

**CONTRACT FOR FINANCING AND OPERATION OF LAKE MCQUEENEY DAM AND
HYDROELECTRIC FACILITIES**

STATE OF TEXAS §

COUNTY OF GUADALUPE §

This Contract for Financing and Operation of Lake McQueeney Dam and Hydroelectric Facilities (this "Contract") by and between **Lake McQueeney Water Control and Improvement District No. 1**, a conservation and reclamation district of the State of Texas organized and operating as a water control and improvement district under Chapters 49 and 51 of the Texas Water Code (the "WCID") and **Guadalupe-Blanco River Authority**, a conservation and reclamation district and political subdivision of the State of Texas organized and operating by special act of the Texas Legislature ("GBRA") is made and entered into effective as of the last date of execution below (the "Effective Date"). The WCID and GBRA are individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, pursuant to Article XVI, Section 59, Texas Constitution and GBRA's statutory authority, including its enabling legislation, Act of October 12, 1933, ch. 7, 43rd Leg., 1st C.S., 1933 General & Special Laws of Texas 198, as amended (V.C.S. art. 8280-106), GBRA owns and operates multiple dam and hydroelectric facilities along the Guadalupe River within the State of Texas;

WHEREAS, pursuant to Article XVI, Section 59, Texas Constitution and Chapter 51, Texas Water Code, the WCID is authorized to finance, build, construct, improve, reconstruct, replace, repair and maintain dams, structures, facilities and equipment in aid thereof, in order to store and preserve the waters within Lake McQueeney;

WHEREAS, the spill gates on the Lake McQueeney Dam are beyond their useful lives and failure is threatened unless the gates are replaced;

WHEREAS, based on analyses conducted by the Parties and their respective professionals, including engineering professionals, replacing the existing spill gates with hydraulic crest spill gates, installing a dewatering system, and armoring and reinforcing the existing dam structure, among other repairs and modifications, will address the known structural safety concerns, maximize capability for the Project to generate revenue from sales of power from the Hydroelectric Facilities, and allow for the safe and cost-efficient operation of the Project, among other things;

WHEREAS, GBRA has informed the WCID that GBRA cannot pay for such repairs, rehabilitations, and improvements at Lake McQueeney, or any future Capital Repairs and Replacements that are necessary or may become necessary at Lake McQueeney;

WHEREAS, GBRA and the WCID desire to contract for the funding, repair, replacement, rehabilitation, improvement and operation of the Lake McQueeney Dam and Hydroelectric Facilities and related improvements in order to better assure the long-term existence of Lake McQueeney;

WHEREAS, GBRA has agreed to provide gross hydroelectric revenues to the WCID from sales of electricity generated at the Hydroelectric Facilities at Lake McQueeney Dam as provided in this Contract;

WHEREAS, GBRA will initiate and fund the necessary preliminary engineering studies to determine the nature of the dam improvements required to be constructed in order to replace some of the existing dam facilities at Lake McQueeney, and has agreed to construct such improvements and thereafter own, operate and maintain such facilities, all in accordance with the terms and conditions of this Contract;

WHEREAS, the Parties have agreed that the WCID will fund improvements and operations, with the contribution of available hydroelectric revenues from GBRA and other revenue contributions that the WCID may secure, and the parties have agreed that the WCID will have input and participation in the activities under the Contract as specifically described herein; and

WHEREAS, GBRA and the WCID are authorized to enter into this Contract pursuant to the provisions of Texas law, including Chapters 49 and 51 of the Texas Water Code, Chapter 791 of the Texas Government Code, and VCS Art. 8280-106.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I RECITALS AND DEFINITIONS

Section. 1.1. **Recitals.** The Parties agree that the recitals above, including defined terms, are incorporated herein by reference for all purposes as if copied verbatim.

Section. 1.2. **Definitions.**

- A. **"Annual GBRA Payment"** means the aggregate of twelve (12) monthly payments to be made by GBRA to the WCID in accordance with the terms of Article V of this Contract.
- B. **"Annual Payment Period"** means GBRA's Fiscal Year.
- C. **"Annual Requirement"** means the total amount required to be paid by the WCID to GBRA during an Annual Payment Period, which shall be equal to the sum of the: (i) Debt Service Requirement; (ii) Operation and Maintenance Requirement; (iii) Budgeted CRR Requirement; (iv) Non-Budgeted CRR Requirement; and (v) Repayment Requirement.
- D. **"Annual WCID Payment"** means the amount of money to be paid by the WCID to GBRA during each Annual Payment Period, which shall be an amount equal to the Annual Requirement.
- E. **"Authorized Investments"** means all investments which the WCID and GBRA are authorized to make by the laws of the State of Texas currently existing and as may exist during the term of this Contract.
- F. **"Bond Resolution"** means any resolution or other financing documents of GBRA which authorizes any Bonds.
- G. **"Bonds"** means all bonds, loans, notes, or other debt obligations payable from and secured, in whole or in part, from the WCID payments to GBRA under this Contract, and the interest thereon, hereafter approved by the WCID and issued in one or more series by GBRA, each

as provided herein, to finance the costs to acquire, construct, expand, renovate, improve, and equip the Project, and/or all bonds, notes, or other obligations issued subsequently to finance costs to improve and equip the Project, and any bonds or other obligations issued to refund the foregoing. For the avoidance of doubt, any bonds or other evidences of indebtedness issued or incurred by GBRA unrelated to the Project, not approved by the WCID as provided in Section 3.3(C), or related to the Project but in excess of the Maximum Principal Amount, shall not qualify as Bonds for purposes of this Contract.

- H. "Budgeted CRR Costs" means the costs incurred in any GBRA Fiscal Year related to planned and budgeted projects to repair, modernize, improve or upgrade the Project subsequent to the completion of the Initial Improvements. Budgeted CRR Costs shall not be duplicated or otherwise included within Operation and Maintenance Expenses.
- I. "Budgeted CRR Costs Requirement" or "Budgeted CRR Requirement" means the Annual Requirement component required to be paid by the WCID to GBRA during an Annual Payment Period and which relates to Budgeted CRR Costs.
- J. "Capital Costs" means the costs attributable to the planning, design, acquisition, construction, construction management, extension, enlargement, improvement, renovation, equipment, repair or replacement of the Project, and all additional costs approved by the WCID to be included within the Project and funded with proceeds of Bonds.
- K. "Capital Projects Fund" means the separate and distinct fund to be created by GBRA with proceeds of Bonds and used for payment of the Project Capital Costs.
- L. "Code" means the U.S. Internal Revenue Code of 1986, as amended.
- M. "Commission" or "TCEO" means the Texas Commission on Environmental Quality or any successor entity thereto.
- N. "Contract" means this Contract for Financing and Operation of Lake McQueeney Dam and Hydroelectric Facilities, as initially executed and as it may be amended from time to time.
- O. "Credit Agreement" means any credit agreement, as defined in and authorized by the provisions of Chapter 1371, as amended, Texas Government Code which GBRA enters into relating to its obligations with respect to the Bonds.
- P. "CRR" or "Capital Repair and Replacement" means capital repair and replacement and is any individual repair or replacement of the Project, or any combination of repairs or replacements resulting from the occurrence of the same event, the cost of which exceeds \$50,000.
- Q. "CRR Contribution" means the Excess Hydro Revenues up to \$100,000 per Fiscal Year to be deposited by the WCID into the CRR Fund for purposes of funding Budgeted CRR Costs and Non-Budgeted CRR Costs for the Project, including repayment of any GBRA CRR Payment plus accrued interest thereon. The Parties may mutually agree in writing to modify the CRR Contribution from time to time.

- R. “CRR Fund” means the separate and distinct fund to be created by the WCID for deposit of certain Excess Hydro Revenues for purposes of funding Non-Budgeted CRR Costs, the reimbursement of GBRA CRR Payments, if any, and Budgeted CRR Costs as authorized in Section 5.6(B).
- S. “Dam Facilities” means the existing Lake McQueeney dam including all related appurtenances, sites, rights-of-way, easements, and all enlargements, extensions, or improvements thereto together with (1) the Initial Improvements to be constructed by GBRA to repair, restore and improve the dam, and (2) other future improvements, repairs, extensions and restorations thereto deemed necessary and appropriate by GBRA, and approved by the WCID, to maintain the proper operation of the Lake McQueeney dam and water levels within Lake McQueeney, as more particularly described in Exhibit “A.”
- T. “Debt Service Costs” means the costs incurred in any GBRA Fiscal Year related to (a) the principal, interest and redemption requirements of Bonds issued in accordance with the provisions of Article III, and (b) all amounts required to establish, replenish and maintain funds established under the resolution(s) or indenture(s) of trust authorizing the issuance of the Bonds.
- U. “Debt Service Fund” means the separate and distinct fund or funds to be created by GBRA into which all funds received from the WCID for Debt Service Requirement shall be deposited.
- V. “Debt Service Requirement” means the Annual Requirement component required to be paid by the WCID to GBRA during an Annual Payment Period and which relates to Debt Service Costs.
- W. “EMMA” means the MSRB’s Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.
- X. “Excess Hydro Revenues” means Hydro Revenues in excess of \$430,000 that are collected by GBRA and remitted to the WCID during the then current GBRA Fiscal Year.
- Y. “Fiscal Year” means GBRA’s fiscal year, which currently begins on September 1 of each year and ends on August 31 of the following year, as it may be changed from time to time by GBRA with notice to the WCID.
- Z. “GBRA Board” means the governing body of GBRA.
- AA. “GBRA CRR Payment” shall have the meaning set forth in Section 7.2(A)(ii) of this Contract.
- BB. “GBRA DS Payment” shall have the meaning set forth in Section 5.2(A) of this Contract.
- CC. “GBRA Minimum Payment” shall have the meaning set forth in Section 5.2(A) of this Contract.
- DD. “Hydro Facilities” or “Hydroelectric Facilities” means those certain hydro-electric facilities owned by GBRA and being more particularly described in Exhibit “A” attached hereto, together with all improvements, additions and replacements thereto.

- EE. "Hydro Fund" shall have the meaning set forth in Section 5.5(ii) of this Contract.
- FF. "Hydro Revenues" means all income, receipts and revenues of every nature derived or received from the operation and ownership of the Lake McQueeney Hydro Facilities, as more particularly described in Exhibit "B" attached hereto.
- GG. "Hydroelectric Sales Agreement" means an agreement between GBRA and a public or private entity for the sale to such entity by GBRA of electricity generated by the Hydro Facilities on commercially reasonable terms acceptable to GBRA and the WCID.
- HH. "Initial Annual Payment Period" means the Annual Payment Period in which any Debt Service Costs are first incurred pursuant to an approved Bond Resolution funding the Initial Dam Facilities Improvements.
- II. "Initial Dam Facilities Improvements" or "Initial Improvements" means the improvements that GBRA and the WCID agree shall be constructed as soon as practicable after satisfaction of all conditions listed in Section 2.2(E). Such improvements shall be described in the McQueeney Engineering Documents and include, but not be limited to, replacement of the current Lake McQueeney Dam spill gates with hydraulic crest spill gates, a dewatering system, dam armoring, and all other attendant improvements needed to effectuate the above listed items.
- JJ. "Major Project" means any repair, replacement, renovation, improvement, enlargement, change order, or extension of the Project to be funded, directly or indirectly, by the WCID for which engineers are used to develop plans and specifications or the project requires GBRA to publicly solicit bids.
- KK. "Maximum Principal Amount" means the maximum principal amount of the Bonds authorized to be issued pursuant to this Contract, which shall be \$40,000,000. Refunding Bonds shall not be considered in the calculation of the Maximum Principal Amount.
- LL. "McQueeney Engineering Documents" means the engineering plans, specifications and bid documents to be prepared by GBRA for the Initial Improvements to the Dam Facilities.
- MM. "MSRB" means the Municipal Securities Rulemaking Board and any successor to its duties.
- NN. "Non-Budgeted CRR Costs" means the costs incurred in any GBRA Fiscal Year related to unplanned and non-budgeted projects to repair the Project subsequent to the completion of the Initial Improvements. Non-Budgeted CRR Costs shall not be duplicated or otherwise included within Operation and Maintenance Expenses.
- OO. "Non-Budgeted CRR Requirement" means the Annual Requirement component to be paid by the WCID to GBRA during an Annual Payment Period and which relates to reimbursing prior year's Non-Budgeted CRR Costs (including any GBRA CRR Payment, plus accrued interest thereon), but which amount shall not exceed the balance of the CRR Fund without the WCID's prior approval.
- PP. "Operation and Maintenance Expenses" means all costs and expenses (excluding depreciation) incurred in any GBRA Fiscal Year related to the operation and maintenance of the Project, including repairs and replacements which are not paid from the CRR Fund, a special fund created in a Bond Resolution, proceeds of Bonds, or other Project debt

instruments; employee salaries; benefits and similar expenses; the cost of utilities; the costs of supervision; engineering; accounting; auditing; legal services; insurance premiums; supplies; rates by GBRA for administrative and general expenses, as approved by GBRA's Board; and equipment necessary for proper operation and maintenance of the Project; provided, however, any individual repair or replacement of the Project, or any combination of repairs or replacements resulting from the occurrence of the same event, the cost of which exceeds \$50,000, shall qualify as Capital Repair and Replacement Costs, and not Operation and Maintenance Expenses, for purposes of this Contract. Administrative and general expenses shall be allocated on a non-discriminatory basis in accordance with the allocation methodology in use for GBRA's water and sewer utility customers and shall be consistently applied to the WCID. For the avoidance of doubt, Operation and Maintenance Expenses include the charges of the bank or banks where the Bonds are payable as well as Paying Agent and Registrar fees incurred on the Bonds.

- QQ. "Operation and Maintenance Requirement" means the Annual Requirement component required to be paid by the WCID to GBRA during an Annual Payment Period and which relates to Operation and Maintenance Expenses.
- RR. "Operational Limitations" means any limitations on the actions to be performed by GBRA pursuant to this Contract, which limitations arise from and relate to or are imposed by (i) the condition or capacity of the Project or (ii) the flow of water through the Project.
- SS. "Person" means any individual, public or private corporation, district, authority, political subdivision or other agency or entity of the State of Texas or the United States of America; the State of Texas; the United States of America; any incorporated city, town or village, whether operating under general law or under its home-rule charter; and any co-partnership, association, firm, trust, estate or any other entity whatsoever.
- TT. "Project" means the Dam Facilities and the Hydro Facilities, collectively.
- UU. "Regulatory Requirements" means the requirements and provisions of any state or federal law, and any permits, rules, orders or regulations issued or adopted from time to time by any state, federal or other regulatory authority having jurisdiction concerning the Project, including jurisdiction obtained by virtue of the acceptance of grants by GBRA.
- VV. "Repayment Requirement" means the Annual Requirement component, if any, required to be paid by the WCID to GBRA during an Annual Payment Period and which relates to reimbursing any GBRA DS Payment, plus accrued interest thereon.
- WW. "Rule" has the meaning set forth in Section 3.7.
- XX. "Sale and Offering Documents" means any official notice of sale, official bid form, preliminary official statement, official statement, application to the Texas Water Development Board, or other offering document for the Bonds.
- YY. "WCID" means the Lake McQueeney Water Control and Improvement District No. 1 and includes any other municipal corporation, public body or other public agency at any time succeeding to the property and principal rights, powers and obligations of the Lake McQueeney Water Control and Improvement District No. 1 and, where appropriate, means the Board of Directors or governing body of the Lake McQueeney Water Control and

Improvement District No. 1 or any successor municipal corporation, public body or public agency.

ZZ. "WCID Representative" means the person appointed by the WCID from time to time, to take the actions or provide the approvals called for in this Contract.

Section. 1.3. **Interpretation and Rules of Construction.**

A. This Contract and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Contract. The Parties agree that this Contract shall not be construed in favor of or against either Party on the basis that the Party did or did not author the Contract. Nothing in this Contract shall be construed to violate any state or federal statutory provision or any provision of the state or federal Constitutions, and all acts done pursuant to this Contract shall be performed in such manner as to conform thereto whether expressly provided or not.

B. As used in this Contract unless otherwise stated, (i) the words "hereof," "herein," "hereto," "hereunder" and "herewith" and words of similar import shall, unless otherwise stated, refer to this Contract as a whole and not to any particular provision of this Contract, (ii) the word "including," and words of similar import, shall mean "including, but not limited to" and "including, without limitation," (iii) the word "will" shall be construed to have the same meaning and effect as the word "shall," (iv) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if," (v) any noun or pronoun shall be deemed to cover all genders, (vi) references to a Person are also to its permitted successors and assigns, (vii) the words "writing," "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form and (viii) the word "day" means calendar day unless business day is expressly specified and all references herein to any period of days shall mean the relevant number of calendar days unless otherwise specified. If any action under this Contract is required to be done or taken on a day that is not a business day, then such action shall be required to be done or taken not on such day but on the first succeeding business day thereafter.

ARTICLE II
CONSTRUCTION OF INITIAL DAM FACILITIES IMPROVEMENTS AND MAJOR PROJECTS

Section. 2.1. **General Statement.** Subject to the terms and conditions of this Contract, GBRA shall acquire, construct and improve various facilities in order to better assure the long-term operability and existence of the Dam Facilities and water levels within Lake McQueeney. GBRA agrees that the acquisition and construction of the Initial Dam Facilities Improvements will be accomplished in accordance with generally accepted engineering practices and, subject to the issuance of Bonds to provide part or all of the source of funds, will be completed and operational as soon as reasonably practicable.

Section. 2.2. **Design and Construction of Initial Dam Facilities Improvements.**

A. **Plans and Specifications.** GBRA shall cause its engineers, including any third-party engineers it has engaged, to prepare plans and specifications for the Initial Improvements and GBRA shall retain ultimate discretion to determine the final design of such Initial Improvements, subject to the WCID's participation as provided in Section 2.3. GBRA shall be responsible for funding all costs and expenses associated with the preparation of

such plans and specifications until November 3, 2020. Thereafter, if the WCID is confirmed at an election within the boundaries of the WCID and this Contract for financing the Initial Improvements is approved by election during November 2020, or within the timeframe provided in Section 4.1 below, GBRA will then continue the engineering, planning and design and preparation of bid documents for the Initial Improvements and the funding thereof until such time as Bonds are issued. Upon the issuance of any Bonds to fund the Initial Improvements, GBRA may recover its previously incurred and unreimbursed actual third-party engineering, planning and design costs for the Initial Improvements by including such GBRA costs in the principal amount of the Bonds issued. Thereafter, GBRA shall be unconditionally obligated to reimburse the WCID each year for any Debt Service Requirement associated with such Initial Improvements engineering, planning and design costs. One-twelfth (1/12) of such allocated portion of the Debt Service Requirement shall be paid to the WCID by GBRA monthly so long as the Bonds for the Initial Improvements or any refunding bonds issued to refinance the Bonds for Initial Improvements remain outstanding.

- B. Construction. Upon satisfaction of all conditions precedent set forth herein, GBRA shall follow all legal requirements applicable to the advertisement, bidding and award of one or more contracts for construction of the Initial Improvements. If after receiving bids or proposals GBRA is satisfied with the bids or proposals received, and subject to the WCID's participation described in Section 2.3, GBRA shall award a contract for construction of the Initial Improvements, and shall then proceed with such construction with diligence following the sale of the Bonds and the receipt of sufficient funds to pay the estimated Capital Costs of the Initial Improvements. If GBRA is not satisfied with the bids or proposals received, it shall promptly solicit and secure other bids or proposals. In the event the bids would result in the need for proceeds of the Bonds in excess of the Maximum Principal Amount, the Parties will use good faith efforts to redesign the Initial Improvements in a manner to reduce the overall cost and re-bid the Initial Improvements.
- C. Inspections. GBRA shall allow the WCID's named representatives, at their own risk and only after prior notice to GBRA, to have access at all reasonable times to construction in progress of the Initial Improvements and to make such inspections as may be deemed necessary or desirable by the WCID. All representatives conducting inspections shall agree to follow applicable safety regulations at any construction site inspected under this Contract. The WCID shall also have all reasonable access to GBRA's contracts, books, records and other documents relating to the construction of the Initial Improvements.
- D. Regulatory Permits and Approvals. GBRA shall prepare and prosecute all applications and take such lawful actions as may be necessary to obtain permits and approvals required to proceed with construction of the Initial Improvements. Subject to Section 2.2(E), GBRA shall fund all costs and expenses associated with such regulatory permits and approvals, and the WCID shall not pay any costs or expenses associated therewith.
- E. Conditions Precedent to Construction. GBRA shall initiate construction of the Initial Improvements upon satisfaction of the following conditions precedent:
- (i) Availability of sufficient Bond proceeds to fund Capital Costs;
 - (ii) Approval of this Contract by TCEQ, if TCEQ approval is required by TCEQ regulation or other applicable law;

- (iii) Approval of this Contract by the eligible voters within the WCID in accordance with the requirements of Section 49.108 of the Texas Water Code;
- (iv) Receipt of all permits and approvals required to initiate construction of the Initial Improvements under applicable Regulatory Requirements; and
- (v) Execution of a Hydroelectric Sales Agreement.

Section. 2.3. Participation by the WCID in Initial Dam Facilities Improvements and Major Projects. In order to better assure the safety and security of the Project and personnel on Project grounds, the WCID shall provide GBRA written notification of the names of, and contact information for, all WCID representatives to whom GBRA is authorized to provide Project access and information. The WCID may update such listing of names at any time and from time to time. Initial notifications and updates shall be provided to GBRA in accordance with Section 10.7 hereof. Thereafter, in recognition of the WCID's role and funding of the Project, GBRA shall provide for the following minimum WCID participation in the Initial Dam Facilities Improvements and any subsequent Major Project to the extent applicable:

- (i) GBRA shall provide updates to the WCID on project design on a periodic basis for review and comment, not less than at 30% final plans, 60% final plans, 90% final plans, and completed final plans, construction contract and the completed bid documents for solicitation of public bids. To the extent the WCID intends to provide comments to GBRA, it shall deliver such comments to GBRA within thirty (30) days of receipt of such design update. GBRA and the WCID shall work together to determine reasonable bid alternatives to be included in the bid documents, such as, (1) the cost and practicability of expediting the Project or decreasing the time the Lake McQueeney water level is lowered; (2) the cost of additional measures needed for producing hydroelectric revenue during Project construction; (3) the cost of extending warranty periods; and (4) any other bid alternatives identified by the Parties during the design and bid process for the Initial Dam Facilities and Major Projects.
- (ii) GBRA shall provide a preliminary engineering cost estimate to the WCID for review and comment prior to advertising for bids. The WCID agrees to provide any comments to GBRA within a reasonable time after receiving the preliminary engineering cost estimate.
- (iii) GBRA shall provide reasonable prior notice of, and allow the WCID's named representatives to participate in, meetings relating to the review and evaluation of proposals and bids received from contractors including scoring meetings, contractor interviews, and other meetings regarding the selection of contractors.
- (iv) GBRA shall provide reasonable prior notice of, and allow the WCID's named representatives to participate in, the meetings to develop mutually acceptable scoring criteria and bid alternatives to be included in the bid documents.
- (v) GBRA shall provide reasonable prior notice of, and allow the WCID's named representatives to participate in, the review meetings with the Initial Improvements design engineers and engineers engaged for any Major Project.

- (vi) GBRA shall provide reasonable prior notice of, and allow the WCID's named representatives to participate in, scheduled meetings with contractors prior to and during construction.
- (vii) GBRA shall schedule and conduct review meetings with the WCID's named representatives on a regular basis but not less than monthly until construction is complete and the Initial Improvements or the Major Project is in operation. Such meetings shall include review of actual costs compared to budget, design and construction status, design modifications/change order review, key project issues, permitting status, historical and projected operating costs, Gantt chart review and safety.
- (viii) Upon prior notice to GBRA, the WCID's named representatives shall have reasonable access to copies of all Initial Improvements or Major Project design documents, construction documents, all correspondence with design engineers and contractors whether complete or in draft process.

Section. 2.4. **Ownership of Dam Facilities.** GBRA shall be the owner of the Dam Facilities including all related appurtenances, sites, rights-of-way, easements and all enlargements, extensions or improvements thereto. Notwithstanding the foregoing, to the extent that it is determined that the WCID must have an ownership interest or contract rights in the Initial Improvements in order to lawfully fund any payments for which it is responsible hereunder, GBRA agrees to convey to the WCID such undivided ownership interest or contract rights in the facilities constructed. Any such conveyance shall not alter GBRA's right and authority to operate and maintain the Dam Facilities in its sole and absolute discretion within the limits of this Contract and subject to the terms of Article VII of this Contract. At such time as (i) the WCID measures required to be adopted by the voters of the WCID fail to pass within the timeframe allowed hereunder or (ii) this Contract terminates pursuant to Sections 10.1 or 10.2, whichever occurs earliest, any undivided ownership interest or contract rights in the Initial Improvements that GBRA previously conveyed to the WCID under this Section 2.4, shall automatically revert to GBRA in all respects. The WCID agrees to execute and deliver to GBRA an instrument reflecting such reversion if GBRA determines it needs to retain an instrument for its records or if GBRA determines it needs to file such an instrument in the public records as proof of the reversion.

ARTICLE III ISSUANCE OF BONDS BY GBRA

Section. 3.1. **General Statement.** Subject to the terms and provisions of this Contract, GBRA will provide and pay for the costs of the Initial Dam Facilities Improvements through the issuance of Bonds.

Section. 3.2. **Authority to Issue Bonds.**

- A. GBRA shall have the power, with prior approval of the WCID, to issue from time to time Bonds (subject to obtaining the opinion of the Attorney General approving such bonds), payable from and secured by a pledge of the Debt Service Requirement component of the Annual WCID Payments from this Contract. The Bonds shall be issued in such amount as the GBRA Board determines to be necessary or desirable, but not to exceed the Maximum Principal Amount, to obtain funds:
 - (i) To pay all Capital Costs;

- (ii) To pay all capitalized interest costs on the Bonds;
 - (iii) To provide such reserve or contingency funds as the GBRA Board, in its judgement, deems necessary and as reasonably acceptable to the WCID; and
 - (iv) To pay all costs incurred in connection with the issuance of the Bonds.
- B. The par amount of the Bonds shall not exceed the Maximum Principal Amount. This limitation that the Bonds shall not exceed the Maximum Principal Amount shall not be construed to prevent or impair GBRA's authority to issue other bonds or evidences of indebtedness to fund costs of the Initial Improvements or other Project components and GBRA shall retain full authority to incur such indebtedness, but the WCID shall have no obligation to pay any debt service costs on such other bonds or evidences of indebtedness. The Parties acknowledge and agree that GBRA's ability to issue other bonds or evidences of indebtedness is discretionary and GBRA is not obligated to incur Capital Costs that exceed the available Bond proceeds.
- C. From time to time the Parties may also agree to issue Bonds to fund Budgeted or Non-Budgeted CRR Costs when such costs exceed annual funds budgeted therefor, or if such costs exceed the available balance in the CRR Fund or the Hydro Fund. However, if the Parties elect not to issue Bonds and do not otherwise reach agreement concerning the payment of such costs, then GBRA shall be under no obligation to perform the associated improvements, repair or replacement under this Contract for so long as such improvements, repair or replacement remains unfunded. Further, as stated in Section 5.2(E), if the nonperformance of such repair or replacement reduces the Hydro Revenues received by GBRA, GBRA shall continue to remit all Hydro Revenues received but shall be relieved of its obligation to fund the GBRA Minimum Payment until and unless the improvement, repair or replacement is completed.
- D. GBRA is authorized to refund or refinance any Bonds, with prior approval of the WCID, issued in any manner provided by law.

Section. 3.3. Issuance of Bonds.

- A. Each Bond Resolution of GBRA requires final approval by the WCID and shall specify the maximum principal amount and maximum interest rate of the series of Bonds to be issued thereunder, all material bond covenants and bond structure, which Bonds shall mature within forty (40) years from the date of issuance or such shorter period as determined by GBRA and shall bear interest not exceeding the maximum allowable rates, all as permitted by law, and each Bond Resolution shall contain such other terms and provisions pertaining to the security and payment of Bonds and the operation and maintenance of the Dam Facilities and other Project components as may be necessary for the marketing and sale of the Bonds. Subject to approval by the WCID, GBRA may from time to time issue its Bonds in such amounts as are necessary to achieve full implementation of the Project.
- B. The Parties shall generally agree on the source as well as the structure and terms of Bond funding for the Initial Improvements on or before December 31, 2021. Thereafter, prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the GBRA Board, a draft of the proposed Bond Resolution, and the Sale and Offering Documents shall be presented to the WCID for review and approval. Within sixty (60) days of receipt of the drafts, the WCID shall either approve or disapprove the proposed

documents by written notice to GBRA. If approved, the approval shall be evidenced by a resolution of the Board of Directors of the WCID approving the issuance of Bonds and delegating to an authorized representative of the WCID the approval of the final terms, maximum interest rates and provisions of the Bonds, including the principal amount, as reflected in the final Bond Resolution. If the Parties fail to generally agree on Bond terms before December 31, 2021 or the WCID fails to approve the Bonds necessary to fund the Initial Improvements within the sixty (60) day time period included herein, GBRA shall be released of all obligations under this Contract except the Section 10.11(C) obligation. If the WCID fails to approve Bonds necessary to fund other Project improvements within said sixty (60)-day period, GBRA shall be released of any obligation to construct such other Project improvements.

- C. Upon the WCID approval of (i) each form of Bond Resolution hereafter adopted by GBRA, (ii) any amendments to any Bond Resolution, and (iii) the Sale and Offering Documents, and the delivery to GBRA of a certification signed by the authorized representative of the WCID to the effect that the Bond Resolution and the Sale and Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution in such final form by the GBRA Board, the execution of an approval certificate by the authorized representatives of the WCID approving the final terms and provisions of the Bonds and the Bond Resolution, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.
- D. All covenants and provisions in the Bond Resolution affecting, or purporting to bind, the WCID, shall, upon the delivery of a series of Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the WCID so long as any Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the WCID to make, promptly when due, all Annual WCID Payments specified in this Contract shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the WCID, GBRA may enter into Credit Agreements, to the extent permitted by law, for the purpose of achieving the lowest financing costs for the Project.
- E. Within sixty (60) days after issuance of each series of Bonds, GBRA shall provide the WCID with (1) a copy of the final transcript of proceedings relating to such series of Bonds, to the extent available, and (2) an executed copy of (a) the applicable Bond Resolution; (b) the debt service schedule for such series of Bonds; (c) a combined debt service schedule that reflects the combined debt service for all outstanding Bonds; and (d) the amount of all sinking funds and/or all reserve fund payments to be made in respect of the Bonds, or other amounts necessary to fulfill the terms of any agreements or covenants made with the holders of the Bonds and/or any person on their behalf. The final transcript shall thereafter be provided to the WCID as soon as it is available.

Section. 3.4. **Sale of Bonds to TWDB.** GBRA agrees to use good faith efforts to sell the Bonds related to the Initial Improvements to the Texas Water Development Board or similar body to achieve a 0% interest or the lowest interest costs practicable and shall use good faith efforts to obtain grant funding for the Initial Improvements from the TWDB or other available federal or state grant funding sources.

Section. 3.5. **Tax-Exempt Bonds.** The Parties hereto understand and agree that GBRA will use its best efforts to provide for, but will not be liable for a failure to produce, the lowest overall debt service cost for the Bonds to be issued for the Project. In connection therewith, the Parties intend that GBRA will issue Bonds, the interest on which is excludable from the gross income of the owners thereof for federal income tax purposes. The Parties hereto acknowledge their understanding that the federal income tax laws impose certain restrictions on the use and investment of proceeds of such tax-exempt bonds and on the use of the property financed therewith and the output produced therefrom. Accordingly, the Parties agree and covenant that if the Bonds are offered to investors with the understanding that the interest will be exempt from federal income taxation, then the Parties, their assigns and agents will take such action to assure, and refrain from such action which will adversely affect, the treatment of such Bonds as obligations described in section 103 of the Code. Should either Party fail to comply with such covenant, the effect of which being that the Bonds no longer qualify as obligations described in the Code, such defaulting Party shall be liable for all costs resulting from the loss of the tax-exempt status of the Bonds. The Parties hereby agree and covenant to comply with all of the representations and covenants relating to such exemptions which are set out in any Bond Resolution. The Parties further agree and covenant that in the event the Bonds issued are to be tax-exempt, they will modify such agreements, make such filings, restrict the yield on investments, and take such other action necessary to fulfill the applicable provisions of the Code. For these purposes, the Parties may rely on the respective opinion of any firm of nationally recognized bond attorneys selected by them. In the event that a conflict arises in the opinions of the respective firms of each of the Parties, the Parties will identify a different firm that is mutually acceptable to both Parties, in order to resolve the conflict of opinion.

Section. 3.6. **Payment to Rebate Fund.** In the event that tax-exempt Bonds are issued as provided in Section 3.5, GBRA hereby covenants and agrees to make the determinations and to pay any amounts due into a rebate fund, at the times and as described in the Bond Resolution to comply with the provisions of section 148(f)(2) of the Code. In any event, if the amount of cash held in the rebate fund shall be insufficient to permit payment to the United States of America of any amount due on any date under section 148(f)(2) of the Code, GBRA forthwith shall pay the amount of such insufficiency on such date in immediately available funds for such purpose. Any GBRA payment made as described in this Section 3.6 shall be considered a Debt Service Cost of the Project.

Section. 3.7. **Sale and Offering Documents.** At the request of GBRA, the WCID shall provide to GBRA such information concerning the WCID as GBRA shall deem advisable for inclusion in the Sale and Offering Documents for the Bonds of each series and shall certify to GBRA and the underwriters (or to the Texas Water Development Board, if applicable) of any offering of Bonds to be made by means of such Sale and Offering Documents when and if the WCID deems such Sale and Offering Documents to be complete and final for purposes of CFR § 240.15c2-12 (the "Rule"). The WCID represents and warrants that all statements concerning the WCID that are contained in any Sale and Offering Document shall be true in all material respects and shall not omit to state any material fact necessary to make the statements made in such Sale and Offering Document, in the light of the circumstances in which they are made, not misleading.

Section. 3.8. **Sale of Bonds by WCID.** The WCID reserves the right to sell WCID bonds in the future as long as in compliance with the bond covenants for the Bonds and applicable law.

ARTICLE IV WCID ELECTION AND TAXES

Section. 4.1. **WCID Election.** The WCID shall call an election, or elections, in accordance with the provisions of any law authorizing such an election, for the approval of any action the WCID needs to take under this Contract for which the law requires voter approval, including as applicable, confirmation of

the WCID's creation, election of directors, approval of this Contract, and the authorization to levy, assess and collect ad valorem taxes on all taxable property within the boundaries of the WCID, without limit as to rate or amount, sufficient to make timely payment to GBRA of all charges under this Contract. Subject only to extensions for reason of Force Majeure, if such election or elections fail to pass prior to December 31, 2021, GBRA shall have no obligations to the WCID under this Contract other than the obligation set forth in Section 10.11(C).

Section. 4.2. **WCID Proceedings.** Upon request by GBRA, the WCID shall provide certified copies of all proceedings pertaining to the creation and confirmation of the WCID and authorization and execution of this Contract.

Section. 4.3. **Duty to Levy Tax.** Subject to the passage of the election required in Section 4.1, the WCID agrees to levy and shall annually assess and collect a continuing, direct ad valorem tax on all taxable property within the boundaries of the WCID to make timely payments to GBRA of all charges required under this Contract, without limitation as to rate or amount, sufficient to pay the Annual Requirement for the applicable Annual Payment Period, except to the extent the WCID has available funds which may be lawfully used for such purposes and which are not otherwise prohibited from or restricted against such use under this Contract.

ARTICLE V ANNUAL GBRA PAYMENT

Section. 5.1. **General Statement.**

- A. The Parties acknowledge and agree that GBRA will contribute to the Project. The Parties further acknowledge and agree that GBRA's willingness to make the financial commitment set forth in this Article V is based upon a reasonable expectation of its ability to receive Hydro Revenues predominately through the sale of electricity generated from the Hydro Facilities in accordance with the terms of a Hydroelectric Sales Agreement and the requirement for the WCID to reimburse GBRA pursuant to Section 5.2(C) below. Therefore, the obligation of GBRA to tender that portion of the Annual GBRA Payment related to receipts under a Hydroelectric Sales Agreement to the WCID each year from sources as set forth in this Article is conditioned on the existence of a Hydroelectric Sales Agreement being in full force and effect. GBRA further agrees to use its best efforts to negotiate, execute, enforce and maintain a Hydroelectric Sales Agreement that maximizes Hydro Revenues as long as this Contract is in effect.
- B. GBRA specifically acknowledges and agrees that for so long as this Contract remains in effect, it shall not enter into, modify, or terminate a Hydroelectric Sales Agreement without the prior written approval of the WCID.
- C. GBRA represents and warrants that the Hydro Revenues are not pledged or otherwise encumbered by GBRA and shall not be pledged or encumbered in any manner so long as the Hydro Revenues are payable to the WCID pursuant to this Contract. GBRA further represents that the payment of the Hydro Revenues required by this Contract is not an annual appropriation obligation of GBRA, but rather is hereby pledged to the GBRA obligations arising under this Contract subject only to the conditions to payment provided herein.
- D. The WCID shall not pledge or otherwise encumber the Hydro Revenues secured from GBRA without the duly adopted approval of GBRA.

Section. 5.2. Amount of Annual GBRA Payment.

- A. Commencing with the Initial Annual Payment Period and then thereafter for so long as this Contract remains in force and effect, the Annual GBRA Payment shall be an amount not less than one hundred percent (100%) of the Hydro Revenues received by GBRA during the then current Fiscal Year. Further, in the fiscal year next following the construction and GBRA's acceptance of the Initial Improvements but only for as long as (1) any Bonds that are issued to fund the Initial Improvements remain outstanding, and (2) the Debt Service Requirement on such Bonds remains in effect, the Annual GBRA Payment shall be an amount equal to one hundred percent (100%) of the Hydro Revenues received by GBRA during the then current Fiscal Year but such amount shall not be less than \$400,000 (the "GBRA Minimum Payment"), except as provided in Section 5.2(D), (E) and (F) below. In the event the Hydro Revenues, received by GBRA during any Fiscal Year during which the above enumerated GBRA Minimum Payment requirements exist, are less than the GBRA Minimum Payment, then GBRA shall supplement the Hydro Revenues from other monies lawfully available to GBRA so as to ensure that the amount of the Annual GBRA Payment is not less than the GBRA Minimum Payment except as otherwise provided in Section 5.2(D), (E) and (F) below (the "GBRA DS Payment"). Such GBRA DS Payment, if any, shall be combined with GBRA's monthly Hydro Revenues payment to the WCID that is remitted in the month of August of each Fiscal Year.
- B. Subject to the provisions of this Section 5.2, while this Contract is in force and effect but while (1) no Bonds to fund the Initial Improvements are outstanding, and (2) no related Debt Service Requirement is in effect, GBRA shall remit to the WCID an Annual GBRA Payment equal to all Hydro Revenues received in that Fiscal Year. However, the GBRA Minimum Payment shall be zero dollars (\$0.00).
- C. To the extent that in any Fiscal Year, GBRA must supplement Hydro Revenues with a GBRA DS Payment to yield the GBRA Minimum Payment, thereafter, the WCID shall be required to reimburse GBRA the amount of the GBRA DS Payment, together with interest calculated from the respective date of payment of the GBRA DS Payment to the WCID to the date of reimbursement at an annual interest rate equal to the net effective interest rate on the Bonds but not less than a 1.00% annual percentage rate. GBRA may invoice the WCID for repayment of the GBRA DS Payment or may recover such costs as the Repayment Requirement; provided, however, except as otherwise agreed by the WCID, the WCID's obligation to repay the GBRA DS Payment shall be limited in all cases to monies on deposit in the Hydro Fund in excess of \$150,000. GBRA agrees to provide written notification to the WCID of the total outstanding amount of the GBRA DS Payment, together with accrued interest thereon, as set forth in Section 6.8 and upon receipt of a written request from time to time by the WCID.
- D. Notwithstanding the provisions of Section 5.2(A) and (C) above, to the extent that the Hydro Revenues for any Fiscal Year, while Bonds to fund the Initial Improvements are outstanding and the related Debt Service Requirement is in effect, are less than the GBRA Minimum Payment required to be made by GBRA to the WCID and the WCID has monies on deposit in the Hydro Fund in excess of \$150,000, then GBRA shall have no obligation to supplement the Hydro Revenues to the extent it notifies the WCID that it elects for the WCID to fund the difference between the Hydro Revenues and the GBRA Minimum Payment with all monies on deposit in the Hydro Fund.

- E. Notwithstanding any provision in this Contract to the contrary, to the extent that sufficient funds are not available in the CRR Fund or the Hydro Fund to pay Non-Budgeted CRR Costs for the Dam Facilities and Hydro Facilities and the Parties do not otherwise reach agreement concerning the payment of such costs, and GBRA subsequently elects to not proceed with the repair or replacement of the Dam and/or Hydro Facilities and the result of such lack of repair or replacement reduces the Hydro Revenues received by GBRA, then GBRA shall continue to remit all Hydro Revenues received but shall be excused from its obligation to fund the GBRA Minimum Payment until and unless the repair is completed and the generation of Hydro Revenues is restored to levels prior to the need for the repair or replacement.
- F. Subject to GBRA's obligations set forth in Section 5.1(A), the WCID acknowledges and agrees that:
- (1) in the event of termination of the Hydroelectric Sales Agreement and for so long as a replacement Hydroelectric Sales Agreement is not in effect, then GBRA shall have no obligation to make the GBRA Minimum Payment (including any GBRA DS Payment) except as otherwise agreed by the Parties.
- (2) In the event that the Hydroelectric Sales Agreement is amended by its own terms or otherwise, such that the capacity payment or fixed charge payment of the Hydroelectric Sales Agreement is reduced below the level set forth in Exhibit "B," then the WCID shall continue to receive all hydro revenues from GBRA, but GBRA shall have no obligation to make the GBRA Minimum Payment (including any GBRA DS Payment) except as otherwise agreed by the Parties. The Parties shall work to establish, based on the adjusted payment amount, an updated GBRA Minimum Payment and updated flow of funds into the Hydro Fund and CRR Fund (set forth in Sections 5.5 and 5.6).
- G. Coincident with any termination of this Contract, all monies in the Hydro Fund and CRR Reserve Fund shall be the property of the WCID.

Section. 5.3. **Timing of Payment.** GBRA shall tender the Annual GBRA Payment to the WCID in monthly installments. Each installment shall be remitted within ten (10) days of GBRA receiving Hydro Revenues each month pursuant to the Hydroelectric Sales Agreement then in effect. The Annual GBRA Payment installments shall commence contemporaneously with the first month of the Initial Annual Payment Period.

Section. 5.4. **Unconditional Obligation to Pay.** Subject to the terms of Sections 5.1, 5.2 and 5.3 hereof conditioning GBRA's payment obligation of Hydro Revenues, the Annual GBRA Payment shall be made by GBRA without set-off, counterclaim, abatement, suspension or diminution, nor shall GBRA be entitled to the abatement of any such payment or any reduction thereof nor shall the obligations of GBRA under this Article V be otherwise affected for any reason, including without limitation, failure of the WCID to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or connected with this Contract, it being the intention of the Parties that the Annual GBRA Payment shall continue to be payable in all events and the obligations of GBRA hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract. If GBRA disputes the amount to be paid to the WCID, GBRA shall nonetheless promptly make payments, and if it is subsequently determined by agreement, regulatory decision, or court decision that such disputed payment should have been less, the Parties will then make proper adjustments so that GBRA will receive credit for its overpayments. Nothing contained in this Section shall be construed to release the WCID from performance of any of the agreements on its part in

this Contract, and in the event the WCID shall fail to perform any such agreement, GBRA may seek such relief against the WCID pursuant to Section 10.5 of this Contract as GBRA deems necessary so long as same does not abrogate GBRA's obligation to make the payments set out in this Section.

Section. 5.5. **Authorized Uses for Excess Hydro Revenues.** The Annual GBRA Payment shall be used by the WCID for any lawful purpose including the funding of all or a portion of the payment of the Annual Requirement for the Annual Payment Period; provided, however, to the extent the Annual GBRA Payment received by the WCID in any year exceeds \$430,000.00, then the Excess Hydro Revenues shall be deposited and restricted as follows:

- (i) The first \$100,000 of the Excess Hydro Revenues shall be deposited by the WCID into the CRR Fund, invested only in Authorized Investments and used only in accordance with Section 5.6 below; and
- (ii) Any additional Excess Hydro Revenues shall be deposited by the WCID into a dedicated fund (the "Hydro Fund"), invested only in Authorized Investments, that may be used only in accordance with Section 5.6 below.

Section. 5.6. **Authorized Uses for Hydro Fund and CRR Fund.**

A. Monies in the Hydro Fund shall be used by the WCID only for the following purposes:

- (i) the repayment of any GBRA DS Payment plus accrued interest (Repayment Requirement) thereon, but only for monies in the Hydro Fund in excess of \$150,000;
- (ii) to offset GBRA's obligation to supplement the Hydro Revenues to meet the GBRA Minimum Payment, but only if monies in the Hydro Fund are in excess of \$150,000;
- (iii) to supplement Hydro Revenues received from GBRA to fund the Annual Requirement during an Annual Payment Period if the Hydro Revenues received from GBRA are less than \$430,000, but only in an amount equal to the difference between the Hydro Revenues received from GBRA and \$430,000;
- (iv) monies in the Hydro Fund in excess of \$500,000 may be used by the WCID for any lawful purpose, including deposits into the CRR Fund; and
- (v) if the Hydroelectric Sales Agreement is terminated prior to the termination of this Contract for any reason, the WCID may use the monies in the Hydro Fund for any lawful purpose.

B. Monies in the CRR Fund:

- (i) Shall be used by the WCID for the payment of the Non-Budgeted CRR Requirement, including repayment of any GBRA CRR Payment;
- (ii) May be used by the WCID for the payment of the Budgeted CRR Requirement, but any such payment shall be limited in all cases to monies on deposit in the CRR Fund in excess of \$750,000; and

- (iii) That are in excess of \$750,000 may be used by the WCID for any lawful purpose.

**ARTICLE VI
ANNUAL WCID PAYMENT**

Section. 6.1. **Annual Requirement.** The Parties acknowledge and agree that payments by the WCID to GBRA under this Contract will be the sole source of funds available to GBRA for all Project costs exclusive of the Capital Costs funded through bond proceeds or grants. The WCID will be obligated to pay the full amount of the Annual Requirement, subject to the available CRR and Hydro Fund balances as they relate respectively to the Non-Budgeted CRR and Repayment Requirements. The Annual Requirement shall be identified in each annual budget of GBRA and shall at all times be not less than an amount sufficient to pay or provide for the payment of the following during the applicable Annual Payment Period:

- (i) the Debt Service Requirement;
- (ii) the Operation and Maintenance Requirement;
- (iii) the Budgeted CRR Requirement;
- (iv) the Non-Budgeted CRR Requirement; and
- (v) the Repayment Requirement.

Section. 6.2. **Annual Budgets.**

A. **WCID Budget.**

- (i) Each annual budget of the WCID (the "WCID Budget") shall provide for amounts sufficient to pay the Debt Service Requirement, Operation and Maintenance Requirement, and Budgeted CRR Requirement components of the Annual Requirement. The WCID hereby acknowledges its obligation to pay these three components of the Annual Requirement from available funds budgeted therefor.
- (ii) Each WCID Budget shall also provide amounts sufficient to pay the Non-Budgeted CRR Requirement and the Repayment Requirement components of the Annual Requirement, but only to the extent that available amounts exist in the CRR Fund and Hydro Fund respectively, unless otherwise agreed upon by the Parties. Any amount of the Non-Budgeted CCR Requirement and Repayment Requirement for which there are insufficient funds in the CRR Fund and Hydro Fund respectively to pay, shall be carried over to the next fiscal year's WCID Budget with interest.
- (iii) The first WCID Budget shall be compiled and provided to GBRA no later than September 1st of the Initial Annual Payment Period. Thereafter, each year the WCID Budget shall be compiled and provided to GBRA no later than ten (10) days prior to the start of the next Annual Payment Period.

B. **GBRA Budget.** Not later than sixty (60) days before the commencement of each Annual Payment Period beginning with the Initial Annual Payment Period, GBRA shall prepare and furnish to the WCID an annual preliminary budget for the Project which shall contain the following information:

(i) The following information concerning the Annual Requirement for the next Annual Payment Period:

(1) the total Debt Service Requirement on the Bonds for the Annual Payment Period after allowance for fund balances resulting from capitalized interest;

(2) the total Non-Budgeted CRR Requirement for the Annual Payment Period; provided, however, such Requirement shall not exceed the balance of the CRR Fund, except as otherwise agreed upon by the Parties;

(3) the total Repayment Requirement for GBRA DS Payment for the Annual Payment Period; provided, however, that such Requirement shall not exceed a sum that would cause the balance of the Hydro Fund to fall below \$150,000, except as otherwise agreed upon by the Parties;

(4) the total Operation and Maintenance Requirement for the Annual Payment Period;

(5) the total Budgeted CRR Requirement for the Annual Payment Period; and

(6) summary of all amounts due from the WCID for the Annual Payment Period and the dates on which such amounts are due and payable.

(ii) A summary of the following information shall also be provided in conjunction with the annual GBRA Budget and prior to the commencement of the Annual Payment Period:

(1) any prior GBRA CRR Payment and GBRA DS Payment funded by GBRA and the total accumulated and outstanding GBRA CCR Payments and GBRA DS Payments including interest thereon, for which GBRA has not yet been reimbursed; and

(2) the estimated amount of the Annual GBRA Payment to be made by GBRA to the WCID for such budget period.

(iii) A breakdown summary of the projected five-year Capital Repair and Replacement budget.

(iv) GBRA shall provide to the WCID within thirty (30) days of the end of the first three quarters of its fiscal year and within sixty (60) days of the end of the last quarter of its fiscal year, an update of the quarterly activities that shall include current operating costs, actual expenditures for CRR costs, Hydro Revenues and any updates to the GBRA Budget impacting the WCID's obligations.

C. GBRA Board Approval. If the WCID disputes any information in the GBRA preliminary budget, it shall submit a written notice of dispute reasonably detailing the basis of such dispute along with any comments, questions or requests for clarification to GBRA not less

than thirty (30) days before the commencement of the Annual Payment Period. Representatives of each Party will work together in good faith during the 14-day period following the delivery of a notice of dispute to GBRA to resolve any outstanding issues. The GBRA Board may adopt the preliminary budget or may make such amendments it deems proper; provided, however, no change or amendment to the preliminary budget will be made without resubmitting such amended preliminary budget to the WCID not less than ten (10) days prior to the date of the GBRA Board meeting scheduled for approval of the annual budget and any such amendment shall not increase the Annual Requirement or the WCID's obligations hereunder. Notwithstanding anything herein to the contrary, no failure of GBRA to estimate, and no mistake by GBRA in any estimate of, the amount of or schedule for Annual WCID Payments due from the WCID in any Fiscal Year shall relieve the WCID from its absolute and unconditional obligation to make all Annual WCID Payments in full when due.

Section. 6.3. **Billing.** GBRA shall promptly render monthly bills to the WCID for any portion of the Debt Service Requirement that becomes due and payable during the monthly period pursuant to the terms of the applicable bond resolution. GBRA will work with the lender to establish GBRA's bond payment dates with input from the WCID. GBRA shall also render monthly bills to the WCID for one-twelfth (1/12th) of the Operation and Maintenance Requirement and Budgeted CRR Requirement, and one-twelfth (1/12th) of the Non-Budgeted CRR Requirement and the Repayment Requirement for as long as such latter two Requirements exist and available monies remain in the associated CRR Fund and Hydro Fund.

GBRA shall, until further notice, render such bills on or before the 1st day of each month and such bills shall be due and payable on or before the 20th day of that month or twenty (20) days after such bill is deposited in the United States Mail, properly stamped and addressed to the WCID, whichever is later, and interest shall accrue thereon at the rate of five percent (5%) per annum if not paid after such bill is due and payable until paid in full. GBRA may, from time to time, with forty-five (45) days' written notice and consent of the WCID, change the monthly date by which it shall render bills, and all bills shall thereafter be due and payable twenty (20) days after such date or twenty (20) days after deposit in the United States Mail, properly stamped and addressed to the WCID, whichever is later.

Section. 6.4. **Delinquency in Payment.** In the event the WCID fails to pay any bills when due and payable, GBRA shall give written notice of such delinquency to the WCID, and if all bills due and unpaid, including interest thereon, are not paid within forty-five (45) days after delivery of such notice, then the WCID agrees that GBRA shall be authorized, at its option, to institute mediation or suit for collection thereof and to collect any amounts due and unpaid, together with interest thereon at the rate of five percent (5%) per annum and reasonable attorneys' fees.

Section. 6.5. **Covenant to Maintain Sufficient Income.** The WCID recognizes its duty to, and covenants and agrees that at all times it will, levy taxes such that the gross revenues therefrom together with funds received from any other lawful source will be sufficient at all times to pay the WCID's obligations to GBRA under this Contract.

Section. 6.6. **Unconditional Obligation to Pay.**

- A. It is hereby agreed that the WCID shall be unconditionally obligated to pay the Annual Requirement without set-off, counterclaim, abatement, suspension or diminution, and this Contract shall not terminate, nor shall the WCID have any right to terminate this Contract nor be entitled to the abatement of any such payment or any reduction thereof nor shall the obligations of the WCID under this Article VI be otherwise affected for any reason,

including without limitation acts or conditions of GBRA that might be considered failure of consideration, destruction or damage to the Project, failure of GBRA to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or connected with the Contract, it being the intention of the Parties that all sums required to be paid by the WCID to GBRA for such purposes shall continue to be payable in all events and the obligations of the WCID hereunder shall continue unaffected, unless the requirement to pay the same shall be reduced or terminated pursuant to an express provision of this Contract.

- B. If the WCID disputes the amount to be paid to GBRA, the WCID shall nonetheless promptly make payments as billed by GBRA, and if it is subsequently determined by agreement, mediation, regulatory decision, or court decision that such disputed payment should have been less, GBRA will then repay to the WCID within forty-five (45) days. In the event of non-payment, GBRA agrees the WCID may, at its option, institute suit for collection thereof and to collect any amounts due and unpaid together with interest thereon at the rate of five percent (5%) per annum. Either party may seek reasonable attorneys' fees as provided in Section 10.5.
- C. Nothing contained in this Article shall be construed to release GBRA from performance of any of the agreements on its part in this Contract and in the event GBRA shall fail to perform any such agreement, the WCID may seek such relief against GBRA pursuant to Section 10.5 of this Contract as the WCID deems necessary so long as same does not abrogate the WCID's obligation to make the payments set out in this Article.

Section. 6.7. **Authorized Uses.** Except as otherwise provided herein, the Annual WCID Payment shall be deposited by GBRA into the following funds, and may only be used by GBRA as follows:

- (i) the Debt Service Requirement component of the Annual WCID Payment shall be deposited into the appropriate Debt Service Fund to pay when due (1) the principal, interest, redemption, paying agent, and registrar requirements on outstanding Bonds, and (2) all amounts required to establish, replenish and maintain funds established under the resolution or indenture of trust authorizing any Bonds;
- (ii) the Operation and Maintenance Requirement component of the Annual WCID Payment shall be deposited into a Lake McQueeney Operating Fund to pay Operation and Maintenance Expenses as incurred or when due;
- (iii) the Budgeted CRR Requirement component of the Annual WCID Payment shall be deposited into a Lake McQueeney Capital Repair and Replacement Fund to pay Budgeted CRR Costs as incurred or when due;
- (iv) the Non-Budgeted CRR Requirement of the Annual WCID Payment paid to GBRA as reimbursement for any Non-Budgeted CRR Costs shall be unrestricted and may be deposited and used at GBRA's discretion for any lawful purpose; and
- (v) the Repayment Requirement component of the Annual WCID Payment paid to GBRA as reimbursement for any GBRA DS Payment (together with interest thereon) shall be unrestricted and may be deposited and used at GBRA's discretion for any lawful purpose.

Section. 6.8. **Fiscal Year End Cost Reconciliation and True Up.** In connection with the delivery of the annual audit as provided for in Section 8.7, GBRA shall compile and deliver to the WCID (i) the total actual costs incurred during such Fiscal Year for (1) Debt Service Costs on any Bonds including principal, interest, redemption requirements and amounts required to establish, replenish and maintain funds established under a Bond Resolution authorizing the issuance of Bonds, (2) Operation and Maintenance Expenses, and (3) Budgeted CRR costs (together the "Cost Compilation") and (ii) the total actual amount of funds received from the WCID during the same Fiscal Year from those components of the Annual Requirement related to the Debt Service Requirement, Operation and Maintenance Requirement and the Budgeted Capital Repair and Replacement Requirement (together the "Receipts Compilation"). Contemporaneously with the compilation and delivery of these respective Compilations, GBRA shall deliver a comparison of the Cost Compilation to the Receipts Compilation (the "True Up"). If the total of the Cost Compilation exceeds the total of the Receipts Compilation in the True Up, GBRA shall bill the WCID the difference within thirty (30) days of such determination and the WCID shall remit payment of such bill within thirty (30) days of bill receipt. If the total of the Cost Compilation is less than the total of the Receipts Compilation in the True Up, GBRA shall reimburse the WCID the difference within thirty (30) days of such determination. Contemporaneously with the delivery of the True Up, GBRA shall also compile and deliver the outstanding GBRA DS Payment and GBRA CRR Payment balances, including interest thereon. The WCID shall have the option at any time of paying some or all of such outstanding balances that are not otherwise paid pursuant to Section 6.1(iv) and (v), the result of which would be a reduction in the ultimate amount of interest accrued on said balances. Following the delivery of the True Up, the parties will work in good faith to resolve any difference they may have with respect to any matter set forth in the True Up.

ARTICLE VII OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF PROJECT

Section 7.1. **General Statement.** For so long as this Contract remains in effect, and subject to the terms and conditions herein, GBRA shall be solely responsible for operation, maintenance, repair and replacement of the Project; provided, however, except as otherwise agreed by the Parties, in no event shall GBRA be obligated to use any funds other than amounts received from the Annual WCID Payment or available Bond proceeds, to pay (1) Operation and Maintenance Expenses, and (2) Capital Repair and Replacement Costs (inclusive of Budgeted and Non-Budgeted CRR Costs). GBRA shall be solely responsible for operating, maintaining and repairing the Project as stated herein, provided that the WCID may provide input to GBRA for spill gate level changes not caused by flood events that require the passage of waters through the spill gates. Subject to the Operational Limitations, GBRA agrees to operate and maintain the spill gates consistent with any owner's manual or documentation provided by the design engineers, contractor that performed the construction, and manufacturers of the equipment installed. Further, GBRA agrees to generate electricity whenever flows allow. The WCID may decide at any time to discontinue hydroelectric generation, during which time the GBRA Minimum Payment will be \$0.00.

Section 7.2. Capital Repair and Replacement Costs.

- A. It is the Parties' mutual intent that Budgeted and Non-Budgeted CRR Costs shall be funded from monies collected by GBRA from the Annual WCID Payments. Notwithstanding the foregoing, the Parties agree as follows with respect to CRR Costs:
- (i) GBRA shall be solely responsible for funding all CRR costs related to the Dam and Hydroelectric Facilities until the final acceptance of the Initial Improvements;
 - (ii) The Parties recognize that it is neither practicable nor possible to predict the timing or amount of Non-Budgeted CRR Costs. Although the Parties intend for the

WCID to fund Non-Budgeted CRR Costs by deposits of the CRR Contribution into the CRR Fund, not all CRR Costs may be predicted. In the event that, in GBRA's reasonable judgment, applicable law, regulation or safety standards, unanticipated equipment failure or damages from catastrophic events such as fires, floods or similar events necessitate capital expenditures that are not Budgeted CRR Costs, GBRA shall promptly provide notice thereof to the WCID and request the WCID approve such capital expenditures. The WCID agrees to provide a representative with authority to approve such expenditures and who shall be required to act on GBRA's request within a timely manner commensurate with needs to be addressed under the request. In the event of an emergency in which advanced notice to the WCID is not practical under the circumstances and which GBRA determines must be addressed immediately to stabilize Project operating conditions or to protect public safety or property, GBRA may take such steps as it deems necessary to do so without approval. Upon approval, such Non-Budgeted CRR Costs shall first be funded from the CRR Fund or, at the election of the WCID, other funds lawfully available to the WCID. To the extent the CRR Fund is not sufficient to cover the Non-Budgeted CRR Costs, GBRA may elect to cover the balance with the proceeds of Bonds (upon approval by the WCID) or with other monies available to GBRA not funded by the WCID (the "GBRA CRR Payment"). In the event of any GBRA CRR Payment, the WCID shall repay the GBRA CRR Payment, together with interest calculated from the respective dates of payment to the date of repayment at an annual interest rate equal to the net effective interest rate on the Bonds but not less than 1%, with available monies in the CRR Fund. Such repayment amount shall be included in the Non-Budgeted CRR Requirement for the subsequent Annual Payment Period; and

- (iii) Except as otherwise agreed by GBRA, in no event shall GBRA be obligated to use any funds of GBRA to pay Non-Budgeted CRR Costs that cannot be repaid with funds on deposit in the CRR Fund or proceeds of Bonds. Similarly, except as otherwise agreed by the WCID, in no event shall the WCID be obligated to fund any Non-Budgeted CRR Costs in excess of funds available in the CRR Fund. Accordingly, if sufficient funds are not available in the CRR Fund to pay a Non-Budgeted CRR Cost and the Parties do not otherwise reach agreement concerning the payment of such costs, then GBRA shall be under no obligation to perform such repair or replacement.

- B. Documentation of Non-Budgeted Capital Repair and Replacement Costs. GBRA shall maintain and furnish to the WCID written documentation evidencing all Non-Budgeted CRR Costs. The information shall be sufficiently detailed to allow a determination by the WCID or any third party that the funds in question were spent properly under this Contract. If it is subsequently determined by agreement, mediation, regulatory decision, or court decision that any payments from the CRR Fund were spent by GBRA for purposes other than Non-Budgeted CRR Costs, then GBRA shall replenish the CRR Fund accordingly.

Section 7.3. Disclosure of Budgeted Capital Repair and Replacement Costs. GBRA represents and warrants to the WCID that as of the Effective Date and except for the condition of the Dam Facilities to be repaired or replaced in accordance with the Initial Improvements identified in the McQueeney Engineering Documents upon their completion, the Dam Facilities are, to GBRA's actual knowledge, adequate for their intended uses, without the need for further, near-term or material repair or replacement.

Section 7.4. **Operation of Gate Levels.** On and after the date upon which the Initial Improvements are completed and GBRA accepts the work, GBRA shall operate the spill gates as part of its reasonable ordinary course of operations and shall generally maintain Lake McQueeney at the Normal Operating Level for the duration of this Contact. The "*Normal Operating Level*" for Lake McQueeney as used herein shall be approximately 528.7 feet above mean sea level at the Lake McQueeney Dam which is the historical operating level at the Lake McQueeney Dam prior to 2016. In the event the spill gates are lowered to pass water during a flood event or maintenance event necessitating a lowering of the lake level, GBRA will use its best efforts to return the spill gates to the Normal Operating Level promptly following such event. The WCID may provide input to GBRA for spill gate level changes not caused by flood events.

Section 7.5. **Maintenance and Communication.**

- A. GBRA agrees to provide regular updates to the WCID on the operation, maintenance, repair and replacement activities conducted on the Project. These updates shall include:
- (i) A projected 5-year Capital Repair and Replacement budget provided annually;
 - (ii) Quarterly summaries of maintenance and operational activities completed during the most recent quarter;
 - (iii) Quarterly summaries of planned and preventative maintenance activities to be completed in the next succeeding quarter;
 - (iv) Quarterly summary of actual expenditures for CRR costs, and planned expenditures for the next quarter; and
 - (v) A projected 20-year schedule of the useful life of any component of the Project having a replacement cost in excess of \$100,000, updated annually.
- B. GBRA agrees to assist the WCID in developing a WCID budget for emergencies.

**ARTICLE VIII
FUNDS, RECORDS, AUDITS AND INSURANCE**

Section. 8.1. **Creation of Funds.** GBRA shall establish, as needed, a Capital Projects Fund, a Debt Service Fund, a Lake McQueeney Operating Fund, and a Lake McQueeney Capital Repair and Replacement Fund, pursuant to an approved Bond Resolution or this Contract. Such funds shall be accounted for separately and apart from all other funds of GBRA. GBRA reserves the right to create additional funds pursuant to the terms of any Bond Resolution. The WCID shall establish the CRR Fund and the Hydro Fund. Such funds shall be kept separate and apart from all other funds of the WCID. The WCID reserves the right to create additional funds. The GBRA funds and the WCID funds referenced above are collectively referred to hereinafter as the "*Funds.*"

Section. 8.2. **Security of Funds.** Any cash balance in the Funds shall be continuously secured in the manner required by the applicable laws of the State of Texas as such laws now exist or may exist during the term of this Contract.

Section. 8.3. **Fund Restrictions.**

- A. Monies deposited into the CRR Fund by the WCID shall be used for the purpose of paying Non-Budgeted CRR Costs, including repayment of any GBRA CRR Payment, together with accrued interest.
- B. The balance of monies deposited into the CRR Fund in excess of \$750,000 may be used by the WCID for the payment of the Budgeted CRR Cost Requirement or any lawful purpose.
- C. All monies deposited into the Hydro Fund by the WCID up to \$500,000 shall be used in accordance with Section 5.6.
- D. GBRA shall deposit, as collected, that portion of the Annual WCID Payment that represents the Debt Service Requirement into the appropriate Debt Service Fund as required by the resolution or indenture of trust authorizing the Bonds. All monies deposited into such Debt Service Fund shall be used only for the purpose of paying the debt service on the Bonds or establishing, replenishing or maintaining the funds established by the resolution or indenture of trust authorizing the Bonds.
- E. GBRA shall deposit, as collected, that portion of the Annual WCID Payment that represents the Operating and Maintenance Requirement into the Lake McQueeney Operating Fund. All monies deposited into the Lake McQueeney Operating Fund shall be used for the purpose of paying the Operation and Maintenance Expenses only.
- F. GBRA shall deposit, as collected, that portion of the Annual WCID Payment that represents the Budgeted CRR Requirement into the Lake McQueeney Capital Repair and Replacement Fund. All monies deposited into the Lake McQueeney Capital Repair and Replacement Fund shall be used for the purpose of paying the Budgeted CRR Costs only.

Section. 8.4. **Investments.** Monies deposited into the Funds may be invested or reinvested in Authorized Investments and all investments shall belong to such fund.

Section. 8.5. **Earnings from Investments.** The interest accruing on and any profits realized from investing monies in any of the Funds shall be credited to the applicable fund.

Section. 8.6. **Accounts, Records and Accounting Records.** The Parties covenant and agree that they shall each maintain books of records and accounts in which full, true and proper entries will be made of all dealings, transactions, business, and any other matters which in any way affect or pertain to the Project and the Funds, including earnings from investments. Such books and accounts will be available for inspection by the other Party at reasonable hours and under reasonable circumstances.

Section. 8.7. **Audit.** After the end of each Fiscal Year, each Party will have an audit by a certified public accountant, not in the regular employ of such Party, for its last fiscal year, which shall be submitted to the other Party within one hundred and twenty (120) days after the end of such Fiscal Year. With respect to GBRA, the audit shall include all Debt Service Costs, Operation and Maintenance Expenses, Budgeted as well as Non-Budgeted CRR Costs, all Hydro Revenues collected by GBRA during its Fiscal Year and all sums remitted to the WCID related to the Annual GBRA Payment. Following the audit, GBRA will provide the WCID with a detailed schedule of the Operation and Maintenance Expenses incurred during the audited year. GBRA shall provide, upon request by and at no cost to the WCID, all GBRA financial records related to the above-referenced Debt Service Costs, Operation and Maintenance

Expenses, Budgeted and Non-Budgeted CRR Costs, and Hydro Revenues collected by GBRA during its Fiscal Year.

Section. 8.8. **Insurance.** GBRA covenants that it will at all times keep the Project insured as would be usually insured by municipal corporations and political subdivisions in Texas operating like properties. Such insurance shall be maintained with one or more responsible insurance company or companies (or interlocal governmental risk pool) against risk, accidents or casualties; provided, however, that at any time while any contractor engaged in construction work shall be fully responsible therefore, GBRA shall not be required to carry duplicative insurance to the extent GBRA and the WCID are named insureds under such policies. All such insurance policies shall be open to inspection to the WCID and its named representatives at all reasonable times. The Parties acknowledge that flood insurance is not available for Dam and Hydroelectric Facilities located within the floodplain or flood way. Nothing in this Section 8.8 shall be deemed to limit the WCID from obtaining additional insurance on the Project.

Section. 8.9. **Insurance Proceeds.** In the event of any loss or damage, GBRA covenants that, to the extent loss claim proceeds are received for such purpose, GBRA will reconstruct or repair the destroyed or damaged portion of the Project and will apply the proceeds of the insurance policies covering such loss or damage solely for that purpose. GBRA covenants that it will begin such work or reconstruction or repair promptly after such loss or damage shall occur and will continue and properly complete the same as expeditiously as possible and will pay, or cause to be paid, all costs and expenses in connection therewith out of the insurance proceeds to the extent insurance proceeds are available. In the event available insurance proceeds are not sufficient to fully pay for the costs to reconstruct or repair the destroyed or damaged portion of the Project, the Parties shall endeavor in good faith to amend this Contract to provide for the issuance of Bonds to fund such insufficiency or in the alternative, develop some other funding option mutually agreeable to the Parties.

Section. 8.10. **Excess Insurance Proceeds.** Any insurance proceeds remaining after the completion of and payment for any such reconstruction or repairs shall be deposited with GBRA and restricted for use only on Budgeted CRR Costs and Non-Budgeted CRR Costs not to exceed \$100,000. Subject to applicable limitations in the policy documents, any excess shall be deposited into the CRR Fund.

Section 8.11. **Additional Named Insured.** GBRA shall cause the WCID to be added as an additional named insured on all liability insurance policies or risk pool coverages held by GBRA, specifically including (but not limited to) any liability insurance or risk pool coverage that relates to the Project. Further, if the WCID is granted an undivided ownership interest or contract right in the Initial Improvements pursuant to Section 2.4, then for as long as such undivided ownership interest or contract right exists, GBRA shall cause the WCID to be named as an additional insured on all insurance and risk pool coverages that pertain to the Dam Facilities. All insurance policies shall be endorsed to require that the insurance company provide the WCID with at least thirty (30) days written notice prior to cancellation or modification of such policies.

Section 8.12. **Grants Imposing Regulatory Requirements.** GBRA agrees to provide the WCID the opportunity to review and approve any grant application to be used for funding capital or operating expenses for the Project if the grant would make GBRA subject to any state or federal regulatory requirements that would not apply but for the grant.

**ARTICLE IX
CONTINUING DISCLOSURE**

Section. 9.1. Annual Reports.

- A. Following the issuance of any series of Bonds, the offer or sale of which is not exempt from the Rule and, until the WCID is no longer obligated, contingently or otherwise to make payments in respect of such series of Bonds, GBRA and the WCID undertake to and shall provide annually to the MSRB, within six (6) months after the end of each Fiscal Year: (i) financial information and operating data of the general type included in the Sale and Offering Documents for the series of Bonds, as specified in its approval of such Sale and Offering Documents pursuant to Section 3.3 hereof; and (ii) audited general purpose financial statements of the WCID, if then available. However, GBRA and the WCID only undertake to provide the information in the preceding sentence that is customarily prepared and publicly available. Any financial statements so to be provided shall be (i) prepared in accordance with generally accepted accounting principles for governmental agencies or such other accounting principles as the WCID may be required to employ from time to time pursuant to state law or regulations, and (ii) audited, if the WCID commissions an audit of such statements and the audit is completed within the period during which it must be provided. If the audit of such financial statements is not completed within such period, then the WCID shall provide unaudited financial statements within the required period, and shall provide audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such statements becomes available.
- B. If the WCID changes its fiscal year, it will file notice of such change (and of the date of the new fiscal year end) with GBRA and the MSRB prior to the next date by which the WCID otherwise would be required to provide financial information and operating data pursuant to this Section.
- C. The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be incorporated by specific reference to any document or specific part thereby (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC. Copies of such information and operating data shall be furnished to GBRA at the same time the information and data are furnished to the MSRB.

Section. 9.2. Material Event Notices.

- A. The following are the events with respect to any series of bonds, which is not exempt from the Rule, that GBRA must agree to disclose in a timely manner pursuant to the current Rule, under applicable federal securities laws and regulations promulgated thereunder:
- (i) Principal and interest payment delinquencies;
 - (ii) Non-payment related defaults, if material;
 - (iii) Unscheduled draws on debt service reserves reflecting financial difficulties;
 - (iv) Unscheduled draws on credit enhancements reflecting financial difficulties;
 - (v) Substitution of credit or liquidity providers, or their failure to perform;

- (vi) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) Modifications to rights of holders of the Bonds, if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) Defeasances;
- (x) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) Rating changes;
- (xii) Bankruptcy, insolvency, receivership, or similar event of GBRA, which shall occur as described below;
- (xiii) The consummation of a merger, consolidation, or acquisition involving GBRA or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) Appointment of a successor or additional trustee or the change of name of a trustee, if material;
- (xv) Incurrence of financial obligations of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties. The terms “financial obligation” and “material” when used in this paragraph shall have the meanings ascribed to them under federal securities laws.

B. The WCID shall, promptly after obtaining actual knowledge of the occurrence of any of the events enumerated above (including but not limited to clauses (xv) and (xvi) of Section 9.2(A) above with respect to financial obligations it may incur), notify GBRA of such event and provide all information in the format required to satisfy the requirements of the Rule. Further, the WCID shall provide, in a timely manner, notice of any failure to provide audited financial statements, financial information, and operating data in accordance with this Contract to the MSRB.

Section. 9.3. Limitations, Disclaimers, and Amendments.

A. The WCID shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the WCID remains an “obligated person” with respect

to the Bonds within the meaning of the Rule, except that GBRA in any event will give notice of any deposit that causes the Bonds to be no longer outstanding.

- B. The provisions of this Article are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The WCID undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the WCID's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The WCID does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.
- C. UNDER NO CIRCUMSTANCES SHALL THE WCID BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE WCID, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.
- D. No default by the WCID in observing or performing its obligations under this Article shall constitute a breach of or default under this Contract for purposes of any other provision of this Contract.
- E. Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the WCID under federal and state securities laws.
- F. The provisions of this Article may be amended by GBRA and the WCID from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of GBRA or the WCID, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Contract that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with GBRA or the WCID (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. If GBRA and the WCID so amend the provisions of this Article, the WCID shall include with any amended financial information or operating data next provided in accordance with this Article an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided. GBRA and the WCID may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the

provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of each series of Bonds.

Section. 9.4. **Information Format - Incorporation by Reference.**

- A. Information required under this Article shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.
- B. Financial information and operating data to be provided pursuant to this Article may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

**ARTICLE X
GENERAL PROVISIONS**

Section. 10.1. **Term.**

- A. Unless terminated earlier as permitted pursuant to Section 10.2 or 10.11(C) hereof, this Contract shall be in force and effect until the latter of 11:59 pm on December 31, 2070 or as it may be extended pursuant to subsection (B) and (C) below ("Termination Date").
- B. Unless written notice to terminate this Contract is provided by either Party to the other Party at least two (2) years before the Termination Date, this Contract shall automatically renew for an additional ten (10) year period. Unless notice is provided as described in this subsection (B), this Contract will automatically renew for perpetual successive renewal periods of ten (10) years. In the event there are projected capital requirements during any 10-year renewal period, the WCID will be responsible for any necessary approvals, including an election to approve bonds, if necessary. In the event that the WCID cannot secure approvals, including any necessary bond approvals, within 180 days from any renewal of the Term (whether the initial term or any renewal), GBRA shall have the right to terminate this Contract upon notice.
- C. Notwithstanding any other provision in this Contract, if all the Bonds issued for Initial Improvements or any other Bonds (including principal and interest) will not be fully paid by the Termination Date then the Termination Date shall be extended to December 31 of the year in which any such Bonds are to be paid.

Section. 10.2. **Termination.** After the Bonds issued for Initial Improvements or any other bonds approved by the WCID under this Contract (including principal and interest) are no longer outstanding, the GBRA CRR Payment and interest thereon have been fully repaid and the GBRA DS Payment and interest thereon have been fully repaid, the WCID may terminate this Contract at any time by providing not less than 12 months prior written notice of termination to GBRA. Upon the effectiveness of such termination, the WCID shall no longer be entitled to any Hydro Revenues, and GBRA in its absolute discretion may elect, to continue operating the Project or cease operating the Project. Notwithstanding the foregoing, the WCID may terminate the Contract in connection with the exercise of its rights under Section

10.11 so long as the WCID satisfies any obligations associated with any outstanding Bonds and has repaid any amount owing to GBRA in connection with a GBRA DS Payment and GBRA CCR Payment, the effective date of such termination shall be the effective date of the sale. Notwithstanding anything to the contrary herein, Section 10.11 shall survive the termination of the Contract for a period of 12 months. During any such 12-month survival period, GBRA shall have no obligation to operate the Project in accordance with any provisions in this Contract relating to operation, including without limitation, Article VII hereof.

Section. 10.3. **Approvals by WCID or GBRA.** Whenever this Contract requires or permits approvals or consents to be hereafter given by the WCID or by GBRA, the Parties agree that such approval or consent shall not be unreasonably withheld, conditioned or delayed. Such approval or consent may be evidenced by an order or resolution adopted by the governing body or by an appropriate certificate executed by a person, firm, or entity authorized to determine and give approval or consent on behalf of the WCID or GBRA pursuant to an order or resolution adopted by the governing body. Such approval or consent shall be effective without regard to whether given before or after the time required herein and no such approval or consent of the WCID shall be required as a condition to any action by GBRA except as expressly set forth in this Contract.

Section. 10.4. **Force Majeure.** In the event either Party is rendered unable, wholly or in part, by force majeure to carry out any of its obligations under this Contract, then the obligation of such Party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected thereby shall give notice and full particulars of such force majeure to the other Party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the government of the United States or the State of Texas or any civil or military authority other than a Party to this contract, insurrections, riots, epidemics, Covid-19 or similar pandemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, and any other incapacities of either Party, similar to those enumerated, which are not within the control of the Party claiming such inability and which such Party could not have avoided by the exercise of due diligence and care.

Section. 10.5. **Remedies upon Default.** It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all remedies, other than termination, existing at law or in equity, including specific performance and mandamus, may be availed of by either Party and shall be cumulative; provided, however, neither Party shall be liable or have any responsibility to the other for any INDIRECT, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES including, without limitation, lost earnings or profits. Such limitation on liability shall apply to any claim or action, whether it is based in whole or in part on agreement, negligence, strict liability, tort, statute or other theory of liability. To the extent allowed by law, the prevailing Party in any lawsuit brought under this Contract shall be entitled to reasonable attorneys' fees. Nothing in this Contract shall be construed as a waiver by either Party of any defense or immunity to which they are entitled under the law.

Section. 10.6. **No Additional Waiver Implied.** No waiver or waivers of any breach or default (or any breaches or defaults) by either Party hereto of any term, covenant, condition, or liability hereunder, or of performance by the other Party of any duty or obligation hereunder, shall be deemed or construed to be a waiver of subsequent breaches or remedies of any kind, under any circumstances.

Section 10.7. Addresses and Notice; Designation of Representatives.

A. Except as otherwise provided in this Section 10.7, all notices and other communications hereunder will be in writing and will be delivered by one of the following means: hand delivery; expedited courier delivery; mailed by registered or certified mail, return receipt requested, postage prepaid; or, electronic mail, provided, that a duplicate of the same notice or communication is also mailed by first-class mail on the same date of the electronic mail. All notices and communications hereunder will be addressed as follows, and will be effective upon actual delivery if delivered by hand or by expedited courier delivery or, if mailed, three (3) business days after deposit in the United States mail:

(a) If to the WCID, to:

Lake McQueeney Water Control and Improvement District No. 1
c/o Allen Boone Humphries Robinson LLP
3200 Southwest Freeway, Suite 2600
Houston, Texas 77027
Attn: President

(b) If to GBRA, to:

Guadalupe-Blanco River Authority
933 East Court Street
Seguin, Texas 78155
Attn: General Manager/CEO

B. Any Party may change its address for receiving notice for any purpose under this Section 10.7 by giving notice of a new address in the manner prescribed in Subsection (A); provided, however, if mailed, notice of such new address will be effective only upon actual receipt by the other Parties.

C. Notices of meetings, inspections, and other communications between WCID representatives and designated GBRA staff may be made by electronic mail to the GBRA or WCID counterparts so designated. Notice of decisions on plan review, budgetary matters and similar matters shall be made in accordance with Subsection (A).

Section 10.8. Modification.

A. This Contract shall be subject to change or modification only with the mutual written consent of the governing bodies of GBRA and the WCID; provided, however, no amendment to this Contract shall impair the rights of any holder of any of the Bonds. No change, amendment or modification shall be made or be effective which will adversely affect the prompt payment when due of all money required to be paid by the WCID under this Contract, and no such change, amendment or modification shall be made or be effective which would cause a violation of any provisions of any Bond Resolution.

B. In accordance with the authority set forth in Section 49.108(b) of the Texas Water Code, this Contract may be modified or amended by the Board of Directors of the WCID without voter approval.

Section 10.9. **Assignability**. This Contract shall not be assignable by GBRA without the prior written consent of the Board of Directors of the WCID except as GBRA may pledge the payments to be received from the WCID hereunder to pay debt service on the Bonds.

Section 10.10. **Parties in Interest**. This Contract shall be for the sole and exclusive benefit of GBRA, the WCID, and the owners or holders of the Bonds issued hereunder from time to time and shall not be construed to confer any benefit or right upon any other persons.

Section 10.11. **Sale or Disposal of Project**.

- A. Except as provided in this Section 10.11, GBRA shall not sell or dispose of any portion of the Project while this Contract is in force and effect.
- B. Nothing in this Section 10.11 shall prevent GBRA from disposing of any piece of equipment related to the Project which has been declared surplus or is no longer needed or useful for the proper operation of the Project. Any monies received from the sale of surplus Project equipment shall be used for the replacement of the equipment sold. Unless it is so used, it shall be deposited with GBRA and restricted for use only on Budgeted Capital Repair and Replacement Costs. Issuance of bonds, contracts payable from the Capital Projects Fund, or an agreement wherein GBRA employs any person to operate the Project shall not be considered an encumbrance of the Project.
- C. Upon the occurrence of any of the following events, the WCID shall have the right to purchase the Project for One Dollar (\$1.00), plus any unreimbursed out of pocket engineering costs incurred by GBRA:
 - (a) the voters do not approve the measures required to be put to election under Section 4.1 hereof within the time prescribed therein;
 - (b) financing approval as prescribed in Section 3.3(B) is not obtained within the time prescribed therein;
 - (c) the Termination of this Contract; or
 - (d) upon twelve (12) months' notice to GBRA and compliance with Section 10.2 hereof.

Any sale provided for herein will be promptly consummated, not to exceed 180 days (or such longer time as is necessary to obtain any required regulatory or governmental approvals), will be "as is" with no warranties, express or implied, and under terms that the WCID shall accept full responsibility for the Project. Following such 180-day period, this Contract shall terminate. The Parties shall reasonably cooperate in all aspects of the disposition process.

Section 10.12. **Mediation**. Prior to trial in any suit to enforce the provisions of this Contract or to seek damages thereunder, the Parties agree to submit to non-binding mediation.

Section 10.13. **Dispute Resolution**. Any controversy, dispute or claim arising out of or relating to this Contract ("Claim"), or any breach thereof, shall be settled pursuant to the provisions of this Section 10.13. Any Party asserting a controversy, dispute or Claim arising out of this Contract must provide written notice to the other Party that provides a detailed statement of the factual basis for such Claim and

the provision or provisions of this Contract that are alleged to be violated. Upon receipt of the written notice of a Claim, the Parties agree to hold a meeting of representatives of the Parties to discuss the Claim in an attempt to resolve such issues. In the event the Parties are unable to resolve the Claim as a result of the meeting, the Party providing the notice of a Claim shall make a presentation to the Board of Directors of the other Party describing the Claim.

Section 10.14. **Headings and Defined Terms.** Descriptive headings are for convenience only and will not control or affect the meaning or construction of any provision of this Contract.

Section 10.15. **Assignment.** Assignment of this Contract by the Parties is prohibited without the prior written consent of the other Party. This Contract will be binding upon and inure to the benefit of the Parties and their successors and assigns.

Section 10.16. **Time of Essence.** Time is of the essence of this Contract.

Section 10.17. **Entire Agreement.** This Contract, including the Exhibits hereto, constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the Parties in connection therewith. No representation, warranty, covenant, agreement, or condition not expressed in this Contract will be binding upon the Parties hereto or will affect or be effective to interpret, change, or restrict the provisions of this Contract except by an amended agreement in writing signed by the Parties.

Section 10.18. **Severability.** The provisions of this Contract are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Contract 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 Contract and the application of such word, phrase, clause, sentence, paragraph, section or other part of this Contract to other persons or circumstances shall not be affected thereby.

Section 10.19. **Designation of Representative by WCID.** The WCID agrees to provide written notice to GBRA of the names of, and contact information for, any representatives the WCID designates to inspect construction or receive and review design or construction information under Article II hereof, review and approve budgets and other fiscal matters under Article VI hereof, and to inspect insurance documentation and other financial information under Article VIII hereof. Notice shall be provided in the manner generally prescribed for notice hereunder and may be amended in the same manner from time to time as the WCID deems appropriate.

Section 10.20. **Counterpart Execution.** This Contract may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute but one agreement. Delivery of a signature to this Contract by facsimile transmission or electronic mail in "portable document format" shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, each Party hereto has signed this Contract or caused this Contract to be signed in its corporate name by its officer thereunto duly authorized, all as of the date first above written.

[Signature pages to follow]

LAKE MCQUEENEY WATER CONTROL
AND IMPROVEMENT DISTRICT NO. 1

By: [Signature]
Name: Robert L. Worth, Jr.
Title: President

[Signature]
Secretary/Treasurer

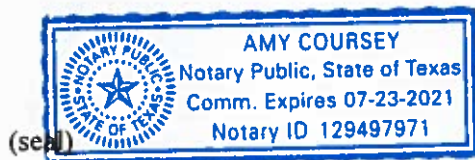
ACKNOWLEDGEMENT

STATE OF TEXAS

§
§
§

COUNTIES OF GUADALUPE

This instrument was acknowledged before me on this 19 day of October, 2020, by Robert L. Worth Jr.
President of Lake McQueeney Water Control and Improvement District No. 1, a Texas
conservation and reclamation district, on behalf of said district.



[Signature]
Notary Public, State of Texas

**GUADALUPE-BLANCO RIVER
AUTHORITY**

By: 
Kevin Patten
General Manager/CEO

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF Guadalupe §

This instrument was acknowledged before me on this 27th day of October, 2020, by Kevin Patten, General Manager of the Guadalupe-Blanco River Authority, a political subdivision of the State of Texas, on behalf of said political subdivision.



Tricia L. Ramirez
Notary Public, State of Texas
(seal)

EXHIBIT A
Description of Dam and Hydroelectric Facilities

1. An approximately 1,500-foot-long, partially armored embankment and concrete spillway across the Guadalupe River which currently includes three bear trap style gates each 85 feet wide by 12 feet tall, to be replaced with three hydraulically actuated crest gates approximately 79 feet wide by 14 feet tall (the Dam and Spillway).

2. The tract of land GBRA currently owns on which the Dam, Spillway, and Powerhouse (described below) are located and the remaining land GBRA currently owns adjacent to the Dam and Spillway, which land is outlined in yellow borders on the attached map identified as **Appendix 1**.

3. The powerhouse on the right (*i.e.*, south) embankment to the Spillway (the Powerhouse) and the two 48-inch Francis Type Z Turbines and two General Electric 1750 KVA Generators owned by GBRA that are currently located in the Powerhouse, or any turbines or generators in the Powerhouse at the time of sale that were installed to replace the current equipment.

4. The fixtures in the Powerhouse relating to power generation that are not described in Paragraph 3 above.

5. The electrical transmission system GBRA currently owns which GBRA currently uses to convey electricity from the Powerhouse to the point of connection with facilities currently owned by Guadalupe Valley Electric Cooperative. This includes without limitation the substation owned by GBRA, 12 poles owned by GBRA or any fixtures at the time of sale that were installed to replace the current fixtures. Provided, however, that six (6) of the poles described herein are shared with the Lake Placid Hydroelectric Facilities and the Meadow Lake/Nolte Dam Hydroelectric Facilities and shall continue in joint use and shall be jointly owned unless an agreement is made for separate lines.

6. The easements GBRA currently holds for the electrical transmission system that connect the Powerhouse to the Guadalupe Valley Electric Cooperative McQueeney Substation, the route being depicted on the attached map identified as **Appendix 2**. Provided, however, that easements for the six poles described in Paragraph 5 hereof, shall be jointly held by GBRA or the successor to its interest in the Lake Placid Hydroelectric Facilities and the Meadow Lake/Nolte Dam Hydroelectric Facilities unless an agreement is made for separate lines and easements.



EXHIBIT B
Description of Hydro Revenues

Hydro Revenues shall consist of all revenues specifically related to and received by the Guadalupe-Blanco River Authority (GBRA) as a result of the sale of electricity at the hydroelectric generating facilities at Lake McQueeney or otherwise relating to the Project. Such revenues may include hydroelectric power sales and renewable energy credits. It may also include any grant income for the electric generating and electric transmission facilities.

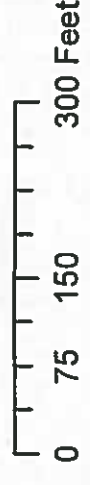
The principal source of such revenues is hydroelectric power sales resulting from the generation of electricity and subsequent sale to the Guadalupe Valley Electric Cooperative (GVEC) or a successor in interest. GBRA's current agreements for hydroelectric power sales attributable to the hydroelectric generating facilities at Lake McQueeney to GVEC are \$250,000 per year capacity payment and a 3.14¢ per kilowatt hour energy charge.



APPENDIX 1
GBRA Ownership
McQueeney Dam
(TP-3)

-  GBRA Owned Property
-  Parcel Boundaries (GAD)

Handwritten signature and date: 10/19/2020



DISCLAIMER: The data contained in this map is not survey grade and is provided for informational and reference purposes only. GBRA makes no claim or guarantee for the accuracy or validity of the information presented herein.

Date: 9/24/2020

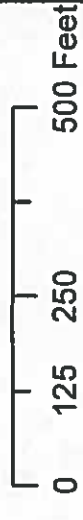




APPENDIX 2 GVHS Electric Line from McQueeney (TP-3) to Substation

— TP-3 (McQueeney)

[Signature] 10/19/2020



DISCLAIMER: The data contained in this map is not survey grade and is provided for informational and reference purposes only. GBRA makes no claim or guarantee for the accuracy or validity of the information presented herein.

Date: 9/24/2020

