

CAPITAL CONTRIBUTION CONTRACT

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HARRIS §

THIS CAPITAL CONTRIBUTION CONTRACT (the "Contract") is made and entered into as of _____, 2008, by and between the NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY (the "Authority"), a governmental agency and body politic and corporate of the State of Texas organized and operating pursuant to the provisions of Chapter 1029 (H.B. 2965), Acts of the 76th Texas Legislature 1999, amended by Chapter 1296 (H.B. 1110), Acts of the 77th Texas Legislature 2001, amended by Chapter 381 (S.B. 1725) and Chapter 248 (H.B. 1541), Acts of the 78th Texas Legislature 2003 and amended by Senate Bill 331, Acts of the 79th Texas Legislature 2005 (collectively referred to as the "Act"), to accomplish the purposes provided by Section 59, Article XVI, Texas Constitution, and «DISTRICT» (the "District"), a political subdivision of the State of Texas organized under Article 16, Section 59 of the Constitution of the State of Texas, and operating pursuant to Chapters 49 and 54, Texas Water Code, as amended.

WITNESSETH:

WHEREAS, the Authority has been created and organized for the purposes, among others, of reducing groundwater withdrawals by acquiring or developing surface water and groundwater supplies from sources inside or outside the boundaries of the Authority and conserving, storing, transporting, treating, purifying, distributing, selling, and delivering water on a wholesale basis to persons, corporations, municipal corporations, political subdivisions of the state, and others, inside and outside the boundaries of the Authority;

WHEREAS, the District has been created and organized for the purposes, among others, of providing potable water to its customers inside and outside the boundaries of the District;

WHEREAS, the Authority and the District are subject to the 1999 Regulatory Plan (the "Plan") promulgated by the Harris-Galveston Subsidence District (formerly, the Harris-Galveston Coastal Subsidence District) (the "Subsidence District") requiring preparation of a Groundwater Reduction Plan ("GRP") and conversion to surface water pursuant to the Plan in lieu of significant penalties;

WHEREAS, the Authority has prepared a GRP on behalf of the Water Utilities, which was approved by the Subsidence District on June 11, 2003;

WHEREAS, pursuant to Section 4.09 of the Act and in compliance with the GRP, the Authority intends to complete construction of the 2010 Surface Water Distribution and Transmission System and initiate efforts on the 2020 Surface Water Distribution and Transmission System (collectively, the "System"), and as a part of such System, fund 1) System projects not previously funded; 2) payment of final component of capital cost to City of Houston for 31 MGD allocation and increase allocation to 36 MGD; 3) acquisition of water transmission and distribution system easements and property; 4) interests in additional facilities and land; and 5) any other projects related to the business and purposes of the Authority (collectively, the "Projects");

WHEREAS, the Authority intends to issue the Bonds to pay for the Project Costs of the Projects;

WHEREAS, the Authority is permitted by Section 5.05 of the Act to adopt Procedures to provide for cooperative funding of certain capital projects with certain entities;

WHEREAS, the Authority adopted the Procedures on May 5, 2008;

WHEREAS, the District is an Eligible District which is entitled to make a Capital Contribution pursuant to the Procedures; and

WHEREAS, the District delivers this Contract to the Authority to evidence its obligation to make a Capital Contribution provided by the Procedures.

A G R E E M E N T

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by all parties hereto, the parties hereto agree as follows:

I. DEFINITIONS

1.01 Definitions. Each of the terms below shall have the meaning assigned to each term, as follows:

"Act" means Chapter 1029 (H.B. 2965), Acts of the 76th Texas Legislature, 1999, creating the Authority, as amended by Chapter 1296 (H.B. 1110), Acts of the 77th Texas Legislature 2001, amended by Chapter 381 (S.B. 1725) and Chapter 248 (H.B. 1541), Acts of the 78th Texas Legislature 2003 and amended by Senate Bill 331, Acts of the 79th Texas Legislature 2005.

"Bonds" means the Authority's Bond Issue No. 3, Series 2008, in the approximate amount of \$261,665,000, to be issued and delivered in one or more series upon expiration of ninety (90) calendar days following mailing of the Notice Letter, or such later date determined by the Authority, in order to finance Project Costs. The final amount of Bonds issued may be changed by the Authority at any time.

"Capital Contribution" means an amount equal to the amount actually paid to the Authority pursuant to this Contract, provided however, that the Capital Contribution shall not exceed the Maximum Capital Contribution.

"Capital Contribution Credit" means, either (a) an annual amount calculated by the Authority, equal to the Capital Contribution amortized over the life of the Bonds, with a maturity schedule similar to that of the Bonds, and at the true interest cost of the Bonds, as determined by the Authority, to be paid or credited to the District at the times and in the manner determined by Section 3.08 hereof, or (b) in the event (i) the District has delivered the notice permitted by Section 3.13 hereof, and (ii) the District thereafter provides written notice to the Authority to the effect that the District's bond counsel or the Internal Revenue Service has determined that this Contract constitutes "investment property" within the meaning of section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), together with a calculation from the bond counsel or financial advisor of the District stating the Yield on the District Bonds, the Capital Contribution Credit shall thereafter be limited to an amount equal to the lesser of either (x) the amount calculated in subparagraph (a), above, or (y) an annual amount calculated by the Authority equal to the Capital Contribution amortized over the life of the Bonds, at a maturity schedule similar to that of the Bonds, and at the Yield of the District Bonds to be paid or credited to the District at the times and in the manner determined by the Authority pursuant to Section 3.07.

"Capital Contribution Credit Expiration Date" means the date of the last scheduled maturity or sinking fund redemption date of any of the Bonds, as determined by the Authority on the date of issuance of the Bonds, or such earlier Prepayment Date selected by the Authority.

"Contribution Percentage" means the percentage calculated by the Authority and certified by the Authority engineer to be the District's pro-rata share of total groundwater production by all Water Utilities during the calendar year 2007, as specifically shown on **Exhibit "A"**.

"District Bonds" means District Funds obtained as a result of the issuance of tax-exempt bonds by the District.

"District Funds" means cash on hand, proceeds of bond anticipation notes, proceeds of bonds or proceeds of other financing selected by the District pay its Capital Contribution.

"Eligible District" means any district created pursuant to Article 16, Chapter 59, Texas Constitution, which, according to the records of the Authority, was an owner of a Non-Exempt Well during the calendar year 2007, is not delinquent in any payment or reporting obligation to the Authority, and has not entered into a Prior Contract and failed to timely pay the Capital Contribution without written approval of the Authority.

"Intent Resolution" means the resolution adopted by the Board of Directors of the District evidencing the intent of the District to make a Capital Contribution, and delivered to the Authority on or before June 30, 2008.

"Maximum Capital Contribution" means an amount equal to the product of the Project Costs multiplied by the Contribution Percentage of the District, expressed in dollars, determined

by the Authority to be the amount which the District may contribute by becoming a Participating District, as specifically shown on **Exhibit "A"**.

"Non-Exempt Well" has the meaning ascribed to it in the Authority's Order Establishing Well Pumpage Fees and Water Importation Fees for the Fourth Quarter of the 2007 Fiscal Year and the First Through the Third Quarters of 2008 Fiscal Year and Adopting Rules and Regulations Concerning Measuring Well Pumpage and Water Importation and Collecting Fees, approved by the Authority on December 4, 2006.

"Participating District" means any Eligible District which timely delivers an Intent Resolution, a Capital Contribution Contract, and a Capital Contribution, as required by the Procedures.

"Prepayment Date" shall mean the date selected by the Authority for prepayment of the remaining principal of the Capital Contribution in accordance with Section 3.09 of this Contract.

"Prior Contract" means any Capital Contribution Contract between the District and the Authority relating to a previous bond issue of the Authority.

"Procedures" means the steps established by the Authority by resolution dated May 5, 2008 to enable the payment of Capital Contributions by Eligible Districts, as permitted by the Act.

"Project Costs" means the aggregate amount of capital contributions by the Authority for existing facilities or facilities to be constructed by any other entity on behalf of the Authority; the cost of construction, engineering, site acquisition, right-of-way acquisition, construction management, and any other cost related to any facility to be constructed by the Authority; the principal of, interest on and costs associated with any anticipation note issued by the Authority for any such costs; and any other cost reasonably considered Project Costs by the Authority; all of which costs are to be funded by the Authority from the proceeds of the Bonds, in the estimated amount shown on **Exhibit "A"**.

"Pumpage Fee" means the fee levied by the Authority from time to time on the production or importation of water for operations and maintenance and/or debt service, including debt service on the Bonds, and payable by each Water Utility on a periodic basis pursuant to a separate order of the Authority setting such fees.

"Water Utility" means any person or entity which owns a Non-Exempt Well, including any district created pursuant to Article 16, Section 59, Texas Constitution.

"Yield" means, with respect to the District Bonds, yield as calculated as set forth in Section 148(b) of the Internal Revenue Code and in Regulation Section 1.148-4 (with respect to such bonds) and Section 1.148-5 (with respect to investments), as calculated on behalf of the District and certified to the Authority in writing as permitted in the definition of Capital Contribution Credit.

II. REPRESENTATIONS, WARRANTIES AND COVENANTS

2.01 The Authority. The Authority represents and warrants that:

- (a) The Authority intends to issue the Bonds for the purpose of financing the Projects; and
- (b) The Authority shall spend the District's Capital Contribution solely for Project Costs, and for no other purpose.

2.02 The District. The District represents and warrants that:

- (a) The District is an Eligible District; and
- (b) The District has taken and will continue to take all steps required to have District Funds on hand on or before October 1, 2008 in an amount equal to the Capital Contribution.

III. DUTIES AND OBLIGATIONS OF THE PARTIES

3.01 Issuance of Bonds. The Authority shall take any and all steps to issue the Bonds and construct the Projects.

3.02 District Funds. The District shall:

- (a) deliver four (4) fully executed Contracts to the Authority or its counsel on or before July 31, 2008; and
- (b) pay the Capital Contribution in the time and manner required by Section 3.06.

3.03 Changes in Project Costs. In the event the amount of the Project Costs changes for any reason, the Authority shall deliver, within 10 days of such decision, a written notice of the change to the District, which notice shall include a revised description of the Project Costs, the reason for the change, a revised sources and uses of the Authority's Bonds, and a revised **Exhibit "A"**, which shall replace **Exhibit "A"** attached hereto, and shall be effective to change the amount of the District's Capital Contribution in proportion to the change in the amount of Project Costs, without any further action by either party, provided, however, any change which increases the District's Capital Contribution by an amount equal to more than 10% from the original Capital Contribution, based on Project Costs of \$224,500,000, shall entitle the District, by written notice delivered to the Authority within 15 calendar days after receipt of notice of such increase, to make less than the Maximum Capital Contribution pursuant to Section 3.05 of this Contract.

3.04 Election to Not Make Capital Contribution. In the event the District is unable or decides not to make a Capital Contribution, it will immediately notify the Authority in writing. Any failure to notify the Authority of such an event or any such notification received by the Authority after August 20, 2008 shall be considered a default under this Contract, which may

cause the District to not be eligible to make a Capital Contribution in subsequent Authority bond issues. In such event, the Authority shall issue Bonds for Project Costs represented by the amount of the Capital Contribution, and the parties shall have no further obligation to each other with respect to this Contract and the District shall not be entitled to a Capital Contribution Credit. In such event, the District shall pay the Pumpage Fee levied by the Authority without the benefit of a Capital Contribution Credit.

3.05 Election to Make Capital Contribution Less than Maximum. The District shall notify the Authority in writing in the event the District determines to make a Capital Contribution for an amount less than the Maximum Capital Contribution. The District's right to make this election shall cease on August 20, 2008, provided, however, in the event the Authority has delivered a notice pursuant to Section 3.03 hereof, the time for response to such notice under Section 3.03 shall govern.

3.06 Time and Methods of Payment. On or before October 1, 2008, the District shall pay to the Authority an amount equal to the Capital Contribution, by cashier's check delivered to the office of the Authority before 12:00 p.m. on the due date, or by wire transfer on the due date, as follows:

To: North Harris County Regional Water Authority
Tex Pool Account
c/o State Street Bank and Trust Company
Boston, MA
Amount: \$ _____
Attention: Tex Pool #67573774
Location ID: 78661
Pool Number : 449
Account No.: _____
ABA Number: 011000028

3.07 Late Payment. In the event the Capital Contribution is not timely received for any reason, the Authority may, in its sole discretion, return such payment to the District, if received, less any expenses incurred in the return, and may proceed to issue the Bonds of the Authority for Project Costs represented by the delinquent or returned Capital Contribution. Any late payment without prior approval of the Authority shall be considered a default under this Contract, which may cause the District to not be eligible to make a Capital Contribution in subsequent Authority bond issues. Upon return of any Capital Contribution made late, less expenses, the parties shall have no further obligation to each other with respect to this Contract. In such event, the District shall pay the Pumpage Fee levied by the Authority without the benefit of a Capital Contribution Credit.

3.08 Capital Contribution Credit. If the District timely makes a Capital Contribution, the District shall be entitled to the Capital Contribution Credit commencing with the first full quarterly Pumpage Fee payment due after the issuance of the Bonds and terminating with the first Pumpage Fee payment due following the Capital Contribution Credit Expiration Date. After the issuance of the Bonds, the Authority shall calculate and deliver to the District a notice stating the amount of the Capital Contribution Credit. An amount equal to the Capital Contribution

Credit shall be: first, credited against the District's Pumpage Fee, if any; second, credited against any amounts due to the Authority for water purchases or any other reason, and third, paid to the District by the Authority, each in installments as payments are due, not less frequently than annually.

3.09 Prepayment of Capital Contribution Credit. On any date after [**First Optional Redemption Date for Bonds**], the Authority may, but shall not be obligated to, prepay, without premium or penalty, all or any portion of the remaining principal of the Capital Contribution Credit, after thirty (30) days written notice to the District. Interest shall accrue pursuant to this Contract until any Prepayment Date.

3.10 Continuation of Obligations. As a material part of the consideration inducing the Authority to enter into this Contract, the District irrevocably covenants and agrees, that, until the later of (a) the Capital Contribution Credit Expiration Date or (b) the date on which the Authority no longer has any debt outstanding which is supported by a fee, charge or assessment levied by the Authority, including a Pumpage Fee or any maintenance and operating expenses for facilities for delivery of water to customers of the Authority, the District shall remain subject to all orders, rules and regulations of the Authority, including, but not limited to the Authority Order Establishing Well Pumpage Fees and Water Importation Fees, as it may be amended from time to time, and the GRP, as it may be established and amended from time to time. This covenant shall be binding on the District, its successors and assigns.

3.11 Acceleration or Delay in Issuance of the Bonds. The Authority reserves the right to accelerate or delay issuance of all or part of the Bonds and apply the District's Capital Contribution and the Capital Contributions of other Participating Districts to the Project Costs in any order.

3.12 Surplus Capital Contributions. To the extent that the capital costs of the Projects are less than Project Costs, the Authority may, in its sole discretion, select additional capital expenditures to be defined as Project Costs and utilize any remaining Capital Contribution for such items. Under no circumstances shall the Capital Contribution be used for the Authority administrative or maintenance and operations expenses.

3.13 Covenant Related to Tax-Exemption. In the event District Funds used to pay the Capital Contribution consist of proceeds of District Bonds, and the Authority is given written notice of that fact at the time of delivery of the Capital Contribution, the Authority shall not use District Funds in a manner which will adversely affect the treatment of the tax-exempt obligations issued by the District as obligations described in Section 103 of the Code. The parties agree that the Projects are an appropriate expenditure for proceeds of District Bonds, and that the expenditure of such District Funds for the Projects will not adversely affect the treatment of the District Bonds as obligations (as described in Section 103 of the Code, as amended) exempt from federal income taxation.

IV. MISCELLANEOUS PROVISIONS

4.01 Venue. This Contract shall be construed under and in accordance with the laws of the State of Texas. All obligations of the parties created hereunder are performable in Harris

County, Texas. The parties irrevocably agree that any legal proceedings in respect of this Contract or the Property shall be brought in the District Courts of Harris County, Texas or in the United States District Court for the Southern District of Texas, Southern Division.

4.02 Binding Effect. This Contract shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns.

4.03 Severance. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

4.04 Sole Agreement. This Contract constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter hereof and cannot be changed except by their written consent.

4.05 Time of Essence. Time is of the essence with this Contract.

4.06 Construction. The parties hereto acknowledge that the parties and their respective counsel have each reviewed this Contract, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Contract or any amendments or exhibits hereto.

4.07 Holidays. Whenever any determination is to be made or action to be taken on a date specified in this Contract, if such date shall fall upon a Saturday, Sunday or holiday observed by banking institutions in the State of Texas, the date for such determination or action shall be extended to the first business day immediately thereafter.

4.08 Additional Documents. Each party will, whenever and as often as it shall be requested so to do by the other, cause to be executed, acknowledged or delivered any and all such further instruments, documents and information as may be necessary or proper, in the reasonable opinion of the requesting party, in order to carry out the intent and purpose of this Contract.

4.09 Notice. All written notices required or permitted to be given under this Contract from one party to the other shall be deemed given by the deposit in a United States Postal Service mailbox or receptacle of certified or registered mail, with proper postage affixed thereto, addressed to the respective other party at the address set forth below or at such other address as the parties respectively shall designate by written notice. Written notice to the addressees below if by delivery shall be deemed given upon delivery and if by facsimile, delivery shall be deemed given upon confirmation of transmission to the facsimile numbers below, followed by delivery by any other permitted method.

To the Authority: North Harris County Regional Water Authority
c/o General Manager
3648 FM 1960 West, Suite 110
Houston, Texas 77068
Tel.: (281) 440-3924
Fax: (281) 440-4104

with a copy to: Ms. Robin S. Bobbitt
Johnson Radcliffe Petrov & Bobbitt PLLC
1001 McKinney, Suite 1000
Houston, Texas 77002-6424
Tel.: (713) 237-1221
Fax: (713) 237-1313

To the District: «District»
c/o «AFirst_Name» «ALast_Name»
«AFirm»
«AAddress»
«ACity», «AState» «AZip»
«APhone»
«AFax»

4.10 Multiple Counterparts. This Contract may be executed in multiple counterparts, and all the counterparts taken together shall constitute a valid and binding whole.

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IN WITNESS WHEREOF, this Contract has been executed in multiple counterparts, each of equal dignity, as of the date and year first above written.

NORTH HARRIS COUNTY REGIONAL
WATER AUTHORITY

By: _____
President, Board of Directors

ATTEST:

By: _____
Secretary, Board of Directors

(AUTHORITY SEAL)

«DISTRICT»
(the "District")

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Secretary

(DISTRICT SEAL)

