shall be determined by the STATE upon completion of the PROJECT.

9. The purchase price, as defined above, shall be payable over a period of approximately thirteen (13) years, in annual installments of One Hundred Five Thousand Dollars (\$105,000.00), or more. The first annual installment of One Hundred Five Thousand Dollars (\$105,000.00), or more, shall become due and payable on the First Day of March 1991, and a like sum, or more, shall be due and payable on the First Day of March of each and every year thereafter until the purchase price, as defined above, shall have been paid in full. The annual installments shall be increased by Seventy-Five Dollars (\$75.00) for each connection to the system in excess of One Thousand Four Hundred Thirty (1,430) connections. Said sums shall be payable at the office of the DIVISION OF WATER RESOURCES. After interest accrued to date has been paid, said annual payments shall be applied first against the indebtedness incurred by the STATE for project investigation, development, and administration until fully paid, and then to principal, and finally to penalties. Delinquent payments shall bear interest at a rate of Eighteen Percent (18%) per annum.

10. During the period of such purchase under this contract, provided the CITY is not delinquent in any manner, the CITY shall have and is hereby given the right to use the STATE's water rights, and all facilities constructed thereunder. During the life of this agreement, the CITY agrees to assume, at the CITY'S expense, the full and complete obligation of maintaining the constructed works, and other facilities, and of protecting all water rights, easements, and rights-of-way from forfeiture, including the payment of any fees or assessments for said water rights, easements or rights-of-way.

11. Notwithstanding any provisions of this Agreement to the contrary, all amounts payable by the City pursuant to this Agreement shall be payable solely from Net Revenues derived from the operation of the Project and remainder of the City's water distribution system, and nothing herein shall be construed to create or constitute a general indebtedness of the City within the meaning of any constitutional or statutory limitations of the State of Utah. For purposes of this Agreement, "System" means the Project and the remainder of the City's water distribution system; "Net Revenues" means, for any period, the Revenues during such period less all expenses which are reasonable and necessary and which under general accounting practices are properly chargeable to maintenance and operation of the System, but excluding

depreciation ("Expenses of Operation and Maintenance"); and "Revenues" means all revenues, income and profits of any kind derived from the operation of the System, including (without limitation) sales of culinary water and the proceeds of any connection charges not applied directly to the payment of the cost of improving or extending the System or of making connections thereto, and all interest earned by and profits derived from the sale of investments made with said revenues. In view of the limited nature of the obligation of the City under this Agreement, the City hereby represents and warrants to, and hereby covenants with, the State as follows:

(a) The rates (including connection fees) for all services supplied by the System to the City and to its inhabitants and to all customers within or without the boundaries of the City shall be sufficient to pay the Expenses of Operation and Maintenance for the System, and to provide Net Revenues for each year of not less than the amount necessary (i) to meet all payment obligations of the City with respect to the City's Water and Sewer Utility and Refunding Revenue Bonds, Series 1985, issued in the original principal amount of \$620,000 (the "Prior Bonds") and (ii) to make all payments required of the City during each year pursuant to the terms of this Agreement. There shall be no free service, and such rates shall be charged against all users of the System, including the City.

(b) The City agrees that it will do all things and exercise all remedies legally available to assure the prompt payment of all charges made for System services, including (without limitation), to the extent permitted by law, the discontinuance of water services to delinquent customers and the prosecution of collection litigation with respect thereto.

(c) The City will maintain the System in good condition and operate the same in an efficient manner.

(d) The State shall have a right, in addition to all other rights afforded it by the laws of the State of Utah, to apply for such decree or order as may be necessary to require the City to charge or collect reasonable rates for services supplied by the System sufficient to meet all requirements hereof.

(e) Proper books of record and account will be kept by the City separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the System. Authorized agent or agents of the State shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect the System. All expenses incurred in compiling the information required by this section shall be regarded and paid as an Expense of Operation and Maintenance.

(f) The City represents and warrants that, with the exception of the pledge of water and sewer revenues with respect to

the Prior Bonds, the City's payment obligations hereunder constitute an irrevocable exclusive first lien upon the Net Revenues. The City further represents and warrants that no events of default with respect to the Prior Bonds have occurred or are presently existing and that the Net Revenues are sufficient to meet all payment obligations of the City with respect to the Prior Bonds and pursuant to this Agreement. The City hereby covenants and agrees that it will not grant or suffer to exist any additional pledge or lien against the Revenues of the System unless the City has first obtained the prior written consent of the State.

(g) The City, in order to assure the efficient management and operation of the System and to assure that the System will be operated on sound business principles, will utilize competent and experienced management for the System, will use its best efforts to see that the System is at all time operated and maintained in first-class repair and condition and in such manner that the operating efficiency thereof shall be of the highest character.

(h) The City covenants that all taxes and assessments or other municipal or governmental charges lawfully levied or assessed upon the System or upon any part thereof or upon any income therefrom will be paid when the same shall become due, that no lien or charge upon the System or any part thereof or upon any Revenues thereof, except for the lien and charge thereon created hereunder, will be created or permitted to be created ranking equally with or prior to the payment obligations to the City hereunder, and that all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System or any part thereof or upon the Revenues thereof will be paid or discharged, or adequate provision will be made for the payment or discharge of such claims and demands within 60 days after the same shall accrue; provided, however, that nothing in this section shall require any such lien or charge to be paid or discharge or provision made therefor so long as the validity of such lien or charge shall be contested in good faith and by appropriate legal proceedings.

(i) The City, in its operation of the System, will carry insurance, including, but not limited to, workmen's compensation insurance and public liability insurance, in such amounts and to such extent as is normally carried by others operating public utilities of the same type. The cost of such insurance shall be considered an Expense of Operation and Maintenance. In the event of loss or damage, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged.

(j) The City covenants that it will not operate or grant a franchise for the operation of any system competing with the System within the boundaries of the City.

(k) The City acknowledges and agrees that, notwithstanding the limited nature of the City's payment obligations under this Agreement, nothing herein shall be construed to empower

the City to demand that title to the well, water rights and facilities described in paragraph 2 of this Agreement be conveyed to the City unless and until the City has paid to the State the full purchase price together with all interest thereon; and the City acknowledges that the State shall be released from all obligations at law or in equity to convey said well, water rights and facilities to the City should the City fail for any reason to pay when due and of the installment payments described in paragraph 9 of this Agreement.

12. The CITY hereby warrants the STATE that the construction of the PROJECT will not interfere with existing water rights. If the PROJECT herein described shall give rise to a claim, or cause of action to any holder of any water rights because of the interference with such rights by the operation of the PROJECT, then the CITY hereby agrees to indemnify the STATE to the extent of such claim or cause of action.

13. In constructing or causing the PROJECT to be constructed, the CITY shall comply with the provisions of the Utah Anti-Discrimination Act of 1965 and hereby agrees as follows:

(a) The CITY will not discriminate against any employee or applicant for employment because of race, color, sex, religion, ancestry, or national origin.

(b) In all solicitations or advertisements for employees, the CITY will state that all qualified applicants will receive consideration without regard to race, color, sex, religion, ancestry or national origin.

(c) The CITY will send to each labor union or workers representative notices to be provided, stating the CITY'S responsibilities under the statute.

(d) The CITY will furnish such information and reports as requested by the Anti-Discrimination Division for the purpose of determining compliance with the statute.

(e) Failure of the CITY to comply with the statute, the rules and regulations promulgated thereunder and this non-discrimination clause shall be deemed a breach of this contract and it shall be cancelled, terminated or suspended in whole or in part.

(f) The CITY will include the provisions of Items (a) through (e) in every subcontract or purchase order (unless exempted under the statute or rules and regulations) so that such provisions will be binding upon such subcontractor or vendor.

14. If either party to the contract violates any of the conditions or covenants made herein, the other may give written notice of such breach or failure, and if the same shall not be cured within Ninety (90) days after such notice, the other may declare the contract forfeited and may proceed to its remedies at law for such breach.

15. The CITY hereby agrees to indemnify and save harmless the STATE and its officers, agents, and employees from any and all liability in connection with this agreement, or development or operation of the PROJECT, including any and all claims for injury or death of persons or animals, or for any property loss or damage that may arise from the construction, maintenance, or operation of the PROJECT.

16. After the CITY shall have paid in full the purchase price, as defined above, the STATE shall execute such deeds and bills of sale as will be necessary to vest title in the CITY to the well, water rights, and facilities obtained from the Roy Water Conservancy Subdistrict specified in paragraph 2 above.

17. This agreement, or any part thereof, or the benefits to be received under this agreement, may not be the subject or any assignment to any person, firm, or corporation, by the said CITY, without first having secured the written consent of the STATE to any such proposed assignment or disposition of this agreement.

18. No covenant or condition of this contract can be waived except by the written consent of the STATE. Forbearance or indulgence by the STATE in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the CITY, and until complete performance by the CITY of said covenant or condition, the STATE shall be entitled to invoke any remedy available to the STATE under this contract or by law or in equity despite said forbearance or indulgence. Receipt by the STATE of a partial payment of any installment due hereunder shall be deemed to be part payment only and notwithstanding any endorsement, the STATE may accept said payment without prejudice to its right to recover the balance.

19. Should any provisions or any part of this agreement be held invalid, illegal, or unenforceable, such determination shall not be deemed to invalidate the agreement as a whole and shall not affect any other provision or part of the same provision which can be given effect without the invalid portion or any part thereof.

20. This agreement shall not become binding upon the STATE until it has been signed by all persons and agencies required by law, and the STATE shall not become liable to the CITY for any commitments made by the CITY until this agreement has been fully executed.

\* \* \* \* \*

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IN WITNESS WHEREOF, the State of Utah, acting through the BOARD OF WATER RESOURCES, has caused these presents to be signed by the Chairman and Director of the said BOARD OF WATER RESOURCES by authority of a resolution of said Board; and the RIVERDALE CITY CORPORATION, has caused these presents to be signed and executed on its behalf by L. Leon Poulsen, its Mayor, and Sally Goodall, its City Recorder, by authority of a resolution of its City Council at a meeting held May 22, 1989.

RIVERDALE CITY CORPORATION

J. Leon Poulsen  
Mayor

Sally Goodall  
City Recorder

87-6000867  
Employer Identification No.



BOARD OF WATER RESOURCES

O. Eugene Johansen  
Chairman

D. Larry Anderson  
Director

AVAILABILITY OF FUNDS:  
Scott A. [Signature]  
Division Budget/Accounting

APPROVED: DEPARTMENT OF FINANCE

[Signature]  
for Director of Finance

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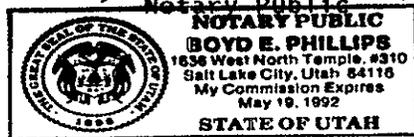
STATE OF UTAH )  
County of Salt Lake )ss

On the 23rd day of June, 1989, personally appeared before me O. Eugene Johansen and D. Larry Anderson, who being duly sworn did say that they are respectively the Chairman and Director of the BOARD OF WATER RESOURCES, and that they signed the foregoing instrument in behalf of the said BOARD by authority of a resolution of said BOARD, and they also acknowledged to me that the said BOARD executed the same.

My Commission Expires: May 19, 1992

[Signature]

STATE OF UTAH )  
County of Weber )ss



On the 30 day of May, 1989, personally appeared before me L. Leon Poulsen and Sally Goodall, who being duly sworn did say that they are respectively the Mayor and City Recorder of the RIVERDALE CITY CORPORATION and that they signed the foregoing instrument in behalf of said Corporation by authority of a resolution of its Stockholders, and they also acknowledged to me that said Corporation executed the same.

My Commission Expires: My Commission Expires Sept. 7, 1991

[Signature]  
Notary Public

CERTIFICATION AND ACKNOWLEDGMENT

STATE OF UTAH )  
 )  
 )  
County of Weber )

Comes now Sally Goodall, who being first duly sworn upon oath deposes and says: That she is the duly qualified Recorder of the RIVERDALE CITY CORPORATION, a corporation organized under the laws of the State of Utah; that on the 22nd day of May, 1989, a meeting of the CITY COUNCIL of the aforesaid corporation was held at Riverdale, Utah, which meeting was held in the manner required by law and after due notice had been given to the aforesaid CITY COUNCIL in the manner prescribed by law; that at such meeting a quorum of the Council was present to legally authorize the aforesaid Council to transact the business for which the aforesaid meeting was held; and that the following resolution was made, seconded, and passed by a legal majority of the Council.

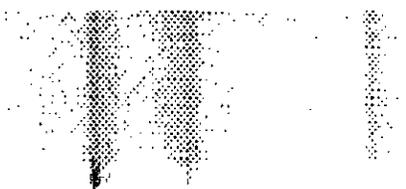
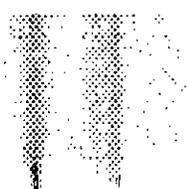
R E S O L U T I O N

IT IS HEREBY RESOLVED that L. Leon Poulsen, Mayor, and Sally Goodall, City Recorder, acting on behalf of the RIVERDALE CITY CORPORATION are hereby authorized to enter into a contract with the State of Utah, acting through the Board of Water Resources, for the construction of a water conservation project consisting of the construction of a 2.0 M.G. culinary water storage reservoir, a pump station, and a 14-inch diameter pipeline and related appurtenances and also the purchase of an existing well, all located in Section 13, T5N, R2W, SLB&M within Riverdale City, and

FURTHER, that the total estimated cost of completing the project will be \$1,250,000, of which amount of the Board of Water Resources will pay 80 percent of the cost of construction but not to exceed \$1,000,000 and all additional costs to complete the project will be paid by the RIVERDALE CITY CORPORATION, and

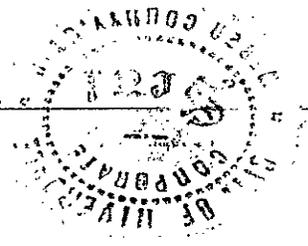
FURTHER, that this corporation, in the event of its default, shall allow the Board of Water Resources to use its complete culinary water distribution system and agree to have Roy Water Conservancy Subdistrict assign to the Board of Water Resources the well and water right, appurtenant to said project on condition that the same be reconveyed to this Riverdale City Corporation upon the payment of the purchase price thereof, such purchase price to be the combined total of all money paid by the Board of Water Resources for the construction of the project, but not to exceed \$1,000,000, plus all expense incurred by the Board of Water Resources for investigation, engineering and inspection in its accomplishment of project, and

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FURTHER, that this corporation shall have full use of such properties and water rights during the life of this contract, provided this corporation is not delinquent in any of its obligations under the contract. We further agree to establish water rates adequate to make purchase payments required under the terms of the aforesaid contract in addition to the costs for operating and maintaining the city's water system.

Sally Goodall  
Riverdale City Recorder



STATE OF UTAH            )  
                                  : ss  
County of Weber        )

On this 30 day of May, 1989, appeared before me Sally Goodall who is personally known to me to be the City Recorder of the RIVERDALE CITY CORPORATION and who did acknowledge to me under oath that She executed the aforesaid document entitled "Certification and Acknowledgment" on behalf of said corporation.

Dean Steel  
NOTARY PUBLIC



My Commission Expires: V. DEAN STEEL, Notary Public  
My Commission Expires Sept. 7, 19