

**MINUTES**  
**PUBLIC HEARING AND**  
**ALTA TOWN COUNCIL MEETING**  
**Wednesday, December 11, 2024, 4:00 PM**  
Alta Community Center, 10351 E. Highway 210, Alta, Utah

**PUBLIC HEARING**

**PRESENT:** Councilmember Carolyn Anctil  
Councilmember John Byrne  
Councilmember Elise Morgan (Attended virtually, acting as Mayor Pro Tempore)  
Councilmember Dan Schilling

**STAFF PRESENT:** Chris Cawley, Town Manager  
Mike Morey, Town Marshal  
Jen Clancy, Town Clerk  
Molly Austin, Assistant Town Manager  
Brooke Boone, Deputy Town Clerk  
Craig Heimark, Treasurer

**ALSO PRESENT:** Cameron Platt, Legal Counsel (attended virtually)

**NOT PRESENT:** Mayor Roger Bourke

1. **CALL THE PUBLIC HEARING TO ORDER**

00:00:00

Mayor Pro Tempore Morgan called the public hearing of December 11, 2024 to order.

2. **PUBLIC HEARING TO RECEIVE COMMENT ON PROPOSED FY 2025 BUDGET AMENDMENTS**

00:00:05

Mayor Pro Tempore Morgan asked for comments from the public on the proposed FY 2025 budget amendments.

3. **MOTION TO ADJOURN**

00:05:10

**MOTION:** John Byrne motioned to adjourn, and Dan Schilling seconded.

**VOTE:** All were in favor. The public hearing was unanimously adjourned.

**RESULT: APPROVED**

**ALTA TOWN COUNCIL MEETING**

**PRESENT:** Councilmember Carolyn Anctil  
Councilmember John Byrne  
Councilmember Elise Morgan (Attended virtually, acting as Mayor Pro Tempore)  
Councilmember Dan Schilling

**STAFF PRESENT:** Chris Cawley, Town Manager  
Mike Morey, Town Marshal  
Jen Clancy, Town Clerk  
Molly Austin, Assistant Town Manager  
Brooke Boone, Deputy Town Clerk  
Craig Heimark, Treasurer

**ALSO PRESENT:** Cameron Platt, Legal Counsel (attended virtually)

**NOT PRESENT:** Mayor Roger Bourke

**1. CALL THE MEETING TO ORDER**

00:05:25

Mayor Pro Tempore Morgan called the December 11, 2024 Alta Town Council meeting to order.

**2. CITIZEN INPUT**

00:05:50

Mark Haik brought to the council's attention written comments he submitted, including large exhibits about municipal assets available in the Town of Alta. Haik urged council members to review them to better understand the jurisdictional relationships. The clerk (Jen Clancy) distributed the comments on thumb drives to the council. Haik expressed his gratitude, noting an error in his email led to the size of the file bouncing and thanked Ms. Austin and Ms. Clancy for their assistance.

*(The documents received (excluding audio files) are attached as Exhibit A to these minutes).*

**3. ALTA SKI AREA UPDATE, MIKE MAUGHAN**

00:09:20

Mike Maughan provided an update on the Alta Ski Area. Maughan indicated they were glad to be open as a ski area, albeit under limited conditions largely reliant on man-made snow. Maughan expressed hope for upcoming storms. Maughan mentioned that the parking reservation system would go into effect this coming weekend.

Maughan noted recent approval from their Board to move ahead with plans for the Albion Day Lodge expansion and a cold storage building. Maughan said they would be working through the Town process to get permits.

Maughan highlighted discussions regarding the construction of condos in the town. Maughan said that from the ski area's perspective, he suggested condos be included in a rental pool when not used by the owner.

There was a brief conversation amongst the councilmembers about condos in the base facility zone. Chris Cawley noted that he wasn't aware of any regulatory tools the Town could use to require condos to be in a rental pool when not in use by the owners.

#### **4. QUESTIONS REGARDING DEPARTMENTAL REPORTS**

00:18:20

John Byrne asked about the water fund debt payments to the general fund. Jen Clancy reported that after the October town council meeting the catch-up FY24 debt payment from the water fund to the general fund had been made. Clancy reported that a second accounting entry was needed so that the payment would show up on the budget worksheet. She hadn't realized this but had since made the entry and reported the payment would show up in future budget worksheets.

Mike Morey provided an update on the transition of the Marshal's Office to a phase 2 radio system (Statewide system with better security) with the Utah Communications Authority, which had been quite difficult over the past week. Morey noted the transition's difficulty was most likely due to the department's size and because we have our own dispatch center. Morey ensured the council that the Marshal's Office would complete the transition successfully. He also cautioned the council regarding future costs for compliance – mentioning more hardware, batteries, and potential further departments needs related to this radio project.

#### **5. APPROVAL OF CONSENT AGENDA: NOVEMBER 13, 2024, MEETING MINUTES, AND DECEMBER STAFF AND FINANCE REPORTS**

00:30:20

**MOTION:** John Byrne motioned to approve the November 13, 2024 meeting minutes, and the December staff and finance reports. Elise Morgan seconded.

**VOTE:** All were in favor. The November 13, 2024 meeting minutes, and staff and finance reports were approved.

**RESULT: APPROVED**

#### **6. FACILITIES MASTER PLAN UPDATE, CHRIS CAWLEY**

00:31:00

Cawley provided an update on the facilities master plan, reflecting on the recent work session with FFKR Architects. Cawley explained that following discussions on project outcomes, it was decided to revisit the scope of work and return to the council in the new year with revised plans. Cawley initially considered scheduling an extended work session during this meeting but deferred it due to the holiday season.

Cawley outlined discussions with Byrne about conducting an "as-built" survey, which would include detailed analyses of town-owned land and structures. Cawley noted the importance of supplementing this work with avalanche studies to assess site feasibility for future construction. However, avalanche studies were not included in FFKR's current scope of work due to cost concerns, and they would need to be addressed separately before advancing any major structural projects. Cawley emphasized the need to prioritize comprehensive site analysis before making significant financial commitments to facility design or development. The councilmembers concurred on the need for a disciplined, phased approach to planning that balances feasibility, proportionality, and the town's essential needs. Cawley highlighted the value of past studies while cautioning against pursuing projects without fully understanding site limitations.

Byrne summarized the goal of a massing study as an attempt to determine the scale and mass of an appropriately sized building that fits within the constraints of each site first, then focusing on what programming can fit where in each appropriately sized building. The council emphasized the need for thoughtful planning to avoid inefficiencies and costly missteps. The discussion concluded with general agreement to focus on foundational analyses and to revisit the project's next steps in a future meeting.

7. **DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION 2024-R-26 AUTHORIZING AN INTERLOCAL SERVICE AGREEMENT BETWEEN THE TOWN OF ALTA AND SALT LAKE COUNTY SERVICE AREA #3**

00:42:15

Cawley provided an overview of the proposed agreement, explaining the context and purpose for its update. The original agreement, established in 1990, required annual rate adjustments through resolutions passed by the council. However, changes in state law necessitated that the agreement be updated.

Cawley highlighted that the updated agreement aimed to streamline the process for implementing annual rate increases. The new provisions would cap automatic increases at 3% over the previous year's rate, with any higher rate requiring a separate agreement between the town and the service area. This approach is consistent with similar agreements, such as the one with Wasatch Front Waste and Recycling. Cawley emphasized that the proposal would simplify the process while ensuring transparency and compliance with state requirements.

Byrne noted that the agreement's 50-year term seemed lengthy but acknowledged the flexibility it provided, including provisions for termination with adequate notice. Byrne also praised the agreement for its favorable terms, particularly the 3% cap on rate increases. Elise Morgan, referenced prior

renewals of similar agreements, supported the update and recognized its alignment with evolving regulations. Kasey Carpenter reported the Service Area would be reviewing the ILA and it was going to be on the January agenda for approval.

**MOTION:** Dan Schilling motioned to approve Resolution 2024-R-26. John Byrne seconded.

**ROLL CALL VOTE:** Councilmember Anctil – yes, Councilmember Byrne – yes, Councilmember Morgan – yes, Councilmember Schilling – yes, Resolution 2024-R-26 was unanimously approved.

**RESULT: APPROVED**

8. **DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION 2024-R-27 TO REQUEST ADMISSION TO THE PUBLIC SAFETY RETIREMENT SYSTEM AT UTAH RETIREMENT SYSTEMS**

00:48:20

**MOTION:** Dan Schilling motioned to approve Resolution 2024-R-27. Carolyn Anctil seconded.

**ROLL CALL VOTE:** Councilmember Byrne – yes, Councilmember Morgan – yes, Councilmember Schilling – yes, Councilmember Anctil – yes, Resolution 2024-R-27 was unanimously approved.

**RESULT: APPROVED**

9. **DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION 2024-R-28 TO AMEND THE FY 2025 BUDGETS**

00:50:25

**MOTION:** Dan Schilling motioned to adopt Resolution 2024-R-28. Carolyn Anctil seconded.

**ROLL CALL VOTE:** Councilmember Schilling – yes, Councilmember Anctil – yes, Councilmember Byrne – yes, Councilmember Morgan – yes, Resolution 2024-R-28 was unanimously approved.

**RESULT: APPROVED**

10. **DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTION 2024-R-29 TO ADOPT THE CAPITAL PROJECTS PLAN**

00:52:05

**MOTION:** Dan Schilling motioned to adopt Resolution 2024-R-29. Carolyn Anctil seconded.

**ROLL CALL VOTE:** Councilmember Anctil – yes, Councilmember Byrne – yes, Councilmember Morgan – yes, Councilmember Schilling – yes, Resolution 2024-R-29 was unanimously approved.

**RESULT: APPROVED**

#### **11. UPDATE ON JANUARY TOWN COUNCIL RETREAT ON JANUARY 9, 2025**

00:54:30

Cawley updated the council on plans for a retreat scheduled for the day after the January council meeting. He shared that he had been working with retreat facilitator Julie DeLong to finalize the agenda, which would focus on two main sessions 1) Long-Range Financial Planning session to address expensive conceptual projects and anticipated changes in the local economy and 2) Strategic Planning Process to refining the strategic planning process, continuing work initiated during the previous year's retreat. The goal is to create a regular schedule for adopting plans that align council and staff priorities, ensure transparent decision-making, and outline desired outcomes.

Cawley added that the retreat would include a workshop on the town's mission and values. Creating a mission or purpose statement was originally proposed as a project to improve planning and governance in the January 2024 retreat. Staff developed initial proposals for statements of Town of Alta mission and values in late summer 2024, and presented their concepts to the council in October.

Cawley mentioned that a survey sought council feedback on mission and values documents and last year's retreat outcomes. He encouraged council members to review the survey, a PDF summary of the prior retreat, and slides highlighting key points from last year's discussions.

#### **12. HAZARD MITIGATION PLAN UPDATE, MOLLY AUSTIN**

01:01:30

Molly Austin provided an update on the Salt Lake County Hazard Mitigation Plan. Austin expressed gratitude to Town Manager Cawley and Mike Morey for their assistance. Austin outlined the plan's phases, which include risk assessment, capability evaluation, and mitigation strategy development. The plan focuses on hazards specific to Alta, such as avalanches, severe weather, and wildfire risks. Austin emphasized the importance of local jurisdictions having an adopted plan to remain eligible for FEMA funding, noting the plan is updated every five years.

Council members discussed leveraging the plan to secure FEMA funding for mitigation measures, such as avalanche hazard ordinances, infrastructure upgrades, and wildfire risk management. Schilling highlighted opportunities to use the town's unique challenges, like avalanches, to attract funding, while Morgan emphasized the need for plans to address interlodge events and potential isolation of the town during emergencies. Cawley reiterated the dual benefits of the plan: securing funding and meeting compliance requirements. Austin noted the plan is currently under review by FEMA and local emergency managers, with adoption by the council expected in April. Council members expressed interest in innovative mitigation strategies, such as using natural systems for retention walls and exploring opportunities tied to future events like the Olympics.

13. NEW BUSINESS

01:17:00

No new business

14. MOTION TO ADJOURN

01:17:15

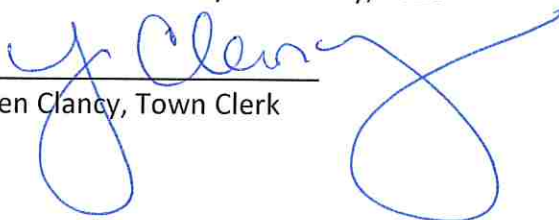
**MOTION:** Carolyn Anctil motioned to adjourn, and John Byrne seconded.

**VOTE:** All in favor. The meeting was unanimously adjourned.

**RESULT: APPROVED**

---

Passed this 8<sup>th</sup> day of January, 2025

  
Jen Clancy, Town Clerk

**MAYOR**  
ROGER BOURKE  
**TOWN COUNCIL**  
CAROLYN ANCTIL  
JOHN BYRNE  
ELISE MORGAN  
DAN SCHILLING



**TOWN OF ALTA**  
P.O. BOX 8016  
ALTA, UTAH 84092  
TEL (801) 363-5105  
(801) 742-3522  
FAX (801)742-1006  
TTY 711

**Exhibit A**

The following written public comments were received are to be included in the December 11<sup>th</sup>, 2024 Town council meeting minutes.

<u>Document</u>	<u>Date Received</u>
Mark Haic Public Comments	December 11 <sup>th</sup> , 2024
Amended Complaint Cahoon Maxfield	
Order State Engineer April 4, 2011	
Haik Public Comment 12/11/2024	
Salt Lake City Memo : Little Cottonwood Water Company 8/30/1993	
Map of SLC Service Area	



E. J. SKEEN, No. 2969  
Attorney for Plaintiffs  
536 East 400 South  
Salt Lake City, Utah 84102  
Telephone: (801) 359-2329

FILED  
11 14 1962  
CLERK OF DISTRICT COURT  
SALT LAKE COUNTY, UTAH  
CB

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

CAHOON AND MAXFIELD IRRIGATION )  
COMPANY, a Corporation; WALKER )  
DITCH COMPANY, a Corporation; )  
RICHARDS IRRIGATION COMPANY, a )  
Corporation; and LITTLE COTTON- )  
WOOD TANNER DITCH COMPANY, a )  
Corporation, )

Plaintiffs, )

vs. )

SALT LAKE CITY, a Municipal )  
Corporation; Salt Lake County )  
Service Area No. 3 - Snowbird; )  
Alta City, a Municipal Corpora- )  
tion; and the STATE OF UTAH, )  
Acting through the Board of )  
Water Resources, )

Defendants. )

AMENDED COMPLAINT

Civil No. 920900820PR

Honorable Kenneth Rigtrup

PLAINTIFFS COMPLAIN OF THE DEFENDANTS AND FOR CAUSE THEREOF ALLEGE:

1. Plaintiffs, and each of them, are corporations, organized and existing under the laws of Utah, and are each engaged in distributing water to their stockholders for irrigation, stock-watering, and other purposes.

2. Defendant Salt Lake City (herein Salt Lake City) and defendant Alta City (herein Alta) are Municipal Corporations, organized and existing under the law of the State of Utah.

3. Defendant Salt Lake County Service Area No. 3 - Snowbird (herein Snowbird) is a body corporate and politic of the

State of Utah, situated in Little Cottonwood Canyon, Salt Lake County, Utah.

4. Each of the plaintiffs own a water right in Little Cottonwood Creek, a natural stream of water located in Salt Lake County. Such water rights were determined by the above-entitled court in the case entitled Union & East Jordan Irrigation Company, a Corporation, v. Richards Irrigation Company, a Corporation, et. al., No. 4802, by a decree, signed by Judge C. W. Morse, on June 16, 1910, referred to herein as the "decree".

5. The primary water rights, as defined in the decree, were awarded by the decree to the plaintiffs, each with a priority, "prior to the year 1856", aggregating 94.79 second feet (subject to small water rights listed in paragraph 28 of the decree, totaling 2.29 second feet), and are owned by and distributed to the plaintiffs in the following proportions, to-wit:

Little Cottonwood Tanner	4-18
Cahoon and Maxfield	5-18
Walker	2-18
*Richards	2-18

\*The defendant, State of Utah, holds title to the Richards water right by a Warranty Deed, dated April 3, 1986, recorded in Book 5919, page 1278, Records of the County Recorder of Salt Lake County, given as security.

6. In addition to the foregoing water rights, each of the plaintiffs was awarded a surplus water rights as defined in the decree and as shown on the table in paragraph 31 thereof. Surplus water is "...what runs in Little Cottonwood in excess of 94.79 second feet" as defined in the decree.

7. The decree further provides that the water is to be measured at the head of each ditch and the water rights are of equal priority as to surplus water.

8. The plaintiffs, above-named, each entered into a water exchange agreement with Salt Lake City, dated as shown below:

Cahoon and Maxfield Irrigation Company,  
dated March 28, 1921 - Exhibit A  
Walker Ditch Company, dated May 29, 1931  
- Exhibit B  
Richards Irrigation Company, dated May 29,  
1931 - Exhibit C  
Little Cottonwood Tanner Ditch Company,  
dated May 29, 1931 - Exhibit D

9. Each of the above-mentioned agreements provides for the exchange of Little Cottonwood Creek water for irrigation water and specifically states that such Little Cottonwood Creek water is desirable for culinary uses and further provides that the "...city is authorized to act for and in behalf of the plaintiffs in all matters relating to the water rights and the distribution of the Little Cottonwood water during the life of the contracts and to file applications for changes of points of diversion, place, and purpose of use."

10. Salt Lake City filed Change Application No. a-746 on May 31, 1923, to change the point of diversion of 60 second feet of exchange water to the intake of the Little Cottonwood conduit and to change the place of use to Salt Lake City. Such application was approved for diversion at a point South 30°46' West 2487 feet from the East 1/4 corner of Section 2, Township 3 South, Range 1 East, SLB&M. When the Little Cottonwood conduit

was later built, the diversion point was located some 1,000 feet from the approved point in Change Application No. a-746. On September 4, 1931, Salt Lake City, as agent for the plaintiff companies, filed Change Applications Nos. a-1174, a-1175, a-1176, and a-1177 based on the exchange agreements for changes as follows:

- a-1175 - Cahoon and Maxfield Irrigation Co. - 55 cfs
- a-1176 - Walker Ditch Co. - 16 cfs
- a-1177 - Richards Irrigation Co. - 16 cfs
- a-1174 - Little Cottonwood Tanner Ditch Co. - 30 cfs

11. Each of the above change applications describes the new points of diversion as follows:

- a. Murray City Power pipeline diversion being 4518 feet East and 836 feet South from the West 1/4 corner of Section 7, Township 3 South, Range 2 East, SLB&M.
- (b) The Little Cottonwood conduit diversion being North 2309 feet and West 742.8 feet from the East 1/4 corner of Section 11, Township 3 South, Range 1 East, SLB&M.

Proofs were never filed on these change applications, but the Little Cottonwood conduit was built and water has been diverted and used to the present time. All four change applications lapsed on March 28, 1983. Salt Lake City has no approved change application to use the water pursuant to the exchange agreements, Exhibits A, B, C, and D.

12. Salt Lake City made an agreement dated December 28, 1972, with Salt Lake County Service Area No. 3 - Snowbird, to sell not to exceed one million (1,000,000) gallons of raw,

untreated water to be diverted from mine tunnels and an additional twenty-nine thousand (29,000) gallons per day to be diverted from Gad valley for a price of one-and-one-half (1-1/2) times the standard City rates, which sources of water are tributary to the Little Cottonwood Creek. Water from such source was sold by Salt Lake City without filing applications to appropriate water or to change the points of diversion, as required by law. On July 15, 1980, Salt Lake City made Supplemental Agreement No. 1 to the above-described agreement, adding an additional source of supply. Copies of the agreements are attached hereto and marked Exhibits E and F.

13. Salt Lake City, on August 12, 1976, made an Agreement with Alta to sell not to exceed Two-hundred-sixty-five-thousand (265,000) gallons of raw, untreated water, emanating from mine tunnels therein described, at the price then prevailing for water served inside the Salt Lake City limits, which sources are tributary to Little Cottonwood Creek. Water was diverted from such source without filing applications to appropriate such water or to change the point of diversion as required by law. A copy of the subject Agreement is attached hereto and marked Exhibit G.

14. At the time Salt Lake City made the agreements described in paragraphs 12 and 13 above, it owned no water rights in the sources particularly described therein and had no right to sell to Alta and Snowbird any water acquired from plaintiffs under and pursuant to the exchange agreements, Exhibits A, B, C, and D,

hereto attached. Except for the illegal diversion of water from the sources described in Exhibits E, F, and G, such water would have entered Cottonwood Creek and flowed down such creek to the plaintiffs' points of diversion for their use and credit.

15. Plaintiffs have been informed and believe that Salt Lake City deliberately permitted Change Applications Nos. a-1174, a-1175, a-1176, and a-1177 to permanently lapse in 1983 and relies, for its water rights, not upon exchange agreements and appropriations under the water laws of Utah, but upon a federal law for protection of the water supply of the City of Salt Lake City, Utah, approved September 19, 1914, and upon the Constitution of the State of Utah.

16. Salt Lake City has not, since said Change Applications Nos. a-1174, a-1175, a-1176, and a-1177 lapsed in 1983, made any use of Little Cottonwood Creek in accordance with the water laws of Utah, the Court decree referred to above, or the said exchange agreements and has violated said agreements.


17. The above-described agreements between Salt Lake City, as seller of water, and Snowbird and Alta, as purchasers, are void, unenforceable, and unlawful for the reason that Salt Lake City, at the times of the sales and since had no valid rights to the water sold.

WHEREFORE, plaintiffs pray for a decree of this court determining, (1) that each of the plaintiffs, above-named, is the owner of the decreed water rights hereinabove described, (2) that the Change Applications, a-1174, a-1175, a-1176, and a-1177, are

permanently lapsed, (3) that Salt Lake City has no water right in the sources of water described in the water sale agreements with Alta and snowbird, (4) that Salt Lake City has failed to obtain, under Utah State law, the right to change the points of diversion of water available under the above-described exchange agreements, (5) that any rights obtained under such agreements are contract rights only for use of water, and (6) that the Agreements, Exhibits E, F, and G, are void, unenforceable, and unlawful.

Plaintiffs pray for general relief and for costs of court.

DATED this 10<sup>th</sup> day of June, 1992.

  
\_\_\_\_\_  
E. J. SKEEN, No. 2969  
536 East 400 South  
Salt Lake City, Utah 84102  
Telephone: (801) 359-2329

Attorney for Plaintiffs

NAMES AND ADDRESSES OF PLAINTIFFS:

Cahoon and Maxfield Irrigation Company  
c/o Anton P. Rezac, President  
5668 South Bullion Street  
Murray, Utah 84123

Walker Ditch Company  
c/o A. G. Humpherys, President  
274 East 6790 South  
Midvale, Utah 84047

Richards Irrigation Company  
c/o Marvin L. Widerberg, President  
7970 Highland Drive  
Salt Lake City, Utah 84121

Little Cottonwood Tanner Ditch Company  
c/o Arion Erekson, Vice President  
5419 South 900 East  
Salt Lake City, Utah 84117



A G R E E M E N T

AGREEMENT FOR THE EXCHANGE OF A PORTION OF THE WATER OF LITTLE COTTONWOOD CREEK OWNED BY THE CAHOON AND MAXFIELD IRRIGATION COMPANY WITH SALT LAKE CITY FOR CERTAIN OTHER WATERS IN LIEU THEREOF.

THIS AGREEMENT, made and entered into this 28th day of March, 1921, by and between the Cahoon and Maxfield Irrigation Company, a corporation, organized and existing under the laws of the State of Utah, party of the first part and hereinafter, for convenience, referred to as the "Company", and Salt Lake City, a municipal corporation of the State of Utah, party of the second part and hereinafter, for convenience, referred to as the "City":

Recital of  
Premises.

WITNESSETH: THAT WHEREAS, the "Company" is the owner of certain rights to the use of a portion of the water of Little Cottonwood Creek, a stream of water suitable for culinary uses, rising in the Eastern part of Salt Lake County, in what is commonly known as Little Cottonwood Canyon, and flowing westernly and emptying into the Jordan River, which said water rights are referred to and decreed to the "Company" in that certain decree made and entered in the District Court of the Third Judicial District of the State of Utah, in and for the County of Salt Lake, on the 16th day of June, 1910, by Honorable C. W. Morse, Judge, File No. 4802, and

WHEREAS, the "City" is the owner of certain other waters of water rights which may be used for irrigation purposes upon the lands owned by the stockholders of the "Company", or upon other lands in Salt Lake County, and

WHEREAS, the "City" is desirous of exchanging the right to the use of the water owned by the "City" with the "Company" for the right to the use of a portion of the water owned by the "Company" in Little Cottonwood Creek as above referred to for irrigation, domestic, culinary and other purposes.

NOW THEREFORE, in consideration of the premises and the covenants and agreements herein, it is hereby agreed:

EXHIBIT

A

Little Cottonwood  
Creek water to be  
exchanged

Reservation,  
Salt Lake City  
Water Company

Reservations of  
Little Cottonwood  
Creek Water  
for Murray City

Reference to  
Little Cottonwood  
Water Co.  
relations

Salt Lake County  
Water Company  
hold to pass to  
"City" in event  
of forfeiture.

Reference to and  
relations of  
Little Cottonwood  
Water Company  
to Little Cotton-  
wood Creek rights

1. That, subject to the reservations, exceptions, and restrictions and the strict performance of the covenants and agreements herein, the "Company" hereby gives and grants to the "City" the right to have, take, and use, perpetually or so long only as the "City" shall keep and perform each and all of the covenants herein, from the Little Cottonwood Creek to Salt Lake County, State of Utah, all that portion of the waters of said Little Cottonwood Creek to which the "Company" is or may be entitled by appropriation, accrual, development, decree or otherwise, saving, excepting, and reserving therefrom all that portion of the flow of said Little Cottonwood Creek decreed to Salt Lake County Water Company under perpetual lease or contract with the rents, issues, and profits thereof as referred to and defined in said Decree, File No. 4802 above referred to; also, saving, excepting and reserving and subject to a certain contract between the "Company" and Murray City, which said contract is hereby referred to for greater certainty, for One and One-fourth (1 $\frac{1}{4}$ ) second feet of the flow of said Creek during April, May, June, July, August, and September, and Five-eighths (5/8) of a second foot during the months of October, November, December, January, February, and March of each and every year, said quantities to be regarded and recognized as the quantities to be first supplied out of the rights decreed to and owned by the "Company" or to which the "Company" may be entitled to appropriation, accrual, development or otherwise; also, saving, excepting, and reserving therefrom all that portion of the water rights of the said Creek heretofore conveyed to the Little Cottonwood Water Company and all that has or may accrue to said Little Cottonwood Water Company and all that has or may accrue to said Little Cottonwood Water Company, its stockholders, successors, or assigns, by, through, or under such conveyances; provided, that in the event the said perpetual lease or contract or decree whereby the Salt Lake County Water Company is entitled to receive said water shall be forfeited to the "Company", then any reversion or reversions to which the "Company" may be entitled because of such forfeiture shall then pass to the "City" under and subject to the terms of this contract with the same limitations, conditions, and provisions, as the other water rights herein granted and conveyed to the "City."

2. It is understood that the "Company" has heretofore conveyed certain rights to the Little Cottonwood Water Company in consideration for stock, and it is agreed that the "Company" is to and does retain ownership of the capital stock of the Little Cottonwood Water Company, and any and all further stock in

-3-

said Little Cottonwood Water Company to which the "Company" is now or may be entitled, or for which the "Company" may subscribe in said Little Cottonwood Water Company and the "Company" may further convey to the Little Cottonwood Water Company all of the rights to which the "Company" is or may be entitled, of, in, and to the Little Cottonwood Creek, it being understood and agreed that any such conveyance shall not diminish the proportionated interest in and to the waters of Little Cottonwood Creek to which the "Company" is entitled nor the quantity of water to which the "City" may be entitled; but that the "City" shall then receive its proportion of the water of said Creek by and through said Little Cottonwood Water Company by virtue of the ownership of stock owned by the "Company" in said Little Cottonwood Water Company; and it is further understood and agreed that the "City" may and the "Company" hereby gives and grants to the "City" the right to have, take, and use, perpetually, or so long as the "City" shall keep and strictly perform each and all of the covenants herein, all of that portion of the water or water rights which the "Company" may be entitled to receive from the Little Cottonwood Water Company by virtue of the ownership of capital stock of said Little Cottonwood Water Company, now owned or that may hereafter be acquired by the "Company" in pursuance of the conveyance of water rights in Little Cottonwood Creek, the "City" hereby recognizing the right of the "Company," if it shall so elect, at any future time, to subscribe for the preferred stock or any common stock to which the "Company" may be entitled as provided in the Articles of Incorporation of the Little Cottonwood Water Company. In order that the "City" may be properly protected in the said interest conveyed by the "Company" to the Little Cottonwood Water Company, and that the views and policies of the "City" be properly represented, it is understood and agreed that the "Company" will deposit with the First National Bank of Murray all certificates of stock now owned or that may hereafter be issued by the Little Cottonwood Water Company to the "Company" to be held by the said First National Bank of Murray until ordered by the "Company," its successors or assigns, to deliver said stock to the "City", or in the event of any default on the part of the "City" as provided in this contract, then upon due certification to the Bank of such default, either by mutual agreement between the "City" and the "Company" or by the service of a decree or judgment or order of any court of competent jurisdiction, directing the delivery thereof to either party, the Bank shall make delivery in accordance therewith, and the Bank's responsibility thereby terminates; and in order that the views and policies of the "City" may

Little Cottonwood  
Water Co. stock  
to be delivered  
as Escrow to  
First National  
Bank of Murray

"City" Represent-  
ation in Little  
Cottonwood Water  
Co.

from time to time be presented to the Little Cottonwood Water Company, and a measure of representation accorded to the "City," the "Company" agrees to issue to the "City" one share of the capital stock of the "Company" and upon the nomination of a suitable person for a director by the "City" to present such name in nomination of director of the Little Cottonwood Water Company, and otherwise keep the "City" advised as to the affairs of the Little Cottonwood Water Company, and if it appears to be to the interests of the "City" and the "Company", such further representation by proxy or power of attorney will be given by the "Company" as will afford mutual representation and protection.

Reimbursements of assessments

3. The "City" agrees to pay and reimburse the "Company" for all assessments which the "Company" may pay to the Little Cottonwood Water Company and if the "Company" shall fail, neglect, or refuse to pay the same, the "City" shall have the right to pay said assessments or other dues to prevent sale or forfeiture of said stock or any part thereof.

Change of place and use of water.

4. <sup>with</sup> The point or points of diversion of the water in this contract to be exchanged by the "Company" with the "City" may be changed by the "City" at the cost, risk, and expense of the "City"; provided, however, that in making any change in the point or points of diversion or use of said water, no vested or accrued rights shall be interfered with or injured and no rights reserved by the "Company" or rights conveyed by the "Company" to the Little Cottonwood Water Company, a corporation, or accrued to it or its stockholders, or rights decreed to the Salt Lake County Water Company under perpetual lease as aforesaid, its or their successors or assigns shall be interfered with; but all such changes of place of diversion or of use shall be made subject to the provision of law relating to the change of the place of diversion of place or purpose of use and this contract is expressly made subject to all of the terms, provisions, and limitations of that certain decree made and entered in the Third Judicial District Court of the State of Utah, in and for the County of Salt Lake, entitled "Union and East Jordan Irrigation Co.", a corporation, plaintiff, vs. Richards Irrigation Co., a corporation et al., defendants, made and entered by C. W. Morse, Judge, on the 16th day of June, 1910, File #4802, and the appropriations, accruals, and developments of said water rights since said decree; subject, however, to the provisions herein set forth, the "City" may use the name of the "Company" in such applications or proceedings as it may find necessary to effect such changes in the point of diversion and use of the said water by this contract agreed to

Limitations Rechanges of place and use of water

be exchanged, keeping, saving, and protecting the "Company" at all times harmless from and against all loss, cost, expense, and damages of every name, nature and character that may accrue in the premises; provided, that any change or the right to change the place of diversion or use of any of said water exchange with the "City" shall be only so long as the "City" shall faithfully keep the covenants herein and each and all of them, and subject to the right of the "Company" to have the same returned to the "Company" in case of forfeiture, cancellation or other termination of the right of the "City" to have, take, or use said water or any part thereof as in this contract provided.

Irrigation water to be furnished the "Company" by the "City"

5. The "City" agrees to furnish and deliver to the "Company" irrigation water, that is, water suitable for irrigation purposes from any available source, and at such place or places as may be required by the "Company" and in a continuous flow during the first fifteen days of April, Twelve (12) second feet; and during the remaining days of April Twenty-five (25) second feet; during the month of May, Thirty (30) second feet; during the month of June, Forty (40) second feet; during the month of July, Forty (40) second feet; during the month of August, Thirty-five (35) second feet, during the month of September, Twenty-five (25) second feet; and during the first fifteen days of October, Ten (10) second feet;

Time water to be furnished

Provided, and it is understood and agreed that said quantities shall be furnished on and after the 1st day of April, 1923; but that during the irrigation season of the years 1921 and 1922, the "City" shall only be required to furnish to the "Company" the quantity of water to which the "Company" would be entitled as its proportion of the flow of said Little Cottonwood Creek and in addition thereto, the "City" shall furnish to the "Company" during the months of July, August, and September of the said years 1921 and 1922 at least 10 additional second feet of water, and from and after the said 1st day of April, 1923, the quantities of water referred to immediately before this provision shall be perpetually furnished to the "Company". Said water for said irrigation purposes or uses shall be delivered each and every year during the life of this agreement in the quantities and during the time herein set forth and shall be so delivered upon the Cahoon and Maxfield Irrigation Company's system as at present constructed, in such way and manner and in such quantities that every stockholder or user on the system shall be enabled under the distribution of

Manner of delivery of the irrigation water

said water by the "Company" to receive at all times his proportionate share of said water to which he is or to which he may be entitled by virtue of his shares or proportion in the "Company" or ditch system, and under the system of distribution adopted by the "Company" for the use of said irrigation water whether distributed by the rotation system or otherwise.

Change of place of delivery of irrigation water

Provided, and it is agreed that if a change of place of delivery of the said water from the place or places of delivery of the said water from the place or places of delivery upon the Cahoon and Maxfield Irrigation Company's system as at present constructed shall be required by the "Company" of all or any portion of said water, then, and in that event any expense or cost that may be incident to or arise because of such change shall be paid and sustained by the "Company". Provided, further, that when such change has been made upon request of the "Company", the place or places of delivery shall not be less convenient for the "City" or such as to increase the quantity of water to be furnished by the "City" to the "Company" or the cost of delivery.

And it is agreed that the "City" shall furnish and deliver the said water as provided in this agreement to the "Company" without expense to the "Company" and free from all taxes, assessments, costs, or expenses, and the company shall never be called upon to pay any assessments upon any stock for repairs, construction, re-construction or otherwise upon any canal, ditch, conduit, instrumentality or means for conducting, handling, or delivering said water to the "Company"; provided, that the "City" shall not be responsible for any repairs or maintenance of the "Company's" ditch system.

No adverse rights to be claimed or required

6. Any use of the water of Little Cottonwood Creek by the "City" under this exchange agreement shall not be construed as vesting in the "City" any right to the use thereof other than under and in pursuance of the terms of this contract; and shall never be construed to be or furnish the basis for any adverse right against the "Company" or others claiming or having rights under any lease, contract, grant, or conveyance heretofore made by the "Company" and specified herein, and in the event that the "Company" shall have the right under this contract or that it shall become necessary because of any breach of this contract by the "City" for the "Company" to take or retake the said water from Little Cottonwood Creek or any part thereof, the "City"

Proceedings  
in case of  
default

agrees to pay and reimburse the "Company" for all costs and expenses that may be incurred by the "Company" in replacing, repairing, or reconstructing any ditch or other channel necessary for the purpose of securing to the "Company" the return of said water to the original place of use at which it was entitled to receive its proportion of said Little Cottonwood Creek before the same was changed by the "City."

City to pay  
cost of distribu-  
tion etc. of water

7. The "City" shall reimburse the "Company" for all expenses, costs, or salaries, assessed, incurred, levied, or apportioned against or to the "Company" arising out of the measurement, apportionment, and distribution of the waters of Little Cottonwood Creek herein exchanged, including water commissioner's fees or dues or allowances, and if any action or proceedings shall be instituted in relation thereto, the "Company" agrees to notify the "City" and the "City" shall have the right to appear and defend. The "City" is hereby authorized to act for and in behalf of the "Company" in all matters relating to said water rights and distribution of water in Little Cottonwood Creek, during the life of this contract.

Payment of crop  
losses, etc. in  
event of default

8. In the event of any default on the part of the "City" to furnish or deliver any water agreed to be furnished or delivered by the "City" or to perform any of the other covenants and agreements herein contained, the "Company" by itself or its duly authorized officers, may at once give notice as provided in Section 14 of this contract of any such default and if such default or failure shall continue for a period of Twenty-four (24) hours, then the "Company" or its representative may at once retake the said water of said Little Cottonwood Creek to which the "Company" is or would be entitled if this contract had not been made, and the "City" agrees to pay all cost, expenses, and damages sustained or which may accrue to the "Company" or to its stockholders, including crop losses or damages, if any, sustained by the stockholders of the "Company", and all attorney's fees and expenses that may be incurred by the "Company" because of such default; and if the default on the part of the "City" to furnish said water for irrigation purposes or to comply with any of the terms of this contract as herein agreed shall continue for a period of six months, then all rights acquired by the "City" under and by virtue of this contract shall be forfeited and any right granted to or acquired by the "City" to have, use, or enjoy the use of the water of Little Cottonwood Creek under or by virtue of this contract or that may have accrued other than or in addition to the rights herein granted because of the development or use thereof shall be

forfeited to the "Company" and any rights to the use thereof by the "City" shall cease and terminate and the "Company" shall be restored to all its existing rights which it had before this contract was made and all accrued rights to this full proportion of said Little Cottonwood Creek as if this contract had not been made and the "Company" shall be released from all liability hereunder and shall not be liable for any damages resulting from the retaking of said water or any part thereof or for any other matters arising under this contract except such that may have accrued before the breach of the "City"; provided, and it is agreed that any temporary forfeiture of this contract or any part thereof on the part of the "City" shall not affect or terminate any right granted by the "City" to the "Company" or secured to the "Company" under this contract.

Temporary  
retaking any  
be adjusted

9. In case it shall happen at any time that the "Company" shall have occasion temporarily to retake the water from Little Cottonwood Creek or any part thereof for or on account of the failure of the "City" to furnish water to the "Company" as is herein provided or to protect the water rights reserved as set out in this contract, or in the event that it shall be necessary on the part of the "Company" to take any steps to protect any rights which the "Company" has heretofore granted or which are reserved or protected by this contract, it is agreed by the "City", upon purging itself of every default and upon the payment in full of all costs, damages, expenses, and attorney's fees, to have, take, and use the water of said Little Cottonwood Creek under and in accordance with the conditions herein specified by furnishing to the "Company", its successors and assigns, the water in the quantities and for the purposes and of the quality and in the manner herein specified. Provided, however, that if any such default on the part of the "City" to furnish said water or comply with any of the terms of this contract as herein agreed shall continue for a period of six months, all rights acquired by the "City" under and by virtue of this contract shall be forfeited and any rights granted to the "City" to have, take, use, or enjoy the use of any of the waters of Little Cottonwood Creek under and by virtue of this contract shall cease and terminate absolutely.

10. If the "City", its officers, agents, servants, or employees, shall, after notice to the "City" by the "Company", of any default or breach of any covenant or agreement herein, resist the taking of the water by the "Company" or any of the acts



Effect of City's  
resistance under  
default

of the "Company" which the "Company" shall be entitled to do or perform under this contract and if it shall be necessary to resort to any proceedings at law, in equity or otherwise or to employ an attorney or to institute any special proceedings of any character whatsoever, for the enforcement or protection of any right of the "Company", its successors or assigns under this contract, the "City" agrees to pay all cost, expenses, damages, and attorney's fees incurred by the "Company" because of any such acts or proceedings.

Protection of  
rights by the  
City

11. It is mutually agreed that the "City" shall at its own proper cost and expense protect, maintain, and defend all of the rights of the "Company" in its decreed and accrued rights to the use of its proportion of the Little Cottonwood Creek, and will defend all actions, suits at law, or proceedings of any and every character before any body or tribunal or in any way involving the rights to the use, protection or development of the waters of said Little Cottonwood Creek or any part thereof; and will at all times protect the rights to which the "Company" is or may be entitled by way of appropriation, development, or use, and will defray all costs, expenses, damages and attorney's fees that may accrue in defending and protecting said rights, keeping and saving the "Company" harmless from and against all expenses whatsoever in the premises or because of exchange of said waters herein or the maintenance of the right to the use thereof free from interference or adverse claim or right by any other person or corporation whatsoever and the "Company" agrees to render friendly assistance.

Diversion  
appliances

12. The "City" shall promptly provide the necessary gates, weirs, and diversion appliances for properly measuring and delivering the water to which the "Company" is entitled, and suitable means for diverting a part of all of the water to which the "Company" is entitled from its canals and ditches in case of floods, excessive flow, or because of damage or injury to the ditch or canal, or for cleaning, repair, or for other reasons, and the "Company" shall be provided with the necessary means of access and such instrumentalities as will enable it to control the said means of diversion or regulating the flow of water into its ditch or canal upon emergency occasions if any such arise; but this provision shall not be construed to vest in the "Company" the right to interfere with or change the flow except upon emergencies; not to relieve the "City" from any responsibility in maintaining a constant and regular flow of water as in this contract provided.

"Company" not  
liable for  
"City" negligence

13. The "Company" shall not be liable for any damages resulting from any act, accident, injury, negligence, or mis-conduct on the part of the "City" that may arise because of the change of place of diversion or use of said water and the "City" shall defend all actions and defray the expenses thereof and keep and save the "Company" harmless from and against all loss, cost, damages, and attorney's fees arising out of or because of any such act, accident, injury, or misconduct; and if any judgment shall be recovered against the "Company" because of any such act, accident, injury or misconduct, the fact of recovery shall be conclusive as to the liability of the "City" to the "Company", and if any suit of proceedings are instituted against the "Company", the "Company" shall reasonably notify the "City" so that the "City" may properly defend.

Parties to be  
designated upon  
whom notice is to  
be served.

14. It is agreed that the "City" shall designate certain officers of departments of the "City" upon whom notices may be served concerning any matter pertaining in any way to this contract or the things to be done in pursuance of the provisions thereof; and unless such designation is otherwise made notices or communications may be served upon the City Engineer or his representatives; and the "Company" shall designate certain officers or persons upon whom notices may be served concerning matters pertaining to this contract or things to be done in pursuance of the provisions thereof; and until such designation is made, notices or communications may be served upon the President, or Secretary of Water Superintendent, or in their absence upon any director.

15. The terms of this contract are and shall be binding upon the parties hereto and upon their successors and assigns.

IN WITNESS WHEREOF, the "Company" by its duly authorized officers in pursuance of a resolution of its Board of Directors duly ratified and approved by a majority votes of its stockholders, and the "City" by its duly authorized officers, in pursuance of a resolution duly passed by the Board of Commissioners, have caused these presents to be executed the day and year first above written.

CAHOON & MAXFIELD IRRIGATION CO.

(signed

By Geo. H. Watta  
Its President

(signed

Jas. E. Clay  
Its Secretary

(signed) By C. C. Neslen  
Its Mayor  
(signed) W. A. Leathan  
Its Recorder

STATE OF UTAH )  
COUNTY OF SALT LAKE ) SS

On the 28th day of March, 1921, personally appeared before me George H. Watts and James E. Clay, who, being by me duly sworn did say: That they are the President and Secretary, respectively, of the Cahoon and Maxfield Irrigation Company, a corporation, and that said instrument was signed in behalf of said corporation by authority of a resolution of its stockholders, and said George H. Watts and James E. Clay acknowledged to me that said corporation executed the same.

(signed) D. W. Moffat  
Notary Public

My commission expires October 13, 1921.

STATE OF UTAH )  
COUNTY OF SALT LAKE ) SS

On the \_\_\_ day of March, 1921, personally appeared before me C. Clarence Neslen and \_\_\_\_\_ who, being by me duly sworn did say: That they are Mayor and Recorder respectively of Salt Lake City, Utah, a municipal corporation under the laws of the State of Utah, and that said instrument was signed in behalf of said corporation by authority of a resolution of the Board of Commissioners of Salt Lake City, and said C. Clarence Nelsen and \_\_\_\_\_ acknowledged to me that said corporation executed the same.

\_\_\_\_\_  
Notary Public

My commission expires

SALE AND EXCHANGE AGREEMENT

THIS AGREEMENT, MADE AND ENTERED INTO THIS 29th day of May, 1931, by and between WALKER DITCH COMPANY, a Utah corporation, party of the first part, hereinafter called the "Company", and SALT LAKE CITY, a municipal corporation, party of the second part, hereinafter called the city.

WITNESSETH WHEREAS, the company is the owner of certain water rights and is entitled to the use of certain water in Little Cottonwood Creek, a natural stream in Salt Lake County, Utah, hereinafter called the "Stream", which water is desirable for culinary uses, and character and extent of such rights being fixed and determined in that certain Decree made and entered by the Honorable O. W. Morse, Judge, on the 17th Day of June, 1910 in the Third Judicial District Court of the State of Utah in and for Salt Lake County, in the case of Union and East Jordan Irrigation Company, Plaintiff-vs. Richards Irrigation Company et al, defendants, being file No. 4802 of the records of said District Court, and

WHEREAS, the City is the owner of certain water rights and entitled to use certain waters suitable for irrigation and not for culinary purposes and is desirous of acquiring by purchase and exchange the rights of the Company in the stream for domestic and culinary uses,

NOW THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth, it is hereby agreed as follows:

1. Subject to the reservations, restrictions, and the strict performance of the covenants herein set forth, the Company hereby gives and grants to the City the right to have taken and use all of the water and water rights to which the Company is or may be entitled in the stream, whether acquired by appropriation, accrual, development, decree or otherwise, including all that portion of the water and water rights in the stream which the Company may be entitled to receive by virtue of its ownership of capital stock in the Little Cottonwood Water Company, a Utah corporation, it being understood and agreed that said stock of the Company in said Little Cottonwood Water Company shall be transferred and delivered by the Company to the City and same shall be retransferred and re-delivered by the City to the Company should the City at any time forfeit its rights in the stream hereby conveyed and the same revert to the Company, the City hereby agreeing to pay all assessments or other dues accruing upon said stock from and after the execution of this Agreement and until the re-transfer and re-delivery of the stock as aforesaid.

The company will protect the City against any interference with or attempted obstruction of the taking of said waters by any person

EXHIBIT

B

or corporation under any claim of right that originated or is alleged to have originated prior to the date of initial delivery of waters to the City under the terms of this agreement, excepting the water filings of Leland H. Kimball, Frank C. Kimball or the Suburban Water Company.

The Company reserves to itself all rights set forth in paragraph 34 of the Decree of the Court in Case Number 4802 above referred to, which paragraph and rights thereunder are based upon the contract for the rental of certain waters of the stream wherein the Company and other water users of the stream are the lessors and Sandy City Corporation by assignment is the lessee.

2. The point or points of diversion and use of the said waters of the stream hereby sold and transferred may be changed by the City at its own cost subject to the rights of other water users on the stream, and the City may, if it so desires, use the name of the Company in any applications or proceedings to effect such change or changes, provided that it shall at all times save the Company harmless from and against all loss, cost, expense, and damage of every nature that may accrue by reason of any such change, and subject to the right of the Company to use and divert said waters as it has heretofore done or may hereafter desire in the event of forfeiture, cancellation or other termination of the right of the city to have, take, or use said waters as in this contract provided.

3. In consideration of the transfer by the Company to the City of said water of the stream and the right to use the same, the City agrees:

(a) To pay to the Company the sum of sixty-six thousand two hundred fifty (\$66,250.00) dollars, payable as follows: Sixteen thousand two hundred fifty (\$16,250.00) dollars on or before thirty days from date hereof: fifty thousand (\$50,000.00) dollars on or before sixty days from date hereof, provided that should the City obtain the proceeds from the sale of its one million three hundred thousand (\$1,330,000.00) dollars Water Revenue Bonds prior to the dates of payment hereinabove specified, payment in full shall be made by the City upon the receipt by it of the proceeds of said bonds.

(b) To furnish and deliver irrigation water to the Company into the Company's distribution system as at present constructed from the 1st day of April until the 15th day of October of each year, provided that the City shall not be required to furnish irrigation water subsequent to the 1st day of October of any year in which it is not furnishing irrigation water to any of its other exchanges. The irrigation water delivered by the City shall be suitable and desirable for irrigation purposes and shall be in quantity equal to the quantity which the City takes as the share of the stream to which the Company is entitled, and not to exceed the amount to which the Company would be entitled if the same were measured at the Company's present point of diversion, as the same may fluctuate from time to time during said irrigation season from April 1 to October 15, plus an additional one second foot of such irrigation water during July, August, and September of each year in the event the City shall take, during said

months, all of the water to which the Company is entitled, and in the event the City shall, during said months, or any part thereof, take part but less than all of the stream water to which the Company is entitled, the City shall, in such event and during such period, deliver in addition to the quantity equal to that taken, such proportion of said one additional second foot as the stream water taken by the City shall bear to the stream water that the Company is entitled to take, provided that at any time the stream flow to which the Company is entitled is less than two second feet, the City may not take any of the Company's water in the stream without taking the whole thereof. In no event shall the City be required to deliver to the Company more than eleven second feet of Irrigation water regardless of the quantity of stream water the City may take from said stream. Said irrigation water shall be delivered in accordance with good irrigation practice with the understanding that slight variations in supply due to wind and storm conditions shall not be considered a breach of contract on the part of the City and in the event of a break in the canal or main sources of supply of the City occasioned by causes over which it has no control, it will not be a breach of contract provided the City uses efficient methods promptly to remedy such conditions, it being understood that this reservation shall in no wise restrict or change the provisions of paragraph number 4 of this agreement.

It is further understood that said irrigation water shall not be required to be delivered for land not now under the present ditches of the Company provided that the City shall at any time, at the request of the Company, change the point of delivering such irrigation water into the Company's distributing system so long as such change does not entail any greater or additional expense of obligation on the City than that entailed in delivering such water to the point first delivered under the terms of this agreement. Said irrigation water, when and as delivered, shall be delivered to the Company in a continuous flow and the duty shall be upon the Company to distribute the same to its stockholders at the times, in the manner and amounts to which they are entitled.

It is further understood that the City is under no duty or obligation to take the water of the Company from the stream and that at any time and for any period, the City may, upon notifying the Company in writing of its intention so to do, refrain from taking all or any part of the water of the Company from said stream and allow the water not taken to flow in said stream in its present course, subject to the minimum requirement hereinabove specified, and in the event no water is taken by the City, the City shall be relieved of any duty or obligation to furnish or deliver to the Company any irrigation water and if part of the water is taken, the City shall deliver to the Company a quantity of water equal to the amount it takes plus such proportion of one additional second foot as the company's water taken from the stream by the City shall bear to the Company's share of the water in the stream, and any such action of the City in refraining from taking the water of the Company from the Stream during said

period and in failing to furnish or deliver irrigation water to the Company during said period shall not be construed or be considered a default on the part of the City.

4. In the event of any default on the part of the City to furnish or deliver any irrigation water agreed to be furnished, and delivered by the City, or to perform any of the other covenants and agreements herein contained, the Company may at once give notice of any such default or failure and if the same shall continue for a period of forty-eight (48) hours after such notice, then the Company may at once retake said water of the stream hereby conveyed and may retain and use the same until such time as the City shall be prepared to and shall give notice of its readiness to cure such default provided that if any such default on the part of the City shall continue for a period of one year, then all rights acquired by the City under and by virtue of this contract shall be forfeited, including the cash payment made hereunder and the right granted to the City to have and enjoy the use of the waters of the Company in the stream, and the Company shall be restored to all the rights it had before this contract was made, and shall be released from all liability hereunder and shall not be liable for any damages resulting from the retaking of said water or any part thereof, or any other matters arising under this contract, except such as may have accrued before the breach by the City and it is understood and agreed that in the event the Company shall retake said stream water by reason of default or forfeiture on the part of the City, that the City shall reimburse the Company for all costs and expenses, including attorney's fees, that may be incurred by the Company in retaking said stream water, or matters incident thereto, including the costs of replacing, repairing, or reconstructing any ditch or other channel necessary for the purpose of securing to the Company the return of said stream water to the original place of use at which it was entitled to receive its proportion of said stream prior to the execution of this agreement, and it being further understood and agreed that in the event any stockholder or water user of the Company shall suffer damages of any nature, including crop losses by reason of failure of the City in its obligation to deliver irrigation water, or its obligation to return to the Company the said stream waters in lieu thereof, that the City shall promptly reimburse such stockholder or water user for any such loss and in the event of disagreement between such stockholder or water user and the City as to the amount of such damage of loss, each of said parties shall appoint a disinterested arbitrator or appraiser, the two so chosen shall appoint a third, and such committee of three shall determine the loss or damage, if any, or such stockholder or water user by reason of any such default on the part of the City, and the City shall forthwith pay such damage so ascertained, it being understood that the Company may without objection on the part of the City, represent any such stockholders or water users as may have suffered damage or loss above referred to.

5. The City further agrees to install, at its own expense, suitable measuring devices to measure the irrigation waters, delivered into the Company's ditch and the stream water taken by the City from the stream pursuant to this Agreement, the records of such measuring device to be at all times accessible to the officers of the Company, and to pay all costs and expenses that may be incurred or levied against the City or the Company for apportioning and dividing the waters of the stream, and the City is hereby authorized to act for and in behalf of the Company in all matters relating to said water rights and the Distribution of the waters of the stream during the life of this contract.

6. It is understood that the Company may serve notice upon the City concerning any matters pertaining to this contract, or the things to be done in pursuance of the provisions thereof, by serving such notice upon the City Engineer or his representatives, or the City Recorder or his representatives, and the City may serve any such notice upon the Company by serving such notice upon the President, Secretary or Water Superintendent of the Company, or in their absence, upon any director, provided that either party hereto may give notice to the other party of the particular officers or agents upon whom it desires any notice to be served and thereafter such designation shall control until modified or changed.

7. The Company hereby warrants that it is the owner of the rights herein granted and conveyed to the City, that the same are free and unencumbered and that it has the legal right and title to grant and convey them to the City.

8. The terms of this contract are and shall be binding upon the parties hereto and upon their successors and assigns.

IN WITNESS WHEREOF, THE company by its duly authorized officers, in pursuance of a resolution of its Board of Directors, duly ratified and approved by a majority vote of the stockholders, and the City by its duly authorized officers, in pursuance of a resolution duly passed by the Board of Commissioners, have caused these presents to be executed the day and year first above written.

WALKER DITCH COMPANY

ATTEST:  
Henry Walker, Secretary

By S. R. Godfrey, President

SALT LAKE CITY

ATTEST:  
Ethel Macdonald, City Recorder

John F. Bowman, Mayor



STATE OF UTAH )  
COUNTY OF SALT LAKE) SS

On the 29th day of May, 1931, personally appeared before me S. R. Godfrey and Henry Walker, who being by me duly sworn did say: That they are the President and Secretary, respectively, of Walker Ditch Company, a corporation, and that said instrument was signed in behalf of said corporation by authority of a resolution of its stockholders, and said S. R. Godfrey and Henry Walker acknowledged to me that said corporation executed the same.

D. Howe Moffat, Notary Public  
residing in Salt Lake

STATE OF UTAH )  
COUNTY OF SALT LAKE) SS

On the 5th day of June 1931, personally appeared before me John F. Bowman and Ethel Macdonald, who being by me duly sworn, did say: that they are Mayor and Recorder, respectively, of Salt Lake City, Utah, a municipal corp. under the laws of the State of Utah, and that said instrument was signed in behalf of said corp. by authority of a resolution of the Board of Commissioners of Salt Lake City, and said John F. Bowman & Ethel MacDonald acknowledged to me that said corp. executed the same.

H. Warren Smith, Notary Public  
residing at Salt Lake City, Utah

SALE AND EXCHANGE AGREEMENT.

THIS AGREEMENT, made and entered into this 29th day of May, 1931, by and between THE RICHARDS IRRIGATION COMPANY, a Utah corporation, party of the first part, hereinafter called the "Company", and SALT LAKE CITY, a municipal corporation, party of the second part, hereinafter called the "City",

W I T N E S S E T H:

WHEREAS, the Company is the owner of certain water rights and is entitled to the use of certain water in Little Cottonwood Creek, a natural stream in Salt Lake County, Utah, hereinafter called the "stream", which water is desirable for culinary uses, the character and extent of such rights being fixed and determined in that certain Decree made and entered by the Honorable C. W. Morse, Judge, on the 16th day of June, 1910, in the Third Judicial District Court of the State of Utah in and for Salt Lake County, in the case of Union and East Jordan Irrigation Company, Plaintiff, vs. Richards Irrigation Company, et al., Defendants, being file No. 4802 of the records of said District Court, and

WHEREAS, the City is the owner of certain water rights and entitled to use certain waters suitable for irrigation and not for culinary purposes and is desirous of acquiring by purchase and exchange the rights of the Company in the stream for domestic and culinary uses,

NOW THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth, it is hereby agreed as follows

1. Subject to the reservations, restrictions and the strict performance of the covenants herein set forth, the Company hereby gives and grants to the City the right to have, take and use all of the water and water rights to which the Company is or may be entitled in the stream, whether acquired by appropriation, accrual, development, decree or otherwise, including all that portion of the water and water rights in the stream which the Company may be entitled to receive by virtue of its ownership of capital stock in the Little Cottonwood Water Company, a Utah corporation, it being understood and agreed that said stock of the Company in said Little Cottonwood Water Company shall be transferred and delivered by the Company to the City and the same shall be re-transferred and re-delivered by the City to the Company should the City at any time forfeit its rights in the stream hereby conveyed and the same revert to the Company, the City hereby agreeing to pay all assessments or other dues accruing upon said stock from and after the execution of this Agreement and until the re-transfer and re-delivery of the stock as aforesaid.

The Company will protect the City against any interference with or attempted obstruction of the taking of said waters by any person or corporation under any claim of right that originated or is alleged to have originated prior to the date of initial delivery of waters to the City under the terms of this Agreement, excepting the water filings of Leland H. Kimball, Frank C. Kimball or the Suburban Water Company.

The Company reserves to itself all rights set forth in paragraph 34 of the Decree of the Court in Case number 4802 above referred to, which

EXHIBIT

C

paragraph and rights thereunder are based upon the contract for the rental of certain waters of the stream wherein the Company and other water users of the stream are the lessors and Sandy City Corporation by assignment is the lessee.

2. The point or points of diversion and use of the said waters of the stream hereby sold and transferred may be changed by the City at its own cost subject to the rights of other water users on the stream, and the City may, if it so desires, use the name of the Company in any applications or proceedings to effect such change or changes, provided that it shall at all times save the Company harmless from and against all loss, cost, expense and damage of every nature that may accrue by reason of any such change, and subject to the right of the Company to use and divert said waters as it has heretofore done or may hereafter desire in the event of forfeiture, cancellation or other termination of the right of the City to have, take or use said waters as in this contract provided.

3. In consideration of the transfer by the Company to the City of said waters of the stream and the right to use the same, the City agrees:

(a) To pay to the Company the sum of Fifty One Thousand Two Hundred Fifty (\$51,250.00) Dollars, payable as follows: Thirteen Thousand Two Hundred Fifty (\$13,250.00) Dollars on or before thirty days from date hereof; Thirty Eight Thousand (\$38,000.00) Dollars on or before sixty days from date hereof, provided that should the City obtain the proceeds from the sale of its One Million Three Hundred Thousand (\$1,300,000.00) Dollars water revenue bonds prior to the dates of payment hereinabove specified, payment in full shall be made by the City upon the receipt by it of the proceeds of said bonds.

(b) To furnish and deliver irrigation water to the Company into the Company's distributing system as at present constructed from the 1st day of April until the 15th day of October of each year, provided that the City shall not be required to furnish irrigation water subsequent to the 1st day of October of any year in which it is not furnishing irrigation water to any of its other exchanges. The irrigation water delivered by the City shall be suitable and desirable for irrigation purposes and shall be in quantity equal to the quantity which the City takes as the share of the stream to which the Company is entitled, and not to exceed the amount to which the Company would be entitled if the same were measured at the Company's present point of diversion, as the same may fluctuate from time to time during said irrigation season from April 1 to October 15, averaged over seven and one-fourth day periods and adjusted so that the City shall not be required to pump in fractions of a second foot, plus an additional one second foot of such irrigation water during July, August, and September of each year in the event the City shall take during said months all of the water to which the Company is entitled, and in the event the City shall, during said months, or any part thereof, take part but less than all of the stream water to which the Company is entitled, the City shall, in such event and during such period, deliver in addition to the quantity equal to that taken, such proportion of said one additional second foot as the stream water taken by the City shall bear to the stream water that the Company is entitled to take, provided that at any time the stream flow to which the Company is entitled is less than two second feet, the City may not take any of the Company's water in the stream without taking

the whole thereof. In no event shall the City be required to deliver to the Company more than eleven second feet of irrigation water regardless of the quantity of stream water the City may take from said stream. Said irrigation water shall be delivered in accordance with good irrigation practice with the understanding that slight variations in supply due to wind and storm conditions shall not be considered a breach of contract on the part of the City and in the event of a break in the canal or main sources of supply of the City occasioned by causes over which it has no control it will not be a breach of contract provided the City uses efficient methods promptly to remedy such conditions, it being understood that this reservation shall in no wise restrict or change the provisions of paragraph number 4 of this Agreement.

(c) To construct a culinary pipe line system to serve the Company's stockholders and water users and to deliver into such system suitable culinary water to be paid for by the users at regular City meter rates. Such culinary pipe line system shall follow from a point on the Little Cottonwood conduit near the home of Charles Wengren along Highway #2, known as Creek Road, in a northwesterly direction to where said highway joins Thirteenth East Street, thence westerly on the Amusement Hall Road to the J. A. Phillips gate, a branch from said pipe line to serve the families in an area of approximately four small blocks, such area being bounded on the south by the Amusement Hall Road, on the East by Thirteenth East Street and on the north and west by the Clawson, Poulson, Holmgren, Cyrus Oborn, Alfred Green, Warren Brady and George Green homes but the City shall not be required to serve any water users other than Company stockholders and within the area now under the Richards Ditch. A branch from the main pipe line shall be constructed from a point at the intersection of Creek Road and Fifteenth East Street, running north approximately one-fourth mile to the D. A. Proctor home. All water connections from said culinary system on the highway to the residences or place of use of the Company's users, including meters, shall be made and installed at such users' expense.

It is further understood that said irrigation water shall not be required to be delivered for land not now under the present ditches of the Company, provided that the City shall at any time at the request of the Company, change the point of delivering such irrigation water into the Company's distributing system so long as such change does not entail any greater or additional expense or obligation on the City than that entailed in delivering such water to the point first delivered under the terms of this Agreement. Said irrigation water when and as delivered shall be delivered to the Company in a continuous flow and the duty shall be upon the Company to distribute the same to its stockholders at the times in the manner and amounts to which they are entitled.

It is further understood that the City is under no duty or obligation to take the water of the Company from the stream and that at any time and for any period the City may, upon notifying the Company in writing of its intention so to do, refrain from taking all or any part of the water of the Company from said stream and allow the water not taken to flow in said stream in its present course, subject to the minimum requirement hereinabove specified, and in the event no water is taken by the City, the City shall be relieved of any duty or obligation to furnish or deliver to the Company any irrigation water and if part of the water is taken the City shall deliver to the Company a quantity of water equal to

the amount it takes plus such proportion of one additional second foot as the Company's water taken from the stream by the City shall bear to the Company's share of the water in the stream, and any such action of the City in refraining from taking the water of the Company from the stream during said period and in failing to furnish or deliver irrigation water to the company during said period shall not be construed or be considered a default on the part of the City.

4. In the event of any default on the part of the City to furnish or deliver any irrigation water agreed to be furnished and delivered by the City or to perform any of the other covenants and agreements herein contained, the Company may at once give notice of any such default or failure and if the same shall continue for a period of forty-eight (48) hours after such notice, then the Company may at once retake said water of the stream hereby conveyed and may retain and use the same until such time as the City shall be prepared to and shall give notice of its readiness to cure such default, provided that if any such default on the part of the City shall continue for a period of one year, then all rights acquired by the City under and by virtue of this contract shall be forfeited, including the cash payment made hereunder and the right granted to the City to have and enjoy the use of the water of the Company in the stream, and the Company shall be restored to all the rights it had before this contract was made, and shall be released from all liability hereunder and shall not be liable for any damages resulting from the retaking of said water or any part thereof or any other matters arising under this contract, except such as may have accrued before the breach by the City and it is understood and agreed that in the event the Company shall retake said stream water by reason of default or forfeiture on the part of the City, that the City shall reimburse the Company for all costs and expenses, including attorney fees, that may be incurred by the Company in retaking said stream water, or matters incident thereto, including the costs of replacing, repairing, or reconstructing any ditch or other channel necessary for the purpose of securing to the Company the return of said stream water to the original place of use at which it was entitled to receive its proportion of said stream prior to the execution of this Agreement, and it being further understood and agreed that in the event any stockholder or water user of the Company shall suffer damage of any nature, including crop losses by reason of failure of the City in its obligation to deliver irrigating water, or its obligation to return to the Company the said stream waters in lieu thereof, that the City shall promptly reimburse such stockholder or water user for any such loss, and in the event of disagreement between such stockholder or water user and the City as to the amount of such damage or loss, each of said parties shall appoint a disinterested arbitrator or appraiser, the two so chosen shall appoint a third, and such committee of three shall determine the loss or damage, if any, of such stockholder or water user by reason of any such default on the part of the City, and the City shall forthwith pay such damage so ascertained, it being understood that the Company may, without objection on the part of the City, represent any such stockholders or water users as may have suffered damage or loss above referred to.

5. The City further agrees to install, at its own expense, suitable measuring devices to measure the irrigation waters delivered into the Company's ditch and the stream water taken by the City from the stream pursuant to this Agreement, the records of such measuring device to be at all times accessible to the officers of the Company, and to pay all costs

and expenses that may be incurred or levied against the City or the Company for apportioning and dividing the waters of the stream, and the City is hereby authorized to act for and in behalf of the Company in all matters relating to said water rights and the distribution of the waters of the stream during the life of this contract.

6. It is understood that the Company may serve notice upon the City concerning any matters pertaining to this contract or the things to be done in pursuance of the provisions thereof, by serving such notice upon the City Engineer or his representatives, or the City Recorder or his representatives, and the City may serve any such notice upon the Company by serving such notice upon the President, Secretary or Water Superintendent of the Company, or in their absence, upon any director, provided that either party hereto may give notice to the other party of the particular officers or agents upon whom it desires any notice to be served and thereafter such designation shall control until modified or changed.

7. The Company hereby warrants that it is the owner of the rights herein granted and conveyed to the City, that the same are free and unencumbered and that it has the legal right and title to grant and convey them to the City.

8. The terms of this contract are and shall be binding upon the parties hereto and upon their successors and assigns.

IN WITNESS WHEREOF, the Company by its duly authorized officers, in pursuance of a resolution of its Board of Directors, duly ratified and approved by a majority vote of its stockholders, and the City by its duly authorized officers, in pursuance of a resolution duly passed by the Board of Commissioners, have caused these presents to be executed the day and year first above written.

THE RICHARDS IRRIGATION COMPANY,

By James A. Phillips  
Its President.

(SEAL)

ATTEST:

Peter Van Valkenburg  
Secretary.

SALT LAKE CITY,

By John F. Bowman  
Mayor.

(SEAL)

ATTEST:

Ethel MacDonald  
City Recorder.

STATE OF UTAH, )  
COUNTY OF SALT LAKE, ) SS.

On the 29th day of May, 1931, personally appeared before me James A. Phillips and Peter Van Valkenburg, who being by me duly sworn did say: That they are the President and Secretary, respectively, of the Richards Irrigation Company, a corporation, and that said instrument was signed in behalf of said corporation by authority of a resolution of its stockholders, and said James A. Phillips and Peter Van Valkenburg acknowledged to me that said corporation executed the same.

(SEAL)

D. Howe Moffat  
Notary Public.

Residing at Salt Lake City, Utah.

STATE OF UTAH, )  
COUNTY OF SALT LAKE ) SS.

On the 5th day of June, 1931, personally appeared before me John F. Bowman and Ethel MacDonald, who being by me duly sworn, did say: That they are Mayor and Recorder, respectively of Salt Lake City, Utah, a municipal corporation under the laws of the State of Utah, and that said instrument was signed in behalf of said corporation by authority of a resolution of the Board of Commissioners of Salt Lake City, and said John F. Bowman and Ethel MacDonald acknowledged to me that said corporation executed the same.

(SEAL)

H. Warren Smith  
Notary Public.

Residing at Salt Lake City, Utah.

STATE OF UTAH  
COUNTY OF SALT LAKE } ss

I, Peter Van Valkenberg, the duly appointed, qualified and acting Secretary of THE RICHARDS IRRIGATION COMPANY, a Utah corporation, hereby certify that the following is a full, true and correct copy of a resolution unanimously adopted at a special meeting of the Board of Directors of THE RICHARDS IRRIGATION COMPANY, duly and regularly called and held May 18, 1931, at which meeting all directors were present:

BE IT RESOLVED that this corporation enter into the Sale and Exchange Agreement between this company and Salt Lake City, a municipal corporation, concerning the water rights in Little Cottonwood Creek, a full true and correct copy of which agreement is attached hereto and made a part of this resolution; and

BE-IT FURTHER RESOLVED that the President and Secretary of this corporation be and they hereby are authorized and directed to sign, seal, execute and deliver said Agreement on behalf of this corporation, and to do any and all other things necessary or proper to complete the execution and to carry out the terms and conditions thereof.

AND I FURTHER CERTIFY that the following is a full, true and correct copy of a resolution unanimously adopted at a special meeting of the stockholders of said corporation duly and regularly called and held May 23, 1931 and adjourned to May 25, 1931, at which meeting 357 shares of the 453 shares of stock outstanding of the corporation were present or represented at said meeting:

"BE IT RESOLVED that the action of the Board of Directors of this corporation in approving the Sale and Exchange Agreement between this corporation and Salt Lake City, covering water rights in Little Cottonwood Creek, and authorizing the execution of said Agreement by the President and Secretary of this corporation, be and the same hereby is ratified and approved, and adopted as the act and deed of this corporation."

I FURTHER CERTIFY that the Sale and Exchange Agreement referred to in the resolution above set out is the same agreement as the Original



SALE AND EXCHANGE AGREEMENT

THIS AGREEMENT, made and entered into this 29th Day of May 1931, by and between the LITTLE COTTONWOOD TANNER DITCH COMPANY, a Utah corporation, party of the first part, hereinafter called the "Company" and SALT LAKE CITY, a municipal corporation, party of the second part, hereinafter called the "City".

WITNESSETH: WHEREAS, the Company is the owner of certain water rights and is entitled to the use of certain water in Little Cottonwood Creek, a natural stream in Salt Lake County, Utah, hereinafter called the "stream", which water is desirable for culinary uses, the character and extent of such rights being fixed and determined in that certain decree made and entered by the Honorable C. W. Morse, Judge, on the 18th day of June, 1910, in the Third Judicial District Court of the State of Utah in and for Salt Lake County, in the case of Union and East Jordan Irrigation Company, Plaintiff, vs. Richards Irrigation Company, et al., Defendants, being file No. 4802 of the records of said District Court, and

WHEREAS, the City is the owner of certain water rights and entitled to use certain waters suitable for irrigation and not for ordinary purposes and is desirous of acquiring by purchase and exchange the rights of the Company in the stream for domestic and culinary uses,

NOW THEREFORE, in consideration of the premises and of the covenants and agreements hereinafter set forth, it is hereby agreed as follows:

1. Subject to the reservations, restrictions and the strict performance of the covenants herein set forth, the Company hereby gives and grants to the City the right to have, take, and use all of the water and water rights to which the Company is or may be entitled in the stream, whether acquired by appropriation, accrual, development, decree or otherwise, including all that portion of the water and water rights in the stream which the Company may be entitled to receive by virtue of its ownership of capital stock in the Little Cottonwood Water Company, a Utah Corporation, it being understood and agreed that said stock of the Company in said Little Cottonwood Water Company shall be transferred and delivered by the Company to the City and the same shall be retransferred and re-delivered by the City to the Company should the City at any time forfeit its rights in the stream hereby conveyed and the same revert to the Company, the City hereby agreeing to pay all assessments or other dues accruing upon said stock from and after the execution of the agreement and until the re-transfer and re-delivery of the stock as aforesaid.

The Company will protect the City against any interference with or attempted obstruction of the taking of said waters by any person

EXHIBIT

D

or corporation who is to have alleged to have originated prior to the date of initial delivery of waters to the City under the terms of this agreement, excepting the water filings of Leland H. Kimball, Frank C. Kimball, or the Suburban Water Company.

The Company reserves to itself all rights set forth in paragraph 34 of the Decree of the Court in Case Number 4802 above referred to, which paragraph and right thereunder are based upon the contract for the rental of certain waters of the stream wherein the Company and other water users of the stream are the lessors and Sandy City Corporation by assignment is the lessee.

2. The point or points of diversion and use of the said waters of the stream hereby sold and transferred may be changed by the City at its own cost, subject to the rights of other water users on the stream, and the City may, if it so desires, use the name of the Company in any applications or proceedings to effect such change or changes, provided that it shall pay any cost, expense and damage of every nature that may accrue by reason of any such change, and subject to the right of the Company to use and divert said waters as it has heretofore done or may hereafter desire in any event of forfeiture, cancellation, or other termination of the right of the City to have, take, or use said waters as in this contract provided.

3. In consideration of the transfer by the Company to the City of said waters of the stream and the right to use the same, the City agrees:

(a) To pay to the Company the sum of one hundred thirty-two thousand five hundred (\$132,500.00) dollars, payable as follows: Thirty-two thousand five hundred (\$32,500.00) dollars on or before thirty days from date hereof; one hundred thousand (\$100,000.00) dollars on or before sixty days from date hereof provided that should the City obtain the proceeds from the sale of its one million three hundred thousand (\$1,300,000.00) dollars Water Revenue Bonds prior to the dates of payment hereinabove specified, payment in full shall be made by the City upon the receipt by it of the proceeds of said bonds.

(b) To furnish and deliver irrigation water to the Company into the Company's distributing system as at present constructed below the East Jordan Canal from the 1st day of April until the 15th day of October of each year, provided that the City shall not be required to furnish irrigation water subsequent to the 1st day of October of any year in which it is not furnishing irrigation water to any of its other exchanges and provided further that a sufficient amount of water shall be delivered to the Company's present system above said East Jordan Canal to serve its stockholders, having land above said canal, their proportion of the Company's irrigation water and in accordance with good irrigation practice, and provided further, that at any time the Company's share of the water in the stream shall be sufficient to irrigate such lands

above said East Jordan Canal, such stream waters shall at the City's option be so used. The irrigation water delivered by the City shall be in quantity equal to the quantity which the City takes as the share of the Stream to which the Company is entitled, and not to exceed the amount to which the Company would be entitled if the same were measured at the Company's present point of diversion, as the same may fluctuate from time to time during said irrigation season from April 1st to October 15th, plus an additional two second feet of such irrigation water during July, August, and September of each year in the event the City shall take during said months, all of the water to which the Company is entitled, and in the event the City shall during said months, or any part thereof, take part but less than all of the stream water to which the Company is entitled, the City shall, in such event and during such period, deliver in addition to the quantity equal to that taken such proportion of said two additional second feet as the stream water taken by the City shall bear to the stream water that the Company is entitled to take, provided that at any time the stream flow to which the Company is entitled is less than four second feet, the City may not take any of the Company's water in the stream without taking the whole thereof. In no event shall the City be required to deliver to the Company more than twenty-three second feet of irrigation water regardless of the quantity of stream water the City may take from said stream. Said irrigation water shall be delivered in accordance with good irrigation practice with the understanding that slight variations in supply of contract on the part of the City and in the event of a break in the canal or main sources of supply of the City occasioned by causes over which it has not control, it will not be a breach of contract provided the City uses efficient methods promptly to remedy such conditions.

It is further understood that said irrigation water shall not be required to be delivered for land not now under the present ditches of the Company provided that the City shall at any time at the request of the Company change the point of delivering such irrigation water into the Company's distributing system so long as such change does not entail any greater or additional expense or obligation on the City than that entailed in delivering such water to the point first delivered under the terms of the agreement. Said irrigation water when and as delivered shall be delivered to the Company in a continuous flow and the duty shall be upon the company to distribute the same to its stockholders at the times, in the manner and amounts to which they are entitled.

It is further understood that the City is under no duty or obligation to take the water of the Company from the stream and that at any time and for any period the City may, upon notifying the company in writing of its intention so to do, refrain from taking all or, subject to the reservation hereinabove set forth, any part of the water of the Company from said stream and allow the water not taken

to flow in said stream in its present course, and in the event no water is taken by the City, the City shall be relieved of any duty of obligation to furnish or deliver to the Company any irrigation water and if part of the water is taken the City shall deliver to the Company a quantity of water equal to the amount it takes plus such proportion of two additional second feet as the Company's water taken from the stream by the City shall bear to the Company's share of the water in the stream, and any such action of the City in refraining from taking the water of the Company from the stream during said period and in failing to furnish or deliver irrigation water to the Company during said period shall not be construed or be considered a default on the part of the City.

4. In the event of any default on the part of the City to furnish or deliver any irrigation water agreed to be furnished and delivered by the City or to perform any of the other covenants and agreements herein contained, the Company may at once give notice of any such default or failure and if the same shall continue for a period of forty-eight (48) hours after such notice, then the Company may at once retake the said water of the stream hereby conveyed and may retain and use the same until such time as the City shall be prepared to and shall give notice of its readiness to cure such default, provided that if any such default on the part of the City shall continue for a period of one year, then all rights acquired by the City under and by virtue of this contract shall be forfeited, including the cash payment made hereunder and the right granted to the City to have and enjoy the use of the waters of the Company in the stream, and the Company shall be restored to all the rights it had before this contract was made, and shall be released from all liability hereunder and shall not be liable for any damages resulting from the retaking of said water of any part thereof or any other matters arising under this contract, except such as may have accrued before the breach by the City and it is understood and agreed that in the event the Company shall retake said stream water by reason of default or forfeiture on the part of the City, that the City shall reimburse the Company for all costs and expenses, including attorney's fees, that may be incurred by the Company in retaking said stream water, or matters incident thereto, including the costs of replacing, repairing, or reconstructing any ditch or other channel necessary for the purpose of securing to the Company the return of said stream water to the original place of use at which it was entitled to receive its proportion of said stream, prior to the execution of this agreement, and it being further understood and agreed that in the event any stockholder or water user of the Company shall suffer damage of any nature, including crop losses by reason of failure of the City in its obligation to deliver irrigating water, or its obligation to return to the Company the said stream waters in lieu thereof, that the City shall promptly reimburse such stockholder or water user for any such loss, and in the event of disagreement between such stockholder or water user and the City as to the amount of such damage or loss, each

and the City shall forthwith pay such damage so ascertained, it being understood that the Company may, without objection on the part of the City, represent any such stockholders or water users as may have suffered damage or loss above referred to.

5. The City further agrees to install, at its own expense, suitable measuring devices to measure the irrigation waters delivered into the Company's ditch and the stream water taken by the City from the stream pursuant to this agreement, the records of such measuring device to be at all times accessible to the officers of the Company, and to pay all costs and expenses that may be incurred or levied against the City or the Company for apportioning and dividing the waters of the stream, and the City is hereby authorized to act for and in behalf of the Company in all matters relating to said water rights and the distribution of the waters of the stream during the life of this contract.

6. The City agrees, if requested by the Company so to do, to install for the Company at the Company's expense, a culinary pipeline system to serve approximately forty families of the Company's water users and to deliver into such system culinary water metered at regular City rates, meters and connections to be paid for by the water users. Such culinary system would extend from the lower end of the Richards Irrigation Company proposed culinary system north on thirteenth east street to the south line of the D. W. Moffat home place, East on Big Cottonwood Road to Barrett Brother's home place and west on sixty-fourth Street to Clara Walker's home place, being approximately one and one-half (1- $\frac{1}{2}$ ) miles in length.

7. It is understood that the Company may serve notice upon the City concerning any matters pertaining to this contract, of the things to be done in pursuance of the provisions thereof, by serving such notice upon the City Engineer or his representatives, or the City Recorder or his representatives, and the City may serve any such notice upon the Company by serving such notice upon the President, Secretary or Water Superintendent of the Company, or in their absence, upon any director, provided that either party hereto may give notice to the other party of the particular officers or agents upon whom it desires any notice to be served and thereafter such designation shall control until modified or changed.

8. The Company hereby warrants that it is the owner of the rights herein granted and conveyed to the City that the same are free and unencumbered and that it has the legal right and title to grant and convey them to the City.

9. The terms of this contract are and shall be binding upon the parties hereto and upon their successors and assigns.

IN WITNESS WHEREOF, the Company by its duly authorized officers, in pursuance of a resolution of its Board of Directors, duly ratified and approved by a majority vote of its stockholders, and the City by its duly authorized officers, in pursuance of a resolution duly passed by the Board of Commissioners, have caused those presents to be executed the day and year first above written.

LITTLE COTTONWOOD TANNER DITCH COMPANY

Harry E. Howe, President

J. A. Barrett, Secretary

SALT LAKE CITY

John F. Bowman, Mayor

Ethel Macdonald, City Recorder

STATE OF UTAH            )  
                              )    SS  
COUNTY OF SALT LAKE)

On the 29th day of May, 1931, personally appeared before me Harry E. Howe and J. A. Barrett, who being by me duly sworn did say: That they are the President and Secretary, respectively, of the Little Cottonwood Tanner Ditch Company, a corporation and that said instrument was signed in behalf of said corporation, by authority of a resolution of its stockholders, and said Henry E. Howe and J. A. Barrett acknowledged to me that said corporation executed the same.

D. Howe Moffat, Notary Public  
Residing at Salt Lake City, Utah.

STATE OF UTAH            )  
                              )    SS  
COUNTY OF SALT LAKE)

On the 5th day of June, 1931, personally appeared before me John F. Bowman and Ethel MacDonald, who being by me duly sworn, did say: That they are Mayor and Recorder, respectively, of Salt Lake City, Utah, a municipal corporation, under the laws of the State of Utah, and that said instrument was signed in behalf of said corporation by authority of a resolution of the Board of Commissioners of Salt Lake City, and said John F. Bowman and Ethel MacDonald acknowledged to me that said corporation executed the same.

H. Warren Smith, Notary Public.  
Residing at Salt Lake City, Utah.



DEC 28 1972

*Herman J. ...*  
CITY RECORD WATER SUPPLY AGREEMENT

THIS AGREEMENT is made and executed this 28<sup>th</sup> day of December, 1972, between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter "City", and SALT LAKE COUNTY SERVICE AREA NO. 3 - SNOWBIRD, hereinafter "Company".

WITNESSETH:

WHEREAS, Company is a body corporate and politic of the State of Utah situated in Little Cottonwood Canyon, Salt Lake County, Utah, established pursuant to the laws of the State of Utah for the purpose of furnishing water, sewer and other municipal type services to the residents and developments in the area served by Company; and

WHEREAS, Company represents that it is presently in compliance with the ordinances, rules and regulations of the Salt Lake City-County Health Department and State and Federal regulatory agencies concerning sanitation and sewage disposal incidental to the uses and developments within the Service Area; and

WHEREAS, City owns and/or controls the major portion of the primary waters of Little Cottonwood Creek, some of which can be made available to Company; and

WHEREAS, City and Company desire to enter into an agreement for the supply of water to Company in accordance herewith,

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereof the parties agree as follows:

1. City agrees to make available to Company for its use, the normal flow of raw, untreated water, not to exceed one million (1,000,000) gallons per day, emanating from the following locations, to-wit:

- a. A tunnel on the J.P. Lode Mining claim situated North 59° 42' West 299.9 feet from Corner No. 2 of said mining claim, which Corner No. 2 is situated South 19° 07' West 6,267.3 feet and South 26° 58' West 1500 feet from the South Quarter corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

EXHIBIT

E

- b. The entrance area or portal of the Wasatch Drain tunnel, Little Cottonwood Canyon, Salt Lake County, Utah, more particularly described as follows:

Being on the Snowbird patented Lode Mining Claim in unsurveyed Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

2. In addition to the foregoing supply of water, City agrees to supply and make available to Company for its use, the normal flow of raw, untreated water in an amount not to exceed twenty (20) gallons per minute (approximately 29,000 gallons per day) emanating from a spring located in Gad Valley, Little Cottonwood Canyon, Salt Lake County, Utah, more particularly located as follows:

Being South 20° 11' 36" West 10,129.52 feet from the Northeast corner of Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.

3. Company agrees to construct or have constructed, from said water sources and diversion points to the various users of water intended to be served, all necessary pipelines, facilities, fixtures and the appurtenances thereof, all of which shall be acquired or constructed at the sole cost of Company, and Company shall maintain and repair the same together with any tanks, pumps, or other equipment and facilities necessary or incidental to the movement of the water from said points of diversion to the various users. City shall have no obligation whatsoever to Company or any of its users, lessees, assigns or grantees in regard to the construction, maintenance, or repair of said facilities, and the Company agrees that the same will at all times be so maintained so as to prevent loss or waste of water. All pipelines shall be constructed to include a turn-off valve at a convenient place so that water supplied to Company hereunder can be shut off and service discontinued. It is expressly understood and agreed that said pipelines shall not be extended to supply any properties or facilities not within the jurisdiction of Company unless prior written consent therefor is given by the City.

4. Company will install at its sole cost, to City specifications all necessary shut-off valves and meters so that City can control and measure the amount of water used by Company. Company shall convey said



valves and meters to City and shall pay for City's maintenance and/or replacement thereof. City will at all times be provided with complete access to said valves and meters by Company, and City will from time to time, read the same and compute the amount of water used by the Company, which will be billed to Company at one and one-half times the standard city water rates, ~~for comparable quality water~~. Company agrees to pay said charges within fifteen (15) days after a statement is forwarded by City. City reserves the right to change the water rates at any time.

5. The uses of the water supplied hereunder shall be limited solely to domestic and commercial purposes and uses incidental thereto and shall not be used for irrigation or agricultural sprinkling.

6. Company will receive the water furnished hereunder by City "as is", with no representations by City as to quality or purity. City shall be under no obligation to render said water fit or suitable for human consumption.

7. It is understood and agreed that the City has obligations to deliver water to the inhabitants, firms and corporations in the canyon and elsewhere, and this Agreement is made only as to surplus waters in excess of City's other needs and obligations, and if at any time and for any reason in the City's sole judgment it is unable to furnish the water provided for by this Agreement, it may cancel and terminate this Agreement upon thirty (30) days written notice by personally serving or mailing by certified or registered mail written notice thereof to Salt Lake County Service Area No. 3 - Snowbird, Snowbird, Utah 84070; provided however, that the foregoing shall in no way prohibit City from assigning or transferring its obligations hereunder to another supplier or from making other arrangements for the supply of water to Company.

8. It is understood and agreed City may terminate its obligations hereunder immediately for the Company's violation of any of the terms and conditions hereof or for the violation of any City water or watershed ordinance or any sanitary regulations of the Salt Lake City-County Board of Health in effect at the time of such violation. The

City may at its sole option and after written request for permission, allow Company to cure any violations occurring hereunder within a reasonable time after it receives notice of such violation.

9. This Agreement is not assignable by either party without the prior written consent of the other party.

10. Company agrees to hold City harmless from any loss or expense including attorney's fees resulting from injury or damage to any person or property arising out of the water furnished and/or Company's use thereof hereunder.


IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officers, thereunto duly authorized this 28<sup>th</sup> day of December, 1972.

SALT LAKE CITY CORPORATION

By

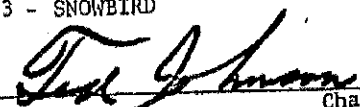
  
Mayor

ATTEST:


  
City Recorder

SALT LAKE COUNTY SERVICE AREA  
NO. 3 - SNOWBIRD

By

  
Chairman  
Board of Trustees

ATTEST:

  
Clerk of Salt Lake County Service  
Area No. 3 - Snowbird

STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss.

On the 28<sup>th</sup> day of December, 1972, personally appeared before me E. J. GARN and HERMAN J. HOGENSEN, who, having been first duly sworn, did say that they are the Mayor and City Recorder of Salt Lake City, a municipal corporation of the State of Utah, and that the name of Salt Lake City was attached to the foregoing instrument by them by authority of a motion of the Board of Commissioners of Salt Lake City passed on the 28<sup>th</sup> day of December, 1972; and said persons acknowledged to me that said corporation executed the same.

Merle D. Hingham  
Notary Public, Residing in  
Salt Lake City, Utah

My Commission Expires:

Sept. 18, 1976

STATE OF UTAH )  
COUNTY OF SALT LAKE ) ss.

On the 28<sup>th</sup> day of December, 1972, personally appeared before me TED JOHNSON and MARY ANNE RAO, who being by me duly sworn, did say that they are the Chairman of the Board of Trustees and Clerk of Salt Lake County Service Area No. 3 - Snowbird, and that as such, they executed the foregoing instrument on behalf of said Service Area by authority of a Resolution of its Board of Trustees and said persons acknowledged to me that said Service Area executed the same.

Robert G. Pruitt, Jr.  
Notary Public, Residing in  
Salt Lake City, Utah

My Commission Expires:

ROBERT G. PRUITT, JR.  
Notary Public residing at  
Salt Lake City, Utah  
My Commission Expires  
Sept. 28, 1975

APPROVED

JUL 15 1980

7/15/80  
Richard Montgomery

Richard V. Higham  
CITY RECORDER

SUPPLEMENTAL AGREEMENT NO. 1

to the  
WATER SUPPLY AGREEMENT

between

SALT LAKE CITY

and

SALT LAKE COUNTY SERVICE

AREA NO. 3

THIS SUPPLEMENTAL AGREEMENT NO. 1 is made and executed this 15th day of July, 1980, between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, (the City) and SALT LAKE COUNTY SERVICE AREA NO. 3 - SNOWBIRD, a governmental entity and a body corporate and politic of the State of Utah, (the Company).

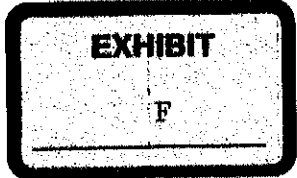
W I T N E S S E T H:

THAT, the City and the Company entered into a Water Supply Agreement dated December 28, 1972, (the Agreement), a copy of which is attached hereto for reference, wherein the City agreed to make available and furnish to said Service Area a supply of raw, untreated water emanating from three particular locations within or close to the Service Area located in Little Cottonwood Canyon, Salt Lake County, Utah, and

THAT, the City and the Company now desire to modify and amend Paragraph 1 of the Agreement by adding thereto an additional source, supply and availability of water for the Service Area.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions stated herein and in the Agreement the parties agree that Paragraph 1 of the Agreement shall be amended as follows:

1. The City agrees to make available to the Company for its



use within the municipal boundaries of the Company, or as permitted by the City in accordance with Paragraph 3 of the Agreement, the normal flow of raw, untreated water, not to exceed a total of more than one million (1,000,000) gallons per day, emanating from the following locations in Little Cottonwood Canyon, Salt Lake County, Utah, to-wit:

- a. A tunnel on the J.P. Lode Mining claim situated North 59° 42' West 299.9 feet from Corner No. 2 of said mining claim, which Corner No. 2 is situated South 19° 07' West 6,267.3 feet and South 26° 58' West 1500 feet from the South Quarter corner of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.
- b. The entrance area or portal of the Wasatch Drain tunnel, more particularly described as follows:  
  
Being on the Snowbird patented Lode Mining Claim in unsurveyed Section 6, Township 3 South, Range 3 East, Salt Lake Base and Meridian.
- c. The Fredrick, (Hellgate) tunnel on the "Rooster" Lode Mining Claim, Mineral Survey No. 5173, situated North 8° 51' West 194.5 feet from Corner No. 2 of said Mining Claim, which Corner No. 2 is situated south 78° 12' West 807.1 feet from Corner No. 1 thereof, which Corner No. 1 is situated South 61° 54' West 3,567.2 feet from the 1/4 Section Corner on the South boundary of Section 32, Township 2 South, Range 3 East, Salt Lake Base and Meridian.

2. All other paragraphs and provisions of the aforesaid Water Supply Agreement between the parties shall remain in full force and effect and shall apply to this Supplemental Agreement No. 1 and the supply of water made available to the Company hereunder; and the said paragraphs and provisions are incorporated into and made a part of this Supplemental Agreement by this reference thereto.

IN WITNESS WHEREOF, the parties have caused this Supplemental Agreement No. 1 to be duly executed this 15<sup>th</sup> day of July, 1980.

SALT LAKE CITY CORPORATION

By [Signature]  
MAYOR

ATTEST:

[Signature]  
CITY RECORDER

SALT LAKE COUNTY SERVICE  
AREA NO. 3 - SNOWBIRD

By Kenneth R. Bonar Jr.  
CHAIRMAN,  
BOARD OF TRUSTEES

ATTEST:

Henry Perkins  
CLERK OF SERVICE AREA NO. 3

"Approved as to Form  
Salt Lake County Attorney's Office  
Date 6-19-80  
By Thomas B. Larson  
Deputy County Attorney"

STATE OF UTAH )  
County of Salt Lake : ss

On the 15th day of July, 1980, personally appeared before me TED L. WILSON and MILDRED V. HIGHAM, who being by me duly sworn, did say that they are the Mayor and City Recorder, respectively, of SALT LAKE CITY CORPORATION, and that the foregoing instrument was signed for and in behalf of said corporation by authority duly conferred, and said persons acknowledged to me that said Salt Lake City Corporation executed the same.

Katherine L. Baranick  
NOTARY PUBLIC, residing in  
Salt Lake County, State of Utah

My Commission Expires:

1-8-83

STATE OF UTAH )  
County of Salt Lake ) : ss.

On the 1st day of July, 1980, personally appeared before me KENNETH R. BONAR JR. and HENRY PERKINS, who being by me duly sworn, did say that they are the Chairman of the Board of Trustees and Clerk of Salt Lake County Service Area No. 3 - Snowbird, and that as such, they signed the foregoing

instrument for and in behalf of said Service Area by authority  
of a motion duly passed by its Board of Trustees and said  
persons acknowledged to me that said Service Area executed  
the same.

  
NOTARY PUBLIC, residing in  
Salt Lake County, State of Utah

My Commission Expires:

5/15/83

12 1976

*Arthur V. Higham*

CITY RECORDER

INTERGOVERNMENTAL AGREEMENT

APPROVED AS TO FORM  
Salt Lake City Attorney's Office  
Date 8/12/76  
By RL [Signature]

WATER SUPPLY AGREEMENT SALT LAKE CITY TO ALTA CITY

THIS AGREEMENT made and entered into as of the 12th day of August, 1976, by and between SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah, hereinafter CITY, and ~~of ALTA CITY~~, a municipal corporation of the State of Utah, hereinafter ALTA.

WITNESSETH:

WHEREAS, Alta is a body corporate and politic of the State of Utah situated in Little Cottonwood Canyon, Salt Lake County, Utah established pursuant to the laws of the State of Utah for the purposes of furnishing municipal services, to the residents and developments within the boundaries of Alta City; and

WHEREAS, Alta represents that it is presently in compliance with the ordinances, rules and regulations of the Salt Lake City-County Health department and State and Federal regulatory agencies concerning sanitation water use and treatment, sewage disposal incident to the uses and developments and rules and regulations within the Salt Lake City watershed area; and

WHEREAS, City owns and/or controls the major portion of the primary waters of Little Cottonwood Canyon for the use and benefit of Salt Lake City residents, some of which, at this time, can be made available to Alta; and

WHEREAS, City and Alta desire to enter into an agreement for the supply of water to Alta in accordance herewith.

NOW, THEREFORE, in consideration of the premises, the parties agree as follows:

1. City agrees to make available to Alta for its use, as hereinafter described, the normal flow of raw, untreated water, not to exceed 265,000 gallons per day, emanating from either of the following locations, to-wit:

EXHIBIT  
G



Entrance to Bay City Mine

1500 feet more or less West, and 400 feet more or less South from the South East Corner Section 32 T.2S., R.3E., S.L.B. & M.

The vector of the tunnel is in a Northeasterly direction.

Alternate Point of Diversion above the Snake Pit on Little Cottonwood Creek.

200 feet more or less East and 2950 feet more or less South from the Southeast Corner Section 32, T.2S., R.3E., S.L.B. & M.

2. If the Agreement between City and Alta Peruvian Lodge and others, dated May 20, 1976, is not terminated within one year from the date on which Alta first begins using water hereunder, the maximum amount of water to which Alta is entitled under Article 1 hereof, shall be reduced thereafter by 150,000 gallons per day.
3. Alta agrees to construct or have constructed, from said water sources and diversion points to the various users of water intended to be served within the city limits, all necessary pipelines, facilities, fixtures and appurtenances thereof, all of which shall be acquired or constructed at the sole cost of Alta, and Alta shall maintain and repair the same together with any tanks, pumps or other equipment and facilities necessary or incidental to the movement and/or treatment of the water from said points of diversion to the various users within Alta's city limits.
4. City shall have no obligation whatsoever to Alta or any of its users, lessees, assigns or grantees with regard to the construction, maintenance or repair of said facilities, and Alta agrees that the same will, at all times, be so maintained and policed as to prevent loss or waste of water from the distribution system.
5. Alta will install at its sole cost and to City specifications, all necessary meters and shut off valves so that City can measure and control the amount of water used by Alta and agrees not to use or allow the use of any water through said system without said metering devices attached. Alta agrees to convey to City said valves and facil-

6. City will at all times be provided with complete access to said facilities, valves and meters, and Alta agrees to obtain and deed to City all rights-of-way and easements deemed necessary for such access by City.

7. City shall, from time to time, read said meters and compute the amount of water used by Alta, which will be billed once each month at the then prevailing City water rates for water served inside City's limits as provided by the then current City ordinance. Alta agrees to pay said charge within 15 days after a statement is forwarded by City.

8. It is expressly understood and agreed that said pipelines shall not be extended to or supply water to any properties or facilities not within the present city limits of Alta without the prior written consent of City.

9. The uses of the water supplied hereunder shall be limited solely to domestic and commercial culinary purposes and uses incidental thereto, and it shall not be used for agricultural irrigation or sprinkling of any type.

10. Alta agrees to receive the water furnished hereunder by City "as is", with no representations by City as to quality or purity. City shall be under no obligation whatsoever to render said water fit or suitable for human consumption.

11. It is understood and agreed that City has prior statutory and contractual obligations to deliver water to its inhabitants, and its surplus water to firms and corporations in the canyon and elsewhere, and this Agreement is made only as to surplus waters in excess of City's needs and obligations; and if at any time and for any reason, in City's sole judgment, it is unable to furnish the water provided for by this Agreement, it may reduce the amount of water allowed hereunder or cancel and terminate this Agreement upon 30 days written notice by personally serving or mailing by certified or registered, written notice thereof to Alta City, at Alta, Utah, provided however, that the foregoing shall in no way prohibit City from assigning or transferring its obligations

12. Alta recognizes City's need to protect its watershed and specifically agrees to be bound by and comply with all City water ordinances, applicable County ordinances, Salt Lake City-County Board of Health regulations and applicable State law. It is understood and agreed that City may immediately or after notice terminate this Agreement, without any liability whatsoever, for Alta's violation of any of the terms and conditions hereunder, or for Alta's failure or refusal within five (5) days after written notice to correct any Alta controlled or controllable condition violating, or to enforce violation against others within its city limits of, then in force City and/or County watershed ordinances or any sanitary regulation of the Salt Lake City-County Board of Health or State law.

13. Alta agrees that until the EPA 208 Study is complete there will be no additional users of water added to the system beyond those now in existence to whom water service is presently contemplated.

14. Neither this Agreement nor the benefits nor obligations hereunder are assignable by Alta without the prior written consent of City.

15. Alta agrees to indemnify, save harmless and defend City, its agents and employees, from and against any and all suits, legal proceedings, claims, mechanics liens, demands, costs and attorney's fees arising out of or by reason of Alta's construction, replacement and maintenance of said water lines and attendant facilities and use of said water obtained hereunder. Alta further agrees to maintain in force at its own expense during the life of this Agreement, a comprehensive general liability insurance policy with additional coverage for contractual, completed operations and products liability in the minimum amounts of \$100,000/\$300,000 for bodily injury and \$50,000 for property damage, and naming City as an additional named insured for all risks involved hereunder.

IN WITNESS WHEREOF, the parties have caused this Agreement to

be executed as of the day and year first above written.

SALT LAKE CITY CORPORATION

By Ted L. Wilson  
MAYOR

ATTEST:

Mildred V. Higham  
CITY RECORDER

Town of ALTA CEPY-

By William H. Felt  
MAYOR

ATTEST:

[Signature]  
CITY RECORDER  
Acting Town Clerk

STATE OF UTAH )  
; ss.  
County of Salt Lake)

On the 12<sup>th</sup> day of August, 1976, personally appeared before me TED L. WILSON and MILDRED V. HIGHAM, who being by me duly sworn, did say that they are the MAYOR and CITY RECORDER, respectively, of SALT LAKE CITY CORPORATION, and that said instrument was signed in behalf of said corporation by authority of a motion of its Board of Commissioners passed on the 12<sup>th</sup> day of August, 1976; and said persons acknowledged to me that said corporation executed the same.

Walter S. Pannorich  
NOTARY PUBLIC, residing in  
Salt Lake City, Utah

My Commission Expires:

1-8-79

AMENDMENT OF INTERGOVERNMENTAL  
SALT LAKE CITY TO ALTA CITY WATER SUPPLY AGREEMENT

THIS AGREEMENT is made and entered into as of the 1st  
day of April, 1980, by and between SALT LAKE CITY  
CORPORATION, a municipal corporation of the State of Utah,  
hereinafter CITY, and the TOWN OF ALTA, a municipal corporation  
of the State of Utah, hereinafter ALTA.

WITNESSETH:

WHEREAS, on or about the 12th day of August, 1976, the City  
and Alta entered into an Intergovernmental Agreement for sale of  
water from Salt Lake City to Alta; and

WHEREAS, the parties are now desirous of amending paragraph  
7 of said Agreement.

NOW, THEREFORE, in consideration of the premises, the  
parties agree to amend paragraph 7 of said agreement which shall  
read from inception of the Agreement as follows:

7. City shall, from time to time, read said meters and  
compute the amount of water used by Alta, which will be billed  
once each month at initially 12¢ per 100 cubic feet, which amount  
shall be reviewed once each year during the term hereof and  
may be raised or lowered at that time at the option of City by  
notifying Alta of said rate change in writing. Alta agrees to  
pay said water bill within 30 days after a statement is forwarded  
by City. Failure to pay said bill within said 30 days shall be  
grounds for cancellation of this agreement, and Alta agrees to  
pay City a reasonable attorney's fee and all costs and expenses  
for collection of any such outstanding bill.

Except as modified by the foregoing, said Agreement between  
the parties dated August 12, 1976, shall remain in full force and  
effect.

IN WITNESS WHEREOF, the parties have caused this Agreement

EXHIBIT

H

to be executed as of the day and year first above written.

SALT LAKE CITY CORPORATION

By [Signature]  
MAYOR

ATTEST:

Mildred V. Higham  
CITY RECORDER

TOWN OF ALTA

By [Signature]  
MAYOR

ATTEST:

Katherine Lee Blech  
Town Clerk

STATE OF UTAH )  
: ss.  
County of Salt Lake)

On the 1st day of April, 1980, personally appeared before me TED L. WILSON and MILDRED V. HIGHAM, who being by me duly sworn, did say that they are the MAYOR and CITY RECORDER, respectfully, of SALT LAKE CITY CORPORATION, and said persons acknowledged to me that said corporation executed the same.

[Signature]  
NOTARY PUBLIC, residing in  
Salt Lake City, Utah

My Commission Expires:

1-8-83

STATE OF UTAH )  
County of Salt Lake) ss.

On the 19<sup>th</sup> day of March, 1980, personally  
appeared before me WILLIAM H. LEVITT and Katherine S. Black,  
who being by me duly sworn, did say that they are the MAYOR  
and Town Clerk, respectively, of ALTA CITY, <sup>Town</sup> and said persons  
acknowledged to me that said City executed the same.

William H. Levitt  
NOTARY PUBLIC, residing in  
Salt Lake City, Utah

My Commission Expires:

January 23, 1984



GARY R. HERBERT  
Governor  
GREG BELL  
Lieutenant Governor

**State of Utah**  
DEPARTMENT OF NATURAL RESOURCES  
Division of Water Rights

MICHAEL R. STYLER      KENT L. JONES  
Executive Director      State Engineer/Division Director

APR 4 2011

**ORDER OF THE STATE ENGINEER**  
On Extension of Time Request  
For Permanent Change Application Number 57-10015 (a16846)

Permanent Change Application Number 57-10015 (a16846), in the name of Salt Lake City Corporation (the City), was filed on June 24, 1992, and approved on January 15, 1997, to divert 15.75 acre-feet (af) of water from two surface points, located: (1) North 412 feet and West 833 feet from the NE Corner of Section 9, T3S, R3E, SLB&M (Spring); (2) South 230 feet and West 900 feet from the NE Corner of Section 9, T3S, R3E, SLB&M (Mine Tunnel). The water is to be used within the service area of Salt Lake City. Proof was last due on January 31, 2011.

Notice of the extension request was published in the Deseret News on February 3 and 10, 2011. No protests were received.

The applicant has filed for an extension of time within which to file proof with the State Engineer stating that construction to date includes the development of water from a mine tunnel source and of spring sources. This water right has historically been diverted under an agreement between Salt Lake City and a canyon user; and the water has been put to partial beneficial use. Under the water agreement, the City is holding this right to meet the future requirements of the public.

The applicant is advised that, under the provisions of Section 73-3-12, Utah Code Annotated, and in the case of extension requests for a "public water supplier," the State Engineer may grant extensions of time if ". . . the applicant shows reasonable and due diligence in completing the appropriation; or a reasonable cause for delay in completing the appropriation" and "[t]he State Engineer shall consider the holding of an approved application by a public water supplier or a wholesale electrical cooperative to meet the reasonable future water or electricity requirements of the public to be reasonable and due diligence in completing the appropriation . . . for 50 years from the date on which the application is approved." The applicant has evidently satisfied the requirements of Section 73-3-12 and the extension request can be granted.

It is, therefore, **ORDERED** and an extension of time within which to submit proof is **GRANTED** on Permanent Change Application 57-10015 (a16846) to and including **January 31, 2021**.

The applicant is advised that the Permanent Change Application was approved subject to certain conditions. These conditions, as stated in the original approval documents issued on January 15, 1997, should be reviewed carefully to assure that the continued development remains in accordance with the approved development.



ORDER OF THE STATE ENGINEER  
Extension of Time to Submit Proof  
Permanent Change Application Number 57-10015 (a16846)  
Page 2


This extension is granted in accordance with the law which states "Within the time set by the State Engineer under Subsection 73-3-10(5), an applicant shall construct works, if necessary; apply the water to beneficial use; and file proof with the State Engineer in accordance with Section 73-3-16." It is earnestly recommended that you complete your development and submit Proof of Beneficial Use at the earliest possible date.

**It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.**

Your contact with this office, should you need it, is with the Utah Lake/Jordan River Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 4<sup>th</sup> day of April, 2011.

  
Kent L. Jones, P.E., State Engineer  
BY: John R. Mann, P.E., Assistant State Engineer

Mailed a copy of the foregoing Order this 4<sup>th</sup> day of April, 2011 to:

Salt Lake City Corporation  
Department of Public Utilities  
1530 South West Temple  
Salt Lake City, UT 84115

BY:   
Sonia R. Nava, Applications/Records Secretary

## Brief review of some Town of Alta water contracts.

### 1975 Contract-Shrontz Contract

1<sup>st</sup> sentence of the Shrontz Settlement Agreement says this contract shall be “specifically performed” both TOA & Salt Lake City are parties to the agreements, which drastically reduces the amount available under the 1976 TOA contract to 115k.

### 1976 TOA Contract

Lack of termination of the 1975 contract limits total amount of the 1976 contract drastically reducing water available to less than amount the TOA was using in the 1990’s.

1983-TOA & SL City-Mayor Ted Wilson agree to amend the 1976 contract to allow service the Albion Basin Annexation.

This agreement was located in the public records in the Office of Salt Lake City Clerk. I merely reviewed the Salt Lake City Council Minute Record for the time period surrounding the Albion Basin Annexation. The minute record clearly stated that Salt Lake City-Mayor Ted Wilson & TOA had made an agreement to amend the 1976 TOA water contract to allow water service under the 1976 agreement to the Albion Basin Annexation. The Salt Lake City Clerk produced to me a copy of the agreement signed by TOA Mayor Bill Levitt and notarized by Ms. Kate Black-TOA Clerk from Salt Lake City records. I then made a request to the TOA for a copy of the agreement and any minutes authorizing the agreement. The TOA Clerk Ms. Black immediately produced a copy of the agreement signed by TOA Mayor Bill Levitt and notarized by Ms. Kate Black-TOA Clerk from the TOA records. She also produced minutes from the TOA Council meeting which state an agreement had been made with Salt Lake City to amend the 1976 TOA water contract to permit water service in the Albion Basin Annexation. The minutes disclose that a vote was called to be taken to authorize Mayor Levitt to execute the agreement. A vote was taken and Mayor Levitt was authorized by the TOA Council to execute the agreement.

It is notable that neither the Town of Alta or their “jurisdictional partner” Salt Lake City produced this agreement in the original Haik v. Alta, to which they were both parties, which occurred prior to locating this record. Nor did the Town of Alta or their “jurisdictional partner” Salt Lake City produced this agreement in any of the Shrontz administrative hearings before the TOA Planning Commission (numerous hearings occurred after SLC & TOA produced this agreement), hearings before the TOA Council or in any of the Shrontz cases to which they were both parties.

The omission of these documents and minutes from staff analysis and public discussions by elected and appointed officials in the TOA Council meetings and TOA Planning Commission meetings is inexplicable and begs for an inquiry regards how the TOA records are kept and whether there are other documents which have been inexplicably omitted from public discourse and deliberations and what TOA Counsel advises regards these documents.

Further if there are other documents or communications regards this agreement from the TOA "jurisdictional partners" which are germane to the status of the 1976 contract where are those documents kept in the TOA?

[1] Is there a signed copy that has been lost and has a search been made of the TOA records to determine if it has been misplaced?

[2] Has the TOA made inquiry with Salt Lake City regards locating an executed copy in the City's possession?

[3] Has the TOA made inquiry with Salt Lake City regards to executing the agreement?

[4] The foregoing circumstances should be reviewed by the TOA Mayor & Council and the appropriate inquiries commenced to determine what transpired.

(There are other examples of SLCPU misplacing documents, one water contract was to serve 3 houses from a specific spring in BCC, contract signed by property owners in 1987, signed by Hooten in 1992, that property is presently known as Solitude.)

#### 1992 Cahoon Maxfield

This action was brought by ditch companies who had exchange agreements in place with Salt Lake City. The basic allegation was that Salt Lake City had put the exchange water at risk due to failure to make the appropriate filings with the UDWR (Utah Division Water Rights). The original complaint was amended to add both SB#3 and Town of Alta (both SB#3 and Town of Alta were represented by Veasy/Kapaloski-Parsons Behle). Amongst other matters, Paragraph #17 alleges that the agreements between Salt Lake City and both SB#3 and Town of Alta "are void, unenforceable, and unlawful for the reason that Salt Lake City, at the times of the sales and since had no valid rights to the water sold". The amended complaint joining the TOA & SB#3 was dated June 10, 1992, twelve days later hearings were held for temporary permits for change applications, which permits resulted in the change applications in place for the TOA & SB#3 today. Subsequent to the appropriate temporary change applications being filed by SLC & TOA with the UDWR the case was dismissed. The permanent change applications remain in place, with the exception of 57-10010 which was withdrawn by SLC during the Shrontz litigation. So absent the appropriate change applications being filed and approved, both SLC and TOA were violating the law for a decade or so, thus clearly the permanent change applications are in fact the documents which permit the legal use of all the appropriated municipal water in the TOA.

At the change application hearings Salt Lake City counsel Montgomery stated following:

[1] SLC had gotten "bad legal advice" which resulted in failure to file change applications which allow for appropriation, diversion and use of municipal water in the TOA.

[2] The number of contracts affected 32, which contracts affected LCC, BCC, Millcreek, Parleys and Emigration canyons. (there were several other contracts like Cecret & Albion Alps

inadvertently omitted by SLCPU, some omissions were remedied in same fashion as originals, Cecret & Albion Alps were not)

[3] That SLC had hired a water appropriation expert, Mr. Green (recently retired from UDWR where he was Head of Appropriations State of Utah) to advise SLC regards the amount of water to be appropriated to serve the contracts. All the contract were served an amount just over the 400 gpd culinary requirement.

[4] SLC filed an easy to read map showing the "service area" as the entire LCC, BCC, Millcreek, Parleys and Emigration canyons, and valley locations, clearly the entire TOA is included. This map affects all the permanent change applications filed pursuant to Cahoon Maxfield.

At the change application hearings Salt Lake City Public Utilities Director Hooten stated following:

[1] That "all the contracts would be served".

At the change application hearings Mr. Veasy introduces Mr. Guldner as "Town Manager".

(I believe that both the Albion Alps and Cecret water contracts were inadvertently omitted by SLCPU, thus did not have the requisite change applications filed along.)

The 30 some contracts which were the subjects of the Cahoon Maxfield Change Application hearings are similar in some respects but not identical. Some contracts have quantity limits on water, some have limits on homes to be served, some have no limits on water quantity and no mention of homes or densities. TOA & SB#3 are the outliers 500/2000 af respectively, and the remaining contracts all were appropriated at just over 400 gpd, the culinary requirement.

The quantities of appropriated municipal water in the permanent change applications for use in the TOA are far greater than the contract amounts. The quantity cited for the TOA contract is greater than 265K routinely cited by TOA staff (or the 115K due to lack of termination of the 1975 contract), this on the advice of the aforementioned Salt Lake City appropriation expert Mr. Green.

The Cahoon Maxfield case and the resulting permanent change applications all appropriate "municipal" water for use in the town of Alta and the numerous Requests for Extension disclose ongoing infrastructure development and future "public use".

This prompts the following basic questions:

[1] What legal advice and from whom did the TOA receive prior to the Cahoon Maxfield case, if any, regards the various water agreements? SLC counsel clearly states that their failure to file appropriate change application was due to "poor legal advice".

[2] When joined as necessary parties what advice did the TOA get from Veasy/Kapaloski-Parsons Behle, regards:

- (a) Why the change applications were necessary?
- (b) Why the TOA had to be represented at the hearings?
- (c) What quantity of water should be appropriated for use in the TOA pursuant to the contracts?
- (d) Where could the water be used?

[3] Subsequent to the conclusion of the Cahoon Maxfield and the change applications approvals what advice was received from Veasy/Kapaloski-Parsons Behle regards the status of the various agreements & contracts from their legal counsel?

[4] Why were the relevant permanent change applications not produced in the regular course of discovery in either the Haik or Shrontz cases? Haik and Shrontz properties each had a specific change application filed for "municipal" water.

[5] Why have the routine filings required by the UDWR not been part of the staff and or Mayor's reports?

[6] Why has the staff never reported that the Alta-Helena mine is a SLVHD approved water storage site for municipal water?

[7] Why have the required Requests for Extension of Time routinely filed at the UDWR not been reported on by the staff? When those requests cite "future public use" who is the public?

[8] What records does the TOA have from Cahoon 3<sup>rd</sup> & UDWR hearings?

August 1993 Hooten Memo to Hatch Deputy to Mayor (SLC)

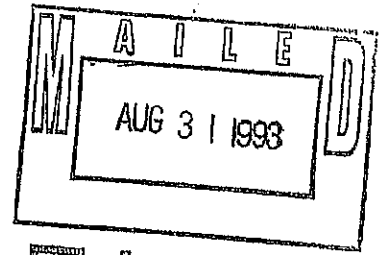
Some 10 months after Cahoon Maxfield, Hooten cites that "Salt Lake City promised" Mayor Levitt that SLC would deny the water service which Hooten testified at the Cahoon Maxfield Change Application hearings would be provided. It is difficult to charitably characterize the analysis in the memo and present it here for your consideration.

Elected officials, appointed officeholders, staff and professionals engaged by the TOA should all be apprised of the permanent change applications, the required legal filings to maintain said permanent change applications, the related infrastructure and works cited in the permanent change applications; in order to pursue the interests of and provide for the citizens, inhabitants, visitors, property owners, community members, business owners, and tax payers municipal services in the TOA.

**All the water legally permitted by the permanent change applications to be diverted and used in the TOA is municipal water.**

**The Office of the State Engineer-Division of Water Rights is the sole authority in the State of Utah for the diversion and use of water by any person or entity in the State of Utah; thus competent municipal authorities should be fully apprised of the permanent change application filings germane to their municipality.**

**Mayor Bourke should place on the Council agenda a briefing by TOA counsel of the status of any permanent change applications and the related infrastructure for municipal water which permit the diversion and use of water legally in the TOA pursuant to record filings in The Office of the State Engineer-Division of Water Rights.**



FILE

DEEDEE CORRADINI  
MAYOR

LEROY W. HOOTON, JR.  
DIRECTOR

**SALT LAKE CITY CORPORATION**

DEPARTMENT OF PUBLIC UTILITIES  
Water Supply & Waterworks  
Water Reclamation & Stormwater

Memorandum

TO: Brian Hatch, Deputy to the Mayor  
FROM: LeRoy W. Hooton, Jr. *LWH*  
DATE: August 30, 1993  
SUBJECT: Little Cottonwood Water Company

Introduction

In order to protect the Albion Basin in Little Cottonwood Canyon, it was decided that Salt Lake City would acquire the water contracts between lot owners in the Albion Basin and the Little Cottonwood Water Company and/or gain control of the company and dissolve it.

Background

The Little Cottonwood Water company was formed in 1911 and stock issued to various ditch companies and individuals using water from Little Cottonwood Creek including four companies which have exchange agreements with Salt Lake City. Their primary water right of 3.03 cfs was acquired by saving water in Little Cottonwood Creek by constructing the cutoff ditch just below what is now the Metropolitan Water District of Salt Lake City's Little Cottonwood Water Treatment Plant. They also have water rights in Red Pine and White Pine Lakes and Cecret Lake located in Little Cottonwood Canyon. Salt Lake City has exchange agreements with many of the stockholders in the Company and manages/owns the water in the lakes as well as their rights in the creek through exchange agreements. By virtue of the exchange contracts the City has liability for the actions of the Little Cottonwood Water Company but no control over their actions.

The Company entered into various water sales contracts between 1945 and 1981, and of particular concern were the contracts for lots in the Albion Basin. The contracts are for less than the 400 gpd required to develop a lot. When this area was annexed into Alta City, there was pressure for Alta to provide them culinary water as the Little Cottonwood Company contracts were inadequate. Salt

Lake City promised Mayor Levitt that it would gain control of the Albion Basin contracts in order to protect the area from development by using Salt Lake City's watershed management muscle to deny them water. Also, the City would not fold under pressure to increase the volume under the contracts, whereas the Little Cottonwood Water Company would.

During the latter part of 1992, the Company became uncooperative and aggressive in its attitude toward the City, led primary by Tony Rezack, President of the Cahoon Maxfield Irrigation Company, who along with the three other irrigation companies holding rights in Little Cottonwood Creek, initiated a law suit against Salt Lake City entitled Cahoon Maxfield Irrigation Co. et al vs Salt Lake City. Judge Rigtrup dismissed the law suit.

In accordance with the exchange contracts with the Richards Ditch, Walker Ditch and Little Cottonwood Tanner Ditch Companies their stock in the Little Cottonwood Water Company was transferred to Salt Lake City in the 1930s. This spring I requested the Company secretary to transfer the stock certificates into the name of Salt Lake City, thus eliminating eligibility of the exchange companies' members to sit on the Board of Directors. With this action, Salt Lake City and Sandy City control the company.

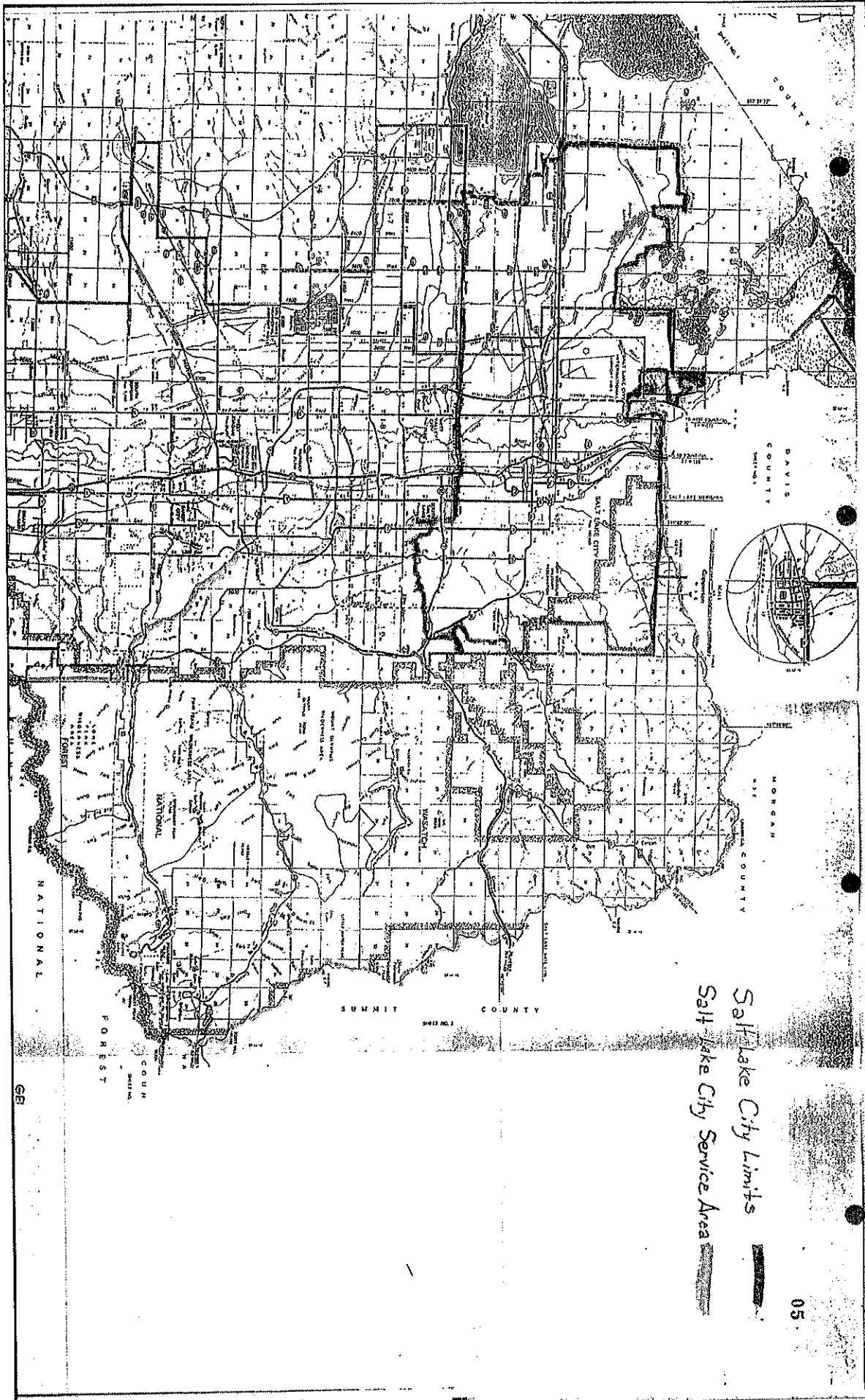
#### Action

Salt Lake City and Sandy City are moving forward to dissolve the company. The strategy is to meet with the individual irrigation companies to inform them of our intent, hold a board meeting, elect new officers consisting of Sand City and Salt Lake City members, and set forth a plan to dissolve the corporation. We hope to do this in such a way that the City's and Companies' relationship is not damaged too severely, but meet our goal of eliminating the Company.

cc: Roger Black







Salt Lake City Limits  
 Salt Lake City Service Area

05