

HEARING SUBMITTAL TO
DIVISION OF WATER RIGHTS

Right No.: a 28548 + a 28545

Date: 7/13/2011

Submitter: Applicant

Kevin Tolton

70 P Pages

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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,)

Defendant.)

C O M P L A I N T

Civil No. _____

Honorable _____

PLAINTIFFS COMPLAIN OF THE DEFENDANT 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 stockwatering, and other purposes.

2. 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".

1 P / 70 

3. 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
Richards	2-18
Cahoon and Maxfield	5-18
Walker	2-18

4. In addition to the foregoing water rights, each of the plaintiffs was awarded a surplus water right 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.

5. 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.

6. The plaintiffs, above-named, each entered into a water exchange agreement with the defendant 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

7. 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."

8. Defendant 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

9. 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. The defendant has no approved change application to use the water pursuant to the exchange agreements, Exhibit A, B, C, and D.

10. Defendant 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 the defendant without filing applications to appropriate water or to change the points of diversion, as required by law. On July 15, 1980, defendant 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.

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11. Defendant, on August 12, 1976, made an Agreement with Alta, a municipal corporation, 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, and Amendment thereto, Exhibit H.

12. At the time the defendant made the Agreements described in paragraphs 10 and 11, 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, G, and H, such water would have entered Cottonwood Creek and flowed down such creek to the plaintiffs' points of diversion for their use and credit.

13. Plaintiffs have been informed and believe that defendant 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.

Water furnished
to exchange Co's ?

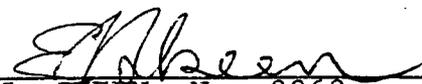
14. Defendant has not, since said change applications Nos. a-1174, a-1175, a-1176, and a-1177 lapsed in 1983, made any use of Little Cottonwood Creek in accordance with the water laws of Utah, the Court decree referred to above, or the said exchange agreements and has violated said agreements.

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 the defendant has no water right in the sources of water described in the water sale agreements with Alta City and Salt Lake County Service Area No. 3 - Snowbird, (4) that defendant 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, and (5) that any water rights obtained under such agreements have been forfeited for nonuse.

14 so all
of agreements
is gone

Plaintiffs pray for general relief and for costs of court.

DATED this 14th day of February, 1992.



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536 East 400 South
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Telephone: (801) 359-2329

Attorney for Plaintiffs

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PLAINTIFFS:

CAHOON AND MAXFIELD IRRIGATION COMPANY

By: Anton P. Bezac
Its President
5668 South Boullion Street
Murray, Utah 84123

WALKER DITCH COMPANY

By: A. Glen Humphrey
Its President
274 East 6790 South
Midvale, Utah 84047

RICHARDS IRRIGATION COMPANY

By: Marion R. Widenberg
Its President
7970 Highland Drive
Salt Lake City, Utah 84121

LITTLE COTTONWOOD TANNER DITCH COMPANY

By: Arion Erikson
Its Vice President
5419 South Ninth East
Salt Lake City, Utah 84117

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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:

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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

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

Stock # 1669

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

"City" Representation 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 interest 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. 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

Limitations
Rechanges of place
and use of water

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 15th 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

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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 above...

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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, ~~and~~ again 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

14 P / 70 AS

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

15 P / 70

AS

(signed) By C. C. Neslen
Its Mayor

(signed) W. A. Leatham
Its Recorder

STATE OF UTAH)
) SS
COUNTY OF SALT LAKE)

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) SS
COUNTY OF SALT LAKE)

On the ___ day of March, 1921, personally appeared before me C. Clarence Neslen and _____ who, being 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

168/70 JS

"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 it's 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. Watts
Its President

(signed

Jas. E. Clay
Its Secretary

22/12/15

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 G. 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

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

19 P/20 AS

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 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

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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

218/70 AS

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, 1911 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 follow

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

231/70 JS

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 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 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) Dollar 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 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 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 not more 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 to which 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 regard of the quantity of stream water the City may take from said stream. 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 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, Pouls 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 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 in 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 time 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 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 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 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 water 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 arbitrators, 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 as referred to.

5. The City further agrees to install, at its own expense, suitable measuring devices to measure the irrigation waters delivered to 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 all times accessible to the officers of the Company, and to pay all co

26P/70 JS

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 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 its Board of Commissioners, have caused these presents to be executed the first day of the month of _____, 19____.

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.

279/70 JS

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 the 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

28P/70 JS

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

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 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

29P/70 JS

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 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. 4808 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 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

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 4602 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. Berrett, 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. Berrett 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.

35P/70 JS

(C O P Y)

A G R E E M E N T.

AGREEMENT FOR EXCHANGE OF A PORTION OF THE WATER OF LITTLE COTTONWOOD CREEK OWNED BY THE CAHOON AND MAXFIELD 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 westerly 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 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 or 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 waters owned by the "Company" in

36P/70 JS

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:

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 Little Cottonwood Creek in 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 "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 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 by appropriation, accrual, development or otherwise; also, saving,

Little Cottonwood Creek water to be exchanged

Reservation, Salt Lake Co. Water Company

Reservations of Little Cottonwood Creek water for Murray City.

Reference to Little Cottonwood Water relations

379/70 JS

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, 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 "City" 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".

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

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 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 proportionate 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 proper share of the water of said Creek by and through said Little Cottonwood Water Company by virtue of the ownership of stock owned by the

Reference
to and Rela-
tions of
Little Cot-
tonwood Water
Company to
Little Cot-
tonwood
Creek rights

Water

"Company" in said Little Cottonwood/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 perpetual 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 recognizes 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 interests conveyed by "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

Little Cotton-
wood Water
Co. stock to
be deliver-
ed as Escrow
to First
National Bank
of Murray

39P/70 JS

"City" representation in Little Cottonwood Water Co.

accordance therewith, and the Bank's responsibility thereby terminates, and in order that the views and policies of the "City" may 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 director by the "City" to present such name in nomination for 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 "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. 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 perpetu

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atations
 exchanges of
 place and use
 of water

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 provisions of law relating to the change of the place or diversion or 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 the said water by this contract agreed to 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 said water exchanged 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.

5. The "City" agrees to furnish and deliver to the "Company" irrigation water, that is, water suitable for irrigation purposes

41P/70 JS

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

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 proviso shall be perpetually furnished to the "Company". Said water for said irrigation purposes or use shall be delivered each and every year during the life of this agreement in the quantities and during the time herein set forth and

Manner of de-
livery of
irrigation
water

shall be so delivered upon the Cahoon & Maxfield Irrigation Company's system as at present constructed, in such way and manner in such quantities that every stockholder or user on the system shall be enabled under the distribution of said water by the "Company" to receive at all times his proportionate share of said wa

42P/70 JS

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 upon the Cahoon & 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.

6. Any use of the water of Little Cottonwood Creek by the "City" under this exchange agreement shall not be construed as

43 P / 70 JS

No adverse rights to be claimed or acquired

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 a 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" agrees to pay and reimburse the "Company" for all costs and expenses that may be incurred by the "Company" in replacing 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".

Proceedings in case of default

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, distribution of the waters of Little Cottonwood Creek herein exchanged

City to pay including water commissioners' fees or dues or allowances, and if cost of distribution etc. of water

actions 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.

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 costs, expenses, and damages sustained or which may accrue to the "Company" 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 its full proportion of said Little Cottonwood Creek as if this contract had not been made and the "Company" shall be released

Payment of crop losses, etc. in event of default

45P 170/15

from all liability hereunder and shall not be liable for any damage 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 by the "City"; provided, that 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.

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 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 that the "City, upon purging itself of every default and upon the payment in full of all costs, damages, expenses, and attorney's fees, may again 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 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

Temporary
re-taking
may be ad-
justed

46P/70 JS

Little Cottonwood Creek under and by virtue of this contract shall cease and terminate absolutely.

10. If the "City", its officers, agent, servants, or employ- shall, after notice to the "City" by the "Company", of any default breach of any covenant or agreement herein, resists the taking of t water by the "Company" or any of the acts of the "Company" which th "Company" shall be entitled to do or perform under this contract ar 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 sp ial 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 costs, expenses, damages, and attorney's fees incurred by the "Company" because of any such acts or proceedings.

Effect of City's re- sistance under de- fault

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 actio 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, pro- tection, or development of the waters of said Little Cottonwood Creei or any part thereof; and will at all times protect the rights to whic the "Company" is or may be entitled by way of appropriation, develop- ment, or use, and will defray all costs, expenses, damages, and attor- ney's fees that may accrue in defending and protecting said rights, keeping and saving the "Company" harmless from and against all ex- penses 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

Protection of rights by the "City"

corporation whatsoever and the "Company" agrees to render friendly assistance.

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 or 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 diverting or regulating the flow of water into its ditch or canal upon emergency occasions if such emergency may 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; nor to relieve the "City" from any responsibility in maintaining a constant and regular flow of water as in this contract provided.

Diversion appliances

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 the 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 or proceedings are in-

"Company" not liable for "City" negligence

48P/70 KB

stituted against the "Company", the "Company" shall seasonably noti
the "City" so that the "City" may properly defend.

Parties to
be desig-
nated upon
whom notice
is to be
served

14. It is agreed that the "City" shall designate certain off
cers or departments of the "City" upon whom notices may be served
concerning any matters pertaining in any way to this contract or th
things to be done in pursuance of the provisions thereof; and unles
such designation is otherwise made notices or communications may be
served upon the City Engineer or his representatives; and the "Com-
pany" shall designate certain officers or persons upon whom notices
may be served concerning matters pertaining to this contract or thi
to be done in pursuance of the provisions thereof; and until such
designation is made, notices or communications may be served upon t
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 officer
in pursuance of a resolution of its Board of Directors duly ratifie
and approved by a majority vote of its stockholders, and the "City"
by its duly authorized officers, in pursuance of a resolution duly
-ed by the Board of Commissioners, have caused these presents to be
executed the day and year first above written.

CAHOON & MAXFIELD IRRIGATION CO.

(SEAL)

By Geo H. Watts,
Its President.

and

James E. Clay
Its Secretary.

498/70 JB

SALT LAKE CITY

(SEAL)

By C. Clarence Neslen
Its Mayor

and

W. A. Leatham
Its Recorder

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

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

David W. Moffat
Notary Public

(SEAL)

My commission expires October 13, 1921.

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 21st day of April, 1921, personally appeared before me C. Clarence Neslen and W. A. Leatham 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 sa corporation by authority of a resolution of the Board of Commissio of Salt Lake City, and said C. Clarence Neslen and W.A.Leatham acknowledged to me that said corporation executed the same.

H. Warren Smith
Notary Public

(SEAL)

My commission expires
Dec. 22nd, 1921.

50P/70 JS

R E S O L U T I O N .

BE IT RESOLVED by the stockholders of the Cahoon and Maxfield Irrigation Company at an adjourned meeting of the stockholders held on the 28th day of March, 1921, that the action of the Board of Directors in entering into agreement with Salt Lake City for the exchange of certain waters of Little Cottonwood Creek for certain other waters to be furnished by Salt Lake City, copy of which contract is submitted to this meeting and has been read before the meeting, be approved and that the said action be and is hereby ratified and confirmed and said contract and all the terms and provisions thereof are accepted and approved by the stockholders of the Cahoon and Maxfield Irrigation Company.

Dated this 28th day of March, 1921.

(Signed) James E Clay.
Secretary

(SEAL)

51 P/70 JS

1

R E S O L U T I O N .

BE IT RESOLVED, By the Board of Directors of the Cahoon and Maxfield Irrigation Company:

THAT, WHEREAS, under and in pursuance of a resolution formerly passed by the stockholders of the Cahoon & Maxfield Irrigation Company, the Board of Directors were authorized to proceed with negotiations with Salt Lake City for the exchange of said rights to the use of water of Little Cottonwood Creek with Salt Lake City for the use of certain other waters suitable for irrigation purposes,

AND, WHEREAS, in pursuance of such authority, the Board of Directors has come to an understanding and an agreement of exchange, Therefore,

The President and Secretary be and they are hereby authorized to sign, execute and deliver said contract on behalf of the Cahoon and Maxfield Irrigation Company, copy of which contract is hereto attached.

Be it further resolved that the said contract be signed, executed and delivered, subject to the approval and ratification of the stockholders of the Cahoon and Maxfield Irrigation Company.

Be it further resolved that said contract be submitted to the stockholders of the Company for ratification, approval or rejection as the case may be at a meeting of the stockholders to be held on the 28th day of March, 1921, due notice of which meeting has been given together with the purposes thereof.

Be it further resolved that said contract and this resolution and the resolution passed or to be passed by the stockholders at said meeting be incorporated in and made a part of the permanent records of the Company.

(SEAL)

(Signed) James E Clay.
Secretary.

529/70 JB

(C O P Y)

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

38/30 AS

paragraph and rights thereunder are based upon the contract for the rents 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 water 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 day 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) Dollar 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

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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 time 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

55 P/70 AS

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

56 P/70 JS

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.

579/70 B

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

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,)
) 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.

(SEAL)

H. Warren Smith
Notary Public.

Residing at Salt Lake City, Utah

58P 170 JS

STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

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

598/70 JS

Sale and Exchange Agreement accompanying this certificate

(Signed) Peter Van Valkenburg.
Secretary of THE RICHARDS
IRRIGATION COMPANY.

(SEAL)

609/70 JS

SALE AND EXCHANGE AGREEMENT.

THIS AGREEMENT, made and entered into this 29th day of May, 193 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, herein after 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 up 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

61P 170 AS

under the terms of this Agreement, excepting the water filings of Leland R. 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 waters of the stream and the right to use the same, the City agree

(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) Dollar Water Revenue Bonds prior to the dates of payment hereinabove specified, payment in full shall to 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 provide 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 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 two second feet of such irrigation water during July, August

62P 170 JS

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 streams. 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 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, 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 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 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 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.

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 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. 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 Co.

pany 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 (1½) miles in length.

7. 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.

8. The Company hereby warrants that it is the owner of the rights herein granted and nonveyed 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 these presents to be executed the day and year first above written.

(SEAL)

ATTEST:

J. A. Berrett
Secretary.

THE LITTLE COTTONWOOD TANNER DITCH COMPAN

By Harry E. Howe
Its President.

SALT LAKE CITY,

By John F. Bowman
Mayor,

(SEAL)

ATTEST:

Ethel Macdonald
City Recorder.

65P/70 JS

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. Berrett, 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 Harry E. Howe and J. A. Berrett acknowledged to me that said corporation executed the same.

(SEAL)

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 that 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.

66P/70 JS

STATE OF UTAH)
) SS
 COUNTY OF SALT LAKE)

I, J. A. Berrett, the duly appointed, qualified and acting Secretary of THE LITTLE COTTONWOOD TANNER DITCH 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 LITTLE COTTONWOOD TANNER DITCH COMPANY, duly and regularly called and held May 20, 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 adopted at a special meeting of the stockholders of said company duly and regularly called and held May 27, 1931 at which meeting 1091 shares of the 1250 shares of stock outstanding of the corporation were present or represented and 1083 voted in favor of said resolution and 8 against it 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."

67 P/40 JS

I FURTHER CERTIFY that the Sale and Exchange Agreement referred to in the resolutions above set out is the same agreement as the Original Sale and Exchange Agreement accompanying this certificate.

J. A. Berrett
Secretary of the Little Cottonwood
Tanner Ditch Company.

(CORPORATE SEAL)

689/70/JS

ROUGH

Marvin A. Melville
2650 East 10200 South
Sandy, Utah

(84070)

Dear Mr. Melville:

Our office received your letter requesting approval for a building permit for a single ^{family} cabin to be built on lot #2, Albion Basin Subdivision. In order to begin your application, you must start by making a formal application to the Salt Lake County Building Inspection Department, 2033 South State Street, Salt Lake City, Utah. After you have made your application to them our department will then be asked by the Salt Lake County Building Inspection Dept. to give our recommendations to them as to whether, or not the permit can be issued as far as our department is concerned. If it is found a permit cannot be issued for reasonable purposes, then we will list the reasons for denial on the "Request for Recommendations" form and return it to the Salt Lake County Building Inspection Dept.

There will be no reason to reject your application, if you are able to qualify by meeting the rules and regulations for building upon the watershed of Salt Lake City.

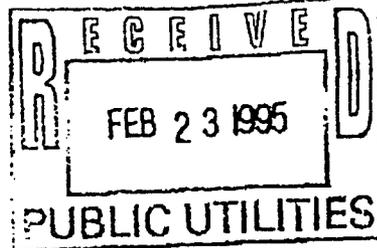
Sincerely yours,

SALT LAKE CITY-COUNTY HEALTH DEPT.

Leland S. Hoffman, Section Chief
Water Quality Control

LSH/pn

69P / 10/85



February 9, 1995

Salt Lake City
 Attention: Mayor
 451 So. State-Street
 Salt Lake City, Ut. 84111

Reference: Cahoon and Maxfield Exchange Agreement.

This letter is written to inform you violations by Salt Lake City of the water exchange agreement, dated March 28, 1921 between the city and Cahoon and Maxfield Irrigation Company. On September 27, 1994 certain employees of Salt Lake City and Sandy City held a meeting to consider dissolution of the Little Cottonwood Water Company without notice to stockholders and directors of the water company. A resolution was adopted dissolving the water company. This action was a flagrant violation of the above mentioned 1921 agreement; see page 9, paragraph 11 of the agreement.

List of violations:

1. Public notice of the meeting to discuss dissolution was not given.
2. The employees who held the meeting were not directors of the water company.
3. Written notice of the meeting, through mailed on September 19, 1994 was not received by Cahoon and Maxfield Irrigation Company until September 29, 1994, two days after the meeting.
4. Other irrigation companies which held stock in the water company did not receive notice of the meeting.
5. None of the irrigation companies which had exchange agreements with the city were represented at the meeting. Those that were present were not allowed to participate.

In view of the foregoing, this is to advise you that as soon as the weather permits, Cahoon and Maxfield will start to remove the Salt Lake City water diversion structures from the Little Cottonwood Creek and the water will be diverted and used by Cahoon and Maxfield in accordance with the Morse Decree.

Its is recommended that a meeting of all parties concerned be held without delay so that the problems can be resolved without taking legal action.

Salt Lake City does not OWN the WATER RIGHTS, but only has the right to exchange water for Little Cottonwood Water as provided by the 1921 agreement.

Respectfully
 Cahoon and Maxfield Irrigation Co.
 by Anton P. Reyes
 President

Post-it [™] Fax Note	7671	Date	2/23/95	# of pages	1
To	Mike Wilson	From	LeRoy Hooten		
Co./Dept.		Co.	SLC		
Phone #		Phone #	482-6768		
Fax #		Fax #	483-6818		

70P. / 70 JB