

CWD77COR

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: CLIFTON WATER DISTRICT

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT WEST BANK
OF COLORADO RIVER AT HEADGATE OF PIPELINE AT POINT WHENCE
THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 11 SOUTH, RANGE
98 WEST, 6TH PRINCIPAL MERIDIAN BEARS SOUTH 56 DEGREES 15 FT
WEST 7051.80 FT UNDER WHICH THE CITY OF GRAND JUNCTION WILL
BE ENTITLED TO DIVERT NOT LESS THAN 100 CFS OF WATER AS AND
WHEN THE WATER RIGHT IS MADE ABSOLUTE THROUGH BENEFICIAL
USE

CITY DEVELOPMENT: PUBLIC WORKS

YEAR: 1977

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

AGREEMENT

THIS AGREEMENT is made at Grand Junction, Colorado between the CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, ("City") and CLIFTON WATER DISTRICT, a quasi-municipal corporation, ("District").

A. The City is the claimant of Conditional Priority - Index No. 2957, with a date of priority of February 17, 1947, (the "Water Right") which presently has the following assigned point of diversion:

On the West bank of the Colorado River at the headgate of said pipeline at a point whence the Southeast corner of Section 2, Township 11 South, Range 98 West, 6th Principal Meridian bears South 56°15' West 7051.80 feet;

under which the City will be entitled to divert not less than 100 c.f.s. of water as and when the Water Right is made absolute through beneficial use.

B. The District is desirous of obtaining a new supply of water for treatment and distribution to its users and of constructing diversion works, pipeline transportation systems and water treatment plant, all of which will derive a supply of water from the Colorado River.

C. The City is desirous of obtaining use of facilities by which it can acquire an absolute right to an alternate source of water from the Colorado River and by which it can treat water for distribution to its municipal users.

D. The parties desire to provide a means by which the District can acquire a portion of the Water Right and by which the City may acquire a right to use the facilities to be constructed by the District.

IN CONSIDERATION OF the foregoing and the covenants herein contained, the parties agree as follows:

1. For the purposes of this Agreement, the following definitions will apply:

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me
this 7 day of September, 1977 by James E.
Wysocki as City Manager and Neva B. Lockhart
as City Clerk of The City of Grand Junction, Colorado.

Witness my hand and official seal.

My commission expires: June 13, 1979.

Meresa L. Marting
Notary Public

1.1 The "Basic System" shall be the necessary diversion works, raw water pipeline, water treatment plant and treated water pipeline which will divert, transport and treat not less than three million (3,000,000) gallons of water during any twenty-four (24) hour period.

1.2 The "Alternate No. 1" shall be the water treatment plant of the Basic System for treatment of three million (3,000,000) gallons of water during any twenty-four (24) hour period, plus diversion works, raw water pipeline and treated water pipeline which will divert and transport not less than seven million (7,000,000) gallons of water during any twenty-four (24) hour period.

1.3 The "Alternate No. 2" shall be Alternate No. 1 except that instead of a water treatment plant capable of treating three million (3,000,000) gallons of water during any twenty-four (24) hour period, the treatment plant shall be capable of treating not less than seven million (7,000,000) gallons of water during any twenty-four (24) hour period.

2. Not less than fifteen (15) days after ratification of this Agreement, as set forth in paragraph numbered 18 below, the City will prepare and file on behalf of the City and the District with the Water Court of Water Division No. 5 an application by which the City and the District request the right to alternately divert not less than forty (40) c.f.s. of the Water Right at the following points:

Diversion Point No. 1: At a point on the right bank of the Colorado River, whence the NE Corner of Section 3, Township 1 South, Range 2 East of the Ute P.M. bears North 13°18' East, a distance of 1,800 feet.

Diversion Point No. 2: A point on the right bank of the Colorado River from whence the NE Corner of Section 3, Township 1 South, Range 2 East of the Ute P.M. bears North 43°33' East, a distance of 3,400 feet.

Diversion Point No. 3: A point on the right bank of the Colorado River from whence the SW Corner of Section 7, Township 1 South, Range 2 East of the Ute P.M. bears West 1,439.46 feet.

and will diligently pursue such application to obtain the requested change as rapidly as possible. The District shall pay one-half of the cost of such proceeding.

3. Within fifteen (15) days of ratification of this Agreement as provided in paragraph numbered 18 below, the City will transfer and convey to the District twenty (20) c.f.s. of the Water Right by conveyance in the form set forth as Appendix A.

4. The District agrees not to sell that portion of the Water Right conveyed to it for a period of ten (10) years from date hereof. Thereafter, the City shall have a right of first refusal upon such Water Right, or any portion thereof, proposed to be sold by the District. Any agreement for sale of the Water Right, or any portion thereof, by the District shall contain a provision that the City has a right of first refusal to purchase. The right of first refusal shall be upon the same terms and conditions as the District in a written agreement agrees to sell such Water Right, or a portion thereof, to a third person. Upon execution of any such agreement, the District shall give written notification to the City that it has executed such an agreement, that a copy of such agreement is attached to such written notification and that such agreement is bona fide. The City shall have a period of fifteen (15) days after receipt of such notice within which to give written notification to the District of exercise of its right of first refusal. If the District does not receive such written notification within such fifteen (15) day period, the City shall be deemed to have waived its right of first refusal and the District may proceed with such proposed sale. In the event such proposed sale is not consummated, or in the event such proposed sale is not of the entire Water Right, the City's right of first refusal shall apply to any new proposed sale and to the balance of the Water Right not so sold.

5. Immediately upon execution of this Agreement, the District agrees to cause the engineering firm of McDermith and Schuster, or such other reasonably capable engineering firm agreeable to the City ("Engineer"), to commence the preparation of three separate sets of plans and specifications, one each for the Basic System, Alternate No. 1 and Alternate No. 2. The District shall pay its Engineer the cost of preparing the plans and specifications for the Basic System. The City shall pay the additional cost of compiling the information for Alternate No. 1 and Alternate No. 2 and for the additional engineering work required to prepare the plans and specifications for Alternate No. 1 and Alternate No. 2. The District shall obtain the commitment of its Engineer that the plans and specifications (and bids contemplated by paragraph numbered 6 hereof) will be available to the District and the City not later than December 1, 1977. All such plans and specifications and competitive bids shall be prepared and obtained in compliance with applicable rules and regulations of the County of Mesa, State of Colorado and the United States, including, in particular, the provisions of the Safe Water Drinking Act.

6. The District shall cause its Engineer to obtain competitive bids from not less than three contractors who qualify to bid, each such contractor to submit a separate bid upon each of the Basic System, Alternate No. 1 and Alternate No. 2. All contractors shall be advised prior to bidding that the District and the City will have a period of fifteen days after the bid opening in which to consider the bids. Such contractors shall be informed that at the end of such time the District shall have the right to reject any and all bids.

7. The City shall have a representative present at the bid opening. During the fifteen day period referred to

in paragraph numbered 6 above for consideration by the District and the City of such bids, the District and the City shall work closely together to evaluate such bids. Within such fifteen day period, if the City desires that Alternate No. 1 or Alternate No. 2 be constructed, it shall give written notice of such desire to the District. If no such notice is given to the District, the District shall have the right to construct the Basic System and the City shall have no rights therein. If the District elects to construct the Basic System and it has received notice from the City that the City desires construction of Alternate No. 1 or Alternate No. 2, then such alternate designated by the City shall be constructed. Upon acceptance of a bid, construction under such bid shall commence within 45 days after acceptance of such bid.

8. If the bid accepted is for construction of Alternate No. 1 or Alternate No. 2, then the following provisions will be applicable:

8.1 Alternate No. 1:

(a) If the successful bidder for Alternate No. 1 is also the lowest bidder for the Basic System, the difference between such bid for the Basic System and the bid accepted for Alternate No. 1 shall be paid by the City. In the event the successful bidder for Alternate No. 1 is not the lowest bidder for the Basic System, the high bid and the low bid submitted upon the Basic System shall be disregarded and the balance of the bids upon the Basic System shall be averaged. If there are only two such bids, they shall be averaged. The difference between this average and the bid accepted for Alternate No. 1 shall be paid by the City. The figure subtracted from Alternate No. 1 to determine the amount to be paid by the City shall be referred to as the "Basic System Bid."

(b) The City shall share in the costs of

operation and maintenance of the facilities constructed under Alternate No. 1, except the water treatment plant. The City shall commence sharing in such costs at such time as the City diverts water into the raw water pipeline of Alternate No. 1. The amount to be paid by the City for operation and maintenance of such facilities shall be the percentage of such operation and maintenance costs obtained by dividing the amount paid by the City for construction by the total construction cost, plus an amount equal to fifteen (15) percent of such percentage to compensate the District for its overhead costs. For example: If the Basic System Bid was one million dollars (\$1,000,000) and the bid accepted upon Alternate No. 1 was one million two hundred fifty thousand dollars (\$1,250,000), the City would have paid two hundred fifty thousand dollars (\$250,000) of the construction costs under subparagraph (a) immediately above. The percentage of operation and maintenance costs to be paid by the City would be two hundred fifty thousand dollars (\$250,000) divided by one million two hundred fifty thousand dollars (\$1,250,000), which equals twenty (20) percent. Upon computation of this percentage, there would be added to such amount fifteen (15) percent of the amount so owed to compensate the District for its overhead costs. As a specific illustration, using the foregoing example, if during a particular period the operation and maintenance costs of the facilities, except the water treatment plant, were ten thousand dollars (\$10,000), the amount owed by the City to the District for operation and maintenance costs would be two thousand dollars (\$2,000) plus three hundred dollars (\$300) to compensate the District for its overhead costs.

(c) At any time within ten (10) years after

date hereof the City, by appropriate notice to the District, shall have the right to enlarge the capacity of the water treatment plant, at its sole cost and expense, so that the water treatment plant, when enlarged, will have the capacity to enable the District to treat and process up to four million (4,000,000) gallons of water during each twenty-four (24) hour period for the account of the City (total of 7,000,000 gallons per twenty-four (24) hour period as contemplated by Alternate No. 2). If the City elects to enlarge the capacity of the water treatment plant, it will also provide the District, at the time of specifying its intention to enlarge, with complete plans and specifications for the enlargement. During the period the City is engaged in construction of the enlargement of the water treatment plant, the City will not interfere with the District's diversion, transportation or treatment of water in the facilities constructed under Alternate No. 1; provided, that the City may, without cost or expense to the District, temporarily so interfere with such facilities if the City supplies treated water to the District's distribution system in an amount sufficient to satisfy the District's needs at any given time, but in no event more than three million (3,000,000) gallons of treated water per twenty-four (24) hour period. If the City elects to enlarge the water treatment plant, pursuant to rights granted in this section, then the provisions of paragraph numbered 8.2 below applicable to Alternate No. 2 will become applicable as to the rights, obligations and duties of the parties to this Agreement after construction of the enlargement of the water treatment plant.

8.2 Alternate No. 2:

(a) If the successful bidder for Alternate No. 2 is also the lowest bidder for the Basic System, the difference between such bid for the Basic System and the bid accepted for Alternate No. 2 shall be paid by the City. In the event the successful bidder for Alternate No. 2 is not the lowest bidder for the Basic System, the high bid and the low bid submitted upon the Basic System shall be disregarded and the balance of the bids upon the Basic System shall be averaged. If there are only two such bids, they shall be averaged. The difference between this average and the bid accepted for Alternate No. 2 shall be paid by the City. The figure subtracted from Alternate No. 2 to determine the amount to be paid by the City shall be referred to as the "Basic System Bid No. 2."

(b) The City shall share in the costs of operation and maintenance of the facilities constructed under Alternate No. 2, including the water treatment plant. The amount to be paid by the City for operation and maintenance of such facilities shall be the percentage of such operation and maintenance costs obtained by dividing the amount paid by the City for construction by the total construction costs, plus an amount equal to fifteen (15) percent of such percentage to compensate the District for its overhead costs. For example: If the Basic System Bid No. 2 was one million dollars (\$1,000,000) and the bid accepted upon Alternate No. 2 was two million dollars (\$2,000,000) (or if the cost of Alternate No. 1 and expansion costs of the water treatment plant equaled this amount), the City would have paid one million dollars (\$1,000,000) of the construction costs. The percentage of operation and maintenance costs to be paid by the City would be one million dollars (\$1,000,000) divided by two million dollars (\$2,000,000) which equals

fifty (50) percent. Upon computation of this percentage, there would be added to such amount fifteen (15) percent of the amount so owed to compensate the District for its overhead costs. As a specific illustration, using the foregoing example, if during a particular period the operation and maintenance costs of the facilities were twenty thousand dollars (\$20,000), the amount owed by the City to the District would be ten thousand dollars (\$10,000) plus one thousand five hundred dollars (\$1,500) to compensate the District for its overhead costs.

Notwithstanding the foregoing, the cost of chemicals will not be considered a portion of the operation and maintenance cost of the water treatment plant. The District will compute and the City will pay the actual cost of the chemicals required to process water actually treated for the City in the water treatment plant.

8.3 General provisions applicable to Alternate No. 1 and Alternate No. 2:

(a) During the fifteen day period set forth above for review of the bids, the Engineer and the City Engineer shall consult regarding which bid should be accepted. As between such two engineers, the District shall have the right to accept the recommendation of its Engineer. Upon acceptance of a bid for Alternate No. 1 or Alternate No. 2, the District shall enter into a contract for construction of the facilities designated, which contract shall be in a form acceptable to counsel for the District and the City. Any such contract shall contain the provisions designated on Appendix B attached hereto.

(b) Within fifteen (15) days after the District has paid the contractor any of the payments required by the construction contract, the City will pay the District its proportionate share of any such payments; provided, the District will not pay the final payment due the construction contractor until (i) the contractor has completed the work provided for in the construction contract according to the plans and specifications for the project, (ii) until the Engineer has issued its certificate of acceptance and completion on behalf of the District, (iii) until appropriate lien releases have been obtained from all materialmen, laborers and professional personnel who have in any way participated in the construction of the facilities and (iv) the District has complied with all laws governing the District and/or the City as to final construction contract payments. The City shall indemnify and hold harmless the District from and against any and all expense or damages resulting from non-payment by the City of amounts due the District within the fifteen (15) day period provided above.

(c) The City will pay its share of the operation and maintenance costs and overhead costs of the District and its chemical costs, if applicable, for which it is liable, within fifteen (15) days after receipt of an invoice from the District.

(d) Subject to the City's obligation to make payments set forth above, the District will be responsible to provide all employees reasonably required to manage, operate and properly maintain all of the facilities.

(e) The District will acquire such rights of way and easements as may be reasonably necessary

for the location and construction of the diversion works, the raw water pipeline, the water treatment plant and the treated water pipeline. The situs of the facilities has not yet been selected. It is intended that if Alternate No. 1 or Alternate No. 2 is selected that the treated water pipeline capable of carrying a minimum of seven million (7,000,000) gallons of water per any twenty-four (24) hour period shall terminate in the vicinity of 32 Road and E Road in Mesa County, Colorado. If the District is required to purchase any such rights of way, easements or sites, or if it is required to obtain any such easements, rights of way or sites through eminent domain proceedings, then the City shall pay a portion of such acquisition costs, including fees of any attorneys, engineers or other experts retained by the District in connection with such acquisition, in the same proportion as its share of the construction costs for the alternative selected. It is contemplated that the District may acquire a site for the water treatment plant which will have water rights and which will be larger than necessary for a site solely for the water treatment plant. In the event of such acquisition, the Engineer for the District shall take the total purchase price of such site, reduce it by the value allocated to the water rights associated with such site and then divide the acres acquired into the resulting figure to reach a per acre price. Then, such Engineer shall determine the number of acres reasonably necessary for the water treatment plant and multiply such number times the per acre value established by him. This is the

amount upon which the City shall pay its proportionate share.

(f) Nothing contained in this Agreement shall limit the right of the District to enlarge or change any part of the facilities described herein, at its sole cost and expense.

9. At any time within ten years after date hereof the City may, but shall not be obligated to construct a treated water pipeline from the termination of the treated water pipeline at approximately 32 Road and E Road referred to above to the city water distribution system. If the City elects to construct such line, it will first give the District written notice of such intent. Within thirty (30) days after receipt of such notice, the District shall give written notice to the City that the District conditionally desires to participate in the construction, maintenance and operation of such line, hereinafter referred to as the "Link Line," and that the District would desire additional capacity in such line as specified by the District, which amount shall not be more than three million (3,000,000) gallons for any twenty-four (24) hour period. If no such notice is given to the City, the City shall have the right to construct the Link Line and the District shall have no rights therein. If the District gives notice of its desire to conditionally participate in such line, then the City will prepare or cause to be prepared plans and specifications for a line which will transport four million (4,000,000) gallons per twenty-four (24) hour period (the Basic Link Line). At the same time the City will prepare or cause to be prepared the plans and specifications for a larger line (the Enlarged Link Line) which would have capacity to transport for the District such additional treated water as the District specifies in its notice to the City. The City shall pay the costs of preparing the plans and specifications for the Basic Link Line

and the District shall pay the additional cost of compiling the information for the Enlarged Link Line and for the engineering work required to prepare the plans and specifications for the Enlarged Link Line. All such plans and specifications and competitive bids, shall be prepared and obtained in compliance with applicable rules and regulations of the County of Mesa, State of Colorado and the United States, including, in particular, the provisions of the Safe Water Drinking Act.

10. If the District elects conditionally to participate in the construction, maintenance and operation of the Enlarged Link Line, then the City shall obtain competitive bids from not less than three contractors qualified to bid, each such contractor to submit a separate bid for each of the Basic Link Line and the Enlarged Link Line. All contractors shall be advised prior to bidding that the City and the District will have a period of fifteen days after the bid opening in which to consider the bids. Such contractors shall be informed that at the end of such time the City shall have the right to reject any and all bids.

11. The District shall have a representative present at the bid opening. During the fifteen day period referred to in paragraph numbered 10 above for consideration by the City and the District of such bids, the City and the District shall work closely together to evaluate such bids. Within such fifteen day period, if the District desires that the Enlarged Link Line be constructed, it shall give written notice of such desire to the City. If no such notice is given to the City, the City shall have the right to construct the Basic Link Line and the District shall have no rights therein. If the City elects to construct the Basic Link Line and it has received notice from the District that the District desires construction of the Enlarged Link Line, then such alternate designated by the District shall be constructed. Upon acceptance of a bid, construction

under such bid shall commence within 45 days after acceptance of such bid.

12. If the bid accepted is for construction of the Enlarged Link Line, then the following provisions will be applicable:

(a) If the successful bidder for the Enlarged Link Line is also the lowest bidder for the Basic Link Line, the difference between such bid for the Basic Link Line and the bid accepted for the Enlarged Link Line shall be paid by the District. In the event the successful bidder for the Enlarged Link Line is not the lowest bidder for the Basic Link Line, the high bid and the low bid submitted upon the Basic Link Line shall be disregarded and the balance of the bids upon the Basic Link Line shall be averaged. If there are only two such bids, they shall be averaged. The difference between this average and the bid accepted for the Enlarged Link Line shall be paid by the District.

(b) The District shall share in the costs of operation and maintenance of the Enlarged Link Line. The District shall commence sharing in such costs at such time as water is turned into the Enlarged Link Line for the benefit of the District. The amount to be paid by the District for operation and maintenance of such line shall be the percentage of such operation and maintenance costs obtained by dividing the amount paid by the District for construction by the total construction cost, plus an amount equal to fifteen (15) percent of such percentage to compensate the City for its overhead costs. For example: If the low bid or average low bid as set forth in paragraph 12(a) above on the Basic Link Line was three hundred thousand dollars (\$300,000) and the bid accepted upon the Enlarged Link Line was four hundred thousand dollars (\$400,000), the District would have paid

one hundred thousand dollars (\$100,000) of the construction costs under subparagraph (a) immediately above. The percentage of operation and maintenance costs to be paid by the District would be one hundred thousand dollars (\$100,000) divided by four hundred thousand dollars (\$400,000), which equals twenty-five (25) percent. Upon computation of this percentage, there would be added to such amount fifteen (15) percent of the amount so owed to compensate the City for its overhead costs. As a specific illustration, using the foregoing example, if during a particular period the operation and maintenance costs of such line were two thousand dollars (\$2,000), the amount owed by the District to the City for operation and maintenance costs would be five hundred dollars (\$500) plus seventy-five dollars (\$75) to compensate the City for its overhead costs.

(c) During the fifteen day period set forth above for review of the bids, the Engineer and the City Engineer shall consult regarding which bid should be accepted. As between such two engineers, the City shall have the right to accept the recommendation of the City Engineer. Upon acceptance of a bid for the Enlarged Link Line, the City shall enter into a contract for construction of the line, which contract shall be in a form acceptable to counsel for the City and the District. Any such contract shall contain the provisions designated on Appendix B attached hereto.

(d) Within fifteen (15) days after the City has paid the contractor any of the payments required by the construction contract, the District will pay the City its proportionate share of any such payments; provided, the City will not pay the final payment due

the construction contractor until (i) the contractor has completed the work provided for in the construction contract according to the plans and specifications for the project, (ii) until the City Engineer has issued its certificate of acceptance and completion on behalf of the City, (iii) until appropriate lien releases have been obtained from all materialmen, laborers and professional personnel who have in any way participated in the construction of the facilities, and (iv) the City has complied with all laws governing the City and/or the District as to final construction contract payments. The District shall indemnify and hold harmless the City from and against any and all expense or damages resulting from non-payment by the District of amounts due the City within the fifteen day period provided above.

(e) The District will pay its share of the operation and maintenance costs and overhead costs of the City for which it is liable, within fifteen (15) days after receipt of an invoice from the City.

(f) Subject to the District's obligation to make payments set forth above, the City will be responsible to provide all employees reasonably required to manage, operate and properly maintain the Enlarged Link Line.

(g) The City will acquire such rights of way and easements as may be reasonably necessary for the location and construction of the Enlarged Link Line. If the City is required to purchase any such rights of way and easements, or if the City is required to obtain any such rights of way and easements through eminent domain proceedings, then the District

shall pay a portion of such acquisition costs, including fees of any attorneys, engineers or other experts retained by the City in connection with such acquisition, in the same proportion as its share of the construction costs for the Enlarged Link Line.

13. For the purposes of this and succeeding paragraphs, the facilities which are constructed as Alternate No. 2, or are constructed as Alternate No. 1 and then enlarged pursuant to paragraph numbered 8.1(c) above, will be referred to as the Clifton Plant. After completion of the Clifton Plant, the City will have the right at any time or from time to time upon notice to the District as provided below, to cause the District to divert, transport and treat through the Clifton Plant for the account of the City water at any rate which at a given time will not exceed the equivalent of four million (4,000,000) gallons of water per twenty-four (24) hour period; provided, the District will not be obligated to divert, transport and treat water for the account of the City unless the City has first given the District at least twenty-four (24) hours' notice of its need for water through the Clifton Plant. The City shall bear all costs of any pump and pumping required to deliver the water of the City to the City.

14. It is anticipated that at certain times there will not be adequate water in the Colorado River to supply the needs of both the parties from the Water Right. The parties agree that the first three million (3,000,000) gallons of water per any twenty-four (24) hour period taken from the river shall be for the account of the District. The next four million (4,000,000) gallons of water per any twenty-four (24) hour period taken from the Colorado River shall be for the account of the City. The next nine million nine hundred twenty-seven thousand two hundred (9,927,200) gallons of water

per any twenty-four (24) hour period (which is the balance of the 20 c.f.s. conveyed to the District) shall be for the account of the District. The intention of this paragraph is to give the parties certain preferences, one over the other, as between themselves in the Water Right. For example:

(a) If the amount of water available at a point of diversion is two million (2,000,000) gallons per twenty-four (24) hour period, the District shall receive all of such water;

(b) If the amount available is three million five hundred thousand (3,500,000) gallons per twenty-four (24) hour period, the District will receive three million (3,000,000) gallons and the City will receive five hundred thousand (500,000) gallons per twenty-four (24) hour period;

(c) If there is more than seven million (7,000,000) gallons per twenty-four (24) hour period available, the District shall be entitled to take an additional nine million nine hundred twenty-seven thousand two hundred (9,927,200) gallons per twenty-four (24) hour period before the City, or its successors in interest, shall be entitled to any additional water from the Water Right.

15. At its option, the City shall have the right to change the diversion point of all of the Water Right from the point of diversion described in recital paragraph A hereof to the points of diversion described in paragraph numbered 2 hereof. Such change in point of diversion shall not give the City the right to require the District to divert, transport and treat for the City account, more than the four million (4,000,000) gallons of water per any twenty-four (24) hour period.

16. Each party shall have the right to apply for an absolute decree upon the water used by it through the Clifton

Plant.

17. The District shall own the diversion works, raw water pipeline, water treatment plant and treated water pipeline to point of intersection with the Basic Link Line or Enlarged Link Line and the City shall own the Basic Link Line or Enlarged Link Line.

18. This Agreement will be initially executed by the President and Secretary of the District and the Manager and Clerk or Assistant Clerk of the City, but will not become effective until the Agreement, in its entirety, has been approved both by the Council of the City and the Board of Directors of the District. If the City's Council and the District's Board have not ratified and approved this Agreement, in its entirety, within twenty (20) days after the date shown on page 1 hereof, then this Agreement shall be of no force and effect and the City and the District shall be relieved and discharged of any obligation and liability, and shall waive and forego any right under this Agreement.

Dated this 17th day of August, 1977.

CLIFTON WATER DISTRICT

By *[Signature]*
President

ATTEST:

[Signature]
Secretary

CITY OF GRAND JUNCTION, COLORADO

By *[Signature]*
Manager

ATTEST:

[Signature]
Clerk

CONVEYANCE OF WATER RIGHT

THE CITY OF GRAND JUNCTION, COLORADO, a Municipal Corporation, "Grantor," in consideration of Ten Dollars and other consideration, sells, conveys and transfers to CLIFTON WATER DISTRICT, a quasi-municipal corporation, "Grantee," the following described water and water rights located in Mesa County, Colorado:

The right to divert twenty (20) cubic feet of water per second of time out of the Colorado River under Conditional Priority - Index No. 2957, with a date of priority of February 17, 1947 (Priority No. 787, Conditional), awarded by the District Court of Mesa County in Civil Action 8303, (a Supplemental Adjudication proceeding pertaining to water rights in former Colorado Water District No. 42) to the Grand Junction-Colorado River Pipe Line, which water right is now designated as Basin Rank No. 2957, in Water Division No. 5, pursuant to the tabulation dated October, 1974, prepared by the Office of the State Engineer of Colorado.

Priority No. 787, Conditional, referred to above was awarded to the Grand Junction-Colorado River Pipe Line out of the Colorado River for a total of one hundred twenty (120) cubic feet of water per second of time of which twenty (20) cubic feet of water per second of time has been conveyed by Grantor to Water Development Co.

The remainder of such water, i.e. eighty (80) cubic feet of water per second of time is reserved and retained by Grantor.

Priority of use between the parties, their successors and assigns, of the one hundred (100) cubic feet of water per second affected by this conveyance shall be as follows:

1. The first 3,000,000 gallons of water diverted - Grantee
2. The next 4,000,000 gallons of water diverted - Grantor
3. The next 9,927,200 gallons of water diverted - Grantee
4. Then the balance of such water right diverted - Grantor

Grantor warrants title to the water right herein conveyed against all persons and corporations claiming, by, through or under Grantor.

Grantor executed this instrument on the 17th day of August, 1977.

THE CITY OF GRAND JUNCTION, COLORADO

By James E. Wysocki
City Manager

ATTEST:

Neva B. Lockhart, CMC
City Clerk