

COPY

WHOLESALE DIVERSION, TREATMENT AND WATER SUPPLY
AGREEMENT BETWEEN RIVER PLACE MUNICIPAL UTILITY DISTRICT
AND THE LOWER COLORADO RIVER AUTHORITY

STATE OF TEXAS §

COUNTY OF TRAVIS §

This Wholesale Diversion, Treatment and Water Supply Contract (this "Agreement") in made and entered into as of this 1st day of May, 2001, by and between River Place Municipal Utility District, a conservation and reclamation district of the State of Texas, established under Article XVI, Section 59 of the Texas Constitution and operating under Chapters 49 and 54 of the Texas Water Code, as amended (the "District") and the Lower Colorado River Authority ("LCRA").

Recitals

- A. WHEREAS, the District and Glenlake Water Supply Corporation ("GWSC") entered into that certain "Wholesale Diversion, Treatment and Water Supply Contract" dated March 31, 2000 (the "Contract") pursuant to which the District agreed to provide wholesale water diversion, treatment, storage and transportation services (collectively "Water Services") to GWSC in a quantity not to exceed 0.69 million gallons per day;
- B. WHEREAS, by Bill Of Sale And Assignment dated October 24, 2000, GWSC conveyed its water system assets to LCRA and in connection therewith, GWSC assigned all of its rights, interest and obligations under the Contract to LCRA;
- C. WHEREAS, MaBe, Inc. ("MaBe") is the owner of that certain real property more particularly described in Exhibit "A" attached hereto which it intends to develop for single family residential purposes. In connection with the development of the real property, MaBe has requested that the District provide additional Water Services to LCRA.

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- D. WHEREAS, Letha Webb and Robert Strobo are the owners of certain individual tracts of land more particularly described in Exhibit "B" attached hereto and have contacted LCRA and/or MaBe concerning the availability of Water Services for such tracts of land. The real property more particularly described in Exhibit "A" and Exhibit "B" attached hereto are hereinafter referred to collectively as the "Property."
- E. WHEREAS, the District and MaBe entered into that certain Agreement Regarding Wholesale Water Service and Donation of Park Funds dated January 22, 2001 (the "MaBe Agreement") pursuant to which the District agreed to provide an additional wholesale water supply to LCRA for the Property upon the satisfaction of certain conditions set forth therein, including the execution of an agreement between the District and LCRA;
- F. WHEREAS, the District and LCRA desire to enter into this agreement in order to set forth the terms and conditions pursuant to which the District shall provide additional Water Services to LCRA for the Property.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants hereinafter set forth, the parties hereto agree and contract as follows:

I.

Water Service

- 1.1 LCRA hereby authorizes the District to divert from Lake Austin water at the raw water intake structure owned and operated by the District in a quantity not less than 0.094 million gallons per day ("MGD") for the Water Services to be furnished hereunder. The parties acknowledge and agree that the water to be furnished by the District to LCRA hereunder shall be in addition to, and not part of, the water diverted by the District under its water supply contract with LCRA.
- 1.2 The District grants to LCRA a right to receive Water Services during the term of this Agreement in a quantity not to exceed 0.094 million gallons per day ("MGD"). The additional Water Services to be provided hereunder shall be delivered by the District to LCRA at the "Point of Delivery," as defined in the Contract.

- 1.3 The District shall have no obligation to provide Water Services to LCRA under this Agreement in a quantity greater than 0.094 MGD. The District, in the exercise of its sole discretion, shall determine whether to provide Water Services in excess of said quantity. The District shall be entitled to install flow restrictor devices or take such other actions as it deems necessary to restrict the quantity of Water Services furnished hereunder to the quantity agreed upon by the parties.
- 1.4 LCRA shall utilize the water furnished by the District hereunder to provide retail water service to the Property in accordance with the terms and limitations of this Agreement and the MaBe Agreement. LCRA shall not provide retail water service with water supplied by the District to any lands other than the Property without the prior written consent of the District. In addition, LCRA shall not provide retail water service to the individual tracts of land owned by Robert Strobo and/or Letha Webb until MaBe assigns a portion of its capacity commitment to such lands in accordance with the terms of the MaBe Agreement.

II.

Payment

- 2.1 The District shall not collect a capital recovery fee or other up-front payment as a condition of provision of the Water Services to LCRA.
- 2.2 Except for capital recovery fees, the District shall collect, and LCRA shall pay, the same rate, fees and charges for Water Services furnished hereunder as Water Services furnished under the Contract in a quantity not more than .69 MGD. In other words, it is specifically acknowledged and agreed by the parties that the .094 MGD of Water Services to be furnished hereunder shall not be considered excess Water Services under Section 3.6 of the Contract for which the District may levy and collect a rate that it determines is appropriate in the exercise of its sole discretion. In the event that the District furnishes Water Services under this Agreement to LCRA in excess of .094 MGD, however, then the District shall be entitled to levy and collect a rate for the excess Water Services in an amount that it determines is appropriate in the exercise of its sole discretion.

III.

Prior Contract

- 3.1 Except as specifically set forth herein, all terms and conditions set forth in the Contract shall apply to the provision of Water Services by the District to LCRA under this Agreement.

3.2 The District shall commence the provision of Water Services to LCRA hereunder upon the satisfaction of the conditions set forth in the MaBe Agreement. By way of example and not in limitation, the District shall commence the provision of Water Services hereunder at such time as all of the following conditions have been satisfied:

- (i) MaBe has paid in full to the District a park donation in a sum equal to Five Hundred Thousand Dollars (\$500,000); and
- (ii) the City of Austin consents to the provision of additional out-of-District wholesale water services by the District to LCRA for the Property.

Upon satisfaction of all conditions, the District shall provide written notice thereof to LCRA. LCRA may thereafter request that the District commence the provision of Water Services, and the District shall commence Water Services promptly in response to LCRA's request.

RIVER PLACE MUNICIPAL UTILITY DISTRICT

By: _____
Name: James F. Casey
Title: President
Date: 5/15/01

LOWER COLORADO RIVER AUTHORITY

Randy Goss
Randy J. Goss, P.E.
Executive Manager, Water and Wastewater
Utilities, WaterCo
Date: 5-8-01



Exhibit "A"

Description of the MaBe Property

AUSTIN SURVEYORS

P.O. BOX 180243
AUSTIN, TEXAS 78718

2105 JUSTIN LANE #103
(512) 454-6605

Attachment to plat 1030P

FIELD NOTES FOR 99.276 ACRES

All that certain tract or parcel of land situated in the James R. Cole Survey No 542 in Travis County, Texas, being a part of a 100 acre tract of land conveyed to Norma Rooke Canfield by deed recorded in Volume 3497, Page 431 of the Deed Records of Travis County, Texas, being also all of a 0.733 acre tract of land conveyed to Norma Rooke Canfield by deed recorded in Volume 8919, Page 757 of the above mentioned Deed Records and being more particularly described by metes and bounds as follows:

BEGINNING at an iron pipe found in the West corner of Lot 101 of Westminster Glen Phase 1-E as recorded in Plat Book 101, Page 389 for the North corner of the above mentioned 100 acre tract and the North corner of this tract

THENCE S 60°01'49" E with the Southwest line of Westminster Glen Phase 1-E
at 231.96 feet pass an iron pin found 0.24 feet left of line for the West corner of Westminster Glen Phase 1-C as recorded in Plat Book 101, Page 383 of the above mentioned Plat Records

at 995.52 feet pass an iron pin found for the South corner of the above mentioned Phase 1-C and the West corner of Westminster Glen Phase 1 as recorded in Plat Book 85, Page 101B of the said Plat Records

at 1484.68 feet pass an iron pin found 0.14 feet left of line for the West corner of House of York Street as set out on the plat of the above mentioned Phase 1

at 2242.19 feet pass an iron pin found 0.04 feet left of line for the West corner of Lot 124 of the said Phase 1

at 2455.36 feet pass an iron pin found for the South corner of Lot 124 of the said Phase 1

at 2747.01 feet pass an iron pin found 0.15 feet left of line for the West corner of Lot 128 of the said Phase 1

and continue for a total of 4147.95 feet to an iron pin found in an angle point of Lot 141 of the said Phase 1, in the West corner of the above mentioned 0.733 acre tract, for an angle point of this tract.

THENCE S 70°49'37" E at 569.30 feet pass an iron pin found in the South corner of Lot 142 and continue for a total of 584.17 feet to an iron pin set on the Northwest line of City Park Road for the East corner of the said 0.733 acre tract and the East corner of this tract.

THENCE S 25°15'20" W with the Northwest line of City Park Road 109.60 feet to an iron pin found in the East corner of the said 100 acre tract and the East corner of Glenlake Phase 1 as recorded in Book 77, Page 233 of the said Plat Records for an angle point of this tract.

EXHIBIT "A"

137668

THENCE S 64°32'44" W with the North line of the above mentioned Glenlake Phase 1 161.59 feet to an iron pin found in an angle point of the said 100 acre tract and the said Glenlake Phase 1 for an angle point of this tract.

THENCE S 72°20'27" W at 150.66 feet pass an iron pin found 0.13 feet right of line for the East corner of Lot 2 and continue for a total of 168.77 feet to an iron pin found in an angle point of Lot 2 of Glenlake Phase 1 and an angle point of the said 100 acre tract for an angle point of this tract.

THENCE S 57°32'30" W 489.35 feet to an iron pipe found in an angle point of Lot 3 of Glenlake Phase 1 and an angle point of the said 100 acre tract for an angle point of this tract.

THENCE N 60°04'39" W 398.94 feet to an iron pin found in an angle point of Lot 4 of Glenlake Phase 1 and an angle point of the said 100 acre tract for an angle point of this tract.

THENCE N 29°39'01" E 483.09 feet to an iron pin found in the East corner of Lot 5 of Glenlake Phase 1 and an angle point of the said 100 acre tract for an angle point of this tract.

THENCE N 64°55'10" W with the Northeast line of Lot 5 17.71 feet to an iron pipe found in the East corner of the Isaiah Kirby Survey No. 811 for an angle point of this tract.

THENCE N 59°53'27" W with the Northeast line of Glenlake Phase 1 1318.65 feet to an iron pin found in the North corner of Lot 15 for an angle point of this tract, from which iron pin an iron pipe found in an old rock mound bears S 84°57' W 5.27 feet.

THENCE S 30°00'04" W with the Northwest line of Glenlake Phase 1 1198.47 feet to an iron pin found on the Northwest line of Lot 20, in the East corner of a 3.258 acre tract of land conveyed to J.K. Fernandez et ux by deed recorded in Volume 11721, Page 1677 of the above mentioned Deed Records, for the South corner of the said 100 acre tract and the South corner of this tract.

THENCE with the Northeast line of the above mentioned 3.258 acre tract and the Southwest line of the said 100 acre tract for the following eight (8) courses:

- (1) N 47°06'40" W 46.92 feet to a 60d nail found in a 14" live oak
- (2) N 38°48'09" W 195.30 feet to a 60d nail found at a fence post.
- (3) N 57°06'35" W 210.51 feet to a 60d nail set in the fence.
- (4) N 54°50'32" W 237.24 feet to a 60d nail found in a 12" cedar
- (5) N 58°59'06" W 50.63 feet to a 60d nail found at a fence post
- (6) N 73°45'37" W 148.21 feet to a 60d nail found in a 16" cedar
- (7) S 66°18'41" W 153.45 feet to a 60d nail found at a fence post
- (8) N 75°42'49" W 83.81 feet to an iron pin found on the Northeast line of Lot 28 of Glenlake Phase 1 for the West corner of the said 3.258 acre tract and an angle point of this tract.

THENCE N 60°26'33" W 29.07 feet to an iron pin found in an angle point of the above mentioned Lot 28 for an angle point of this tract.

THENCE N 59°55'09" W with the Northeast line of Glenlake Phase 1 at 116.84 feet pass an iron pin found 0.38 feet right of line at 117.86 feet pass an iron pin found 1.61 feet right of line at 323.82 feet pass an iron pin found 2.94 feet right of line at 324.54 feet pass an iron pin found 0.65 feet right of line and continue for a total of 519.16 feet to an iron pin set in an angle point of Glenlake Phase 1 for an angle point of this tract.

THENCE N 60°13'34" W with the Northeast line of Glenlake Phase at 57.35 feet pass an iron pin found 0.26 feet right of line for the East corner of Lot 32 and continue for a total of 746.60 feet to an iron pin found on an angle point of Glenlake Phase 1 for an angle point of this tract.

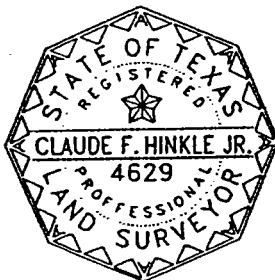
THENCE N 59°37'14" W 71.98 feet to an iron pin found on the South line of Chamisa Drive for the North corner of Lot 35 and an angle point of this tract.

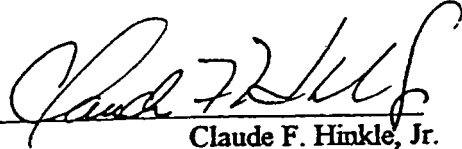
THENCE N 59°57'08" W 25.22 feet to an iron pin found in the South corner of a 0.733 acre tract of land conveyed to J.H. Bogar, Trustee by deed recorded in Volume 8919, Page 767 for the West corner of this tract.

THENCE N 15°43'01" E 518.57 feet to an iron pin found on the Southeast line of Westminster Glen Phase 1-E and the Northwest line of the said 100 acre tract for the North corner of the last mentioned 0.733 acre tract and an angle point of this tract.

THENCE N 29°57'58" E 971.06 feet to the POINT OF BEGINNING containing 99.276 acres of land, more or less.

I, Claude F. Hinkle, Jr., a Registered Professional Land Surveyor, do hereby certify that these field notes were prepared based on an on-the-ground survey made under my supervision during July of 2000 and are correct to the best of my knowledge and belief.




 Claude F. Hinkle, Jr.
 R.P.L.S. No. 4629

27 July 00
 Date 1030.doc

Exhibit "B"

Description of the Strobo and Webb Properties

#22405 v3 RPMUD –LCRA Wholesale Diversion,
Treatment and Water Supply Agreement

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RESOLUTION NO. 010823-63

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Council authorizes the provision of out-of-district water service from River Place Municipal Utility District (MUD) to the Lower Colorado River Authority (LCRA) to provide water service not to exceed 55 Living Unit Equivalents (LUE's) for 106.276 acres of land within the Glenlake and Westminster Glen Subdivisions.

ADOPTED: August 23, 2001

ATTEST:

Shirley A. Brown
Shirley A. Brown
City Clerk