

**AGREEMENT ON AREAS
RESERVED FOR ANNEXATION**

This **AGREEMENT** is entered into this ____ day of _____, 1999, by and between the **CITY OF MEMPHIS, TENNESSEE**, a municipal corporation ("Memphis"), and the **CITY OF GERMANTOWN, TENNESSEE**, a municipal corporation ("Germantown"). Memphis and Germantown are collectively referred to herein as the "Parties" and individually as "Party." The Town of Arlington, City of Bartlett, Town of Collierville, City of Lakeland, and City of Millington, join herein as their respective interests are affected.

RECITALS:

WHEREAS, the Parties to this agreement are interested in reserving unto themselves annexation of certain areas of land lying within unincorporated areas of Shelby County, Tennessee;

WHEREAS, the Parties to this Agreement desire to avoid the cost, expense and effort of litigation and further desire to amicably resolve and settle any disputes which might arise regarding the annexation of land available to each;

WHEREAS, the Parties to this Agreement believe it to be in the best interest, safety and welfare of the inhabitants, and property of each respective community, to reserve unto each municipality certain areas of land for annexation;

WHEREAS, the Parties to this Agreement desire to amend and to revise any previous agreement by and between them pertaining to areas reserved for annexation.

WHEREAS, Germantown desires to reserve unto itself for annexation the area of land more fully described herein by the map attached hereto as Exhibit A identifying the "Germantown Reserve Area" and the legal description, consistent with said map, to be attached hereto as Exhibit B at a date subsequent to execution of this instrument.

WHEREAS, Germantown desires to prohibit Memphis from reserving unto itself for annexation and annexing any portion of the Germantown Reserve Area;

WHEREAS, the other Shelby County municipalities joining herein desire that each municipality set forth in writing to be binding upon them those areas reserved for annexation to each municipality.

WHEREAS, Germantown desires to prohibit any other municipality from reserving unto itself for annexation, and annexing any portion of the Germantown Reserve Area;

WHEREAS, Memphis desires to prohibit Germantown from reserving unto itself for annexation and annexing any areas other than those areas included in the Germantown Reserve Area.

WHEREAS, The Parties further agree that joint planning is necessary for the coordination of major roads and collector streets throughout Shelby County whether within areas to be annexed or not by either Memphis or Germantown and further agree that it is important to engage in such planning in order to properly plan public facilities and implement capital budget improvements such as parks, fire stations, schools, drainage and interceptor sewers, within annexed areas;

WHEREAS, The Parties further agree that any annexation dispute between them would cause community unrest and uncertainty in areas lying outside the corporate boundaries of the municipalities, which is not conducive to good planning and orderly expansion, and that joint planning and cooperation between the Parties is necessary for the orderly development of major roads, streets and other public improvements in order to promote the health, safety and welfare of the citizens living in the affected areas, as well as all of the citizens of each municipality; and,

WHEREAS, it is the Parties intent that this Agreement shall supercede and amend in its entirety, any Statement of Intent and amendments thereto, any other annexation reserve agreement and any agreement of any kind by and between the Parties setting out areas reserved for future annexation, previously entered into, but not including the Memorandum of Understanding dated August 12, 1999 entered by and among the Mayors of the City of Memphis, Town of Arlington, City of Bartlett, City of Germantown, City of Lakeland, City of Millington and Shelby County, Tennessee.

WHEREAS, it is the intent of the Parties and joining municipalities to this agreement that this Agreement be binding upon the Parties, and joining municipalities and all agree that consideration exists among and between the Parties and joining municipalities for the promises, covenants and terms of this agreement; and further intend that this agreement shall be binding, to the fullest extent of the law, but not less than twenty (20) years, upon current and future administrations and legislative bodies of

the Parties and joining municipalities , and that each of the respective parties may act in reliance on this agreement in performing their governmental functions.

WHEREAS, the Parties agree that this Annexation Reserve Agreement be contingent upon the simultaneous approval of each and every Annexation Reserve Agreement between the City of Memphis and the other Shelby County municipalities joining herein;

WHEREAS, failure of any municipality to enter into the revised and amended Annexation Reserve Agreements, referred to herein above, shall render this Annexation Reserve Agreement null and void;

WHEREAS, the Parties agree that this Annexation Reserve shall be contingent upon agreements being executed implementing each and every promise, covenant and term set forth in the Memorandum of Understanding by and among the City of Memphis, Shelby County, Tennessee, Town of Arlington, City of Bartlett, Town of Collierville, City of Germantown, City of Lakeland and City of Millington on the 12th day of August, 1999;

WHEREAS, failure of any municipality or Shelby County, Tennessee to reach agreements implementing each and every promise, covenant and term set forth in the Memorandum of Understanding referred to herein above on or before January 1, 2000, unless the Mayor of the City of Memphis consents to extend said period, shall render this Annexation Reserve Agreement null and void; and

NOW THEREFORE, In consideration of the foregoing, and of the premises, promises and mutual agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto intending to be legally bound, do hereby agree as follows:

1. Germantown shall reserve unto itself for annexation, and shall be able to annex the Territory more fully described herein by the map attached hereto Exhibit A identifying the "Germantown Reserve Area" and the legal description, consistent with said map, to be attached hereto as Exhibit B at a date subsequent to execution of this instrument, all without any interference by Memphis or any other Shelby County municipality.

2. Germantown shall be allowed to annex any land area within the Germantown Reserve Area without the permission of Memphis or any other Shelby County municipality but after giving at least sixty (60) days notice prior to the effective date of annexation to both Memphis and the other Shelby County municipalities. The failure to provide sixty (60) days notice shall in no way be deemed a jurisdictional or procedural defect thereby affecting the legality of the annexation.

3. Memphis shall not reserve for annexation or annex any of the land area located within the Germantown Reserve Area.

4. Memphis shall take no action or pass any ordinance which shall prohibit or prevent Germantown from annexing or reserving for annexation any land area within the Germantown Reserve Area except with the express written consent of Germantown to do so.

5. The Parties, therefore, agree that the map attached hereto identifying the Germantown Reserve Area, and the legal descriptions, consistent with said map to be attached hereto at a date subsequent to execution of this instrument, shall constitute a description of the areas reserved for annexation by Germantown and that all other areas of Shelby County, not otherwise within a municipal corporate boundary or otherwise covered by separate agreement by and between Memphis and a municipal corporation located within Shelby County, Tennessee permitting such municipality to annex an area, shall be reserved to Memphis, as more fully described herein by the map attached hereto as Exhibit A identifying the Memphis Reserve Area and the legal descriptions, consistent with said map, to be attached hereto as Exhibit C at a date subsequent to execution of this instrument.

6. Memphis shall be allowed to annex any land area within the Memphis Reserve Area without the permission of Germantown or any other Shelby County municipality but after giving at least sixty (60) days prior to the effective date of the annexation to both Germantown and the other Shelby County municipalities. The failure to provide sixty (60) days notice shall in no way be deemed a jurisdictional or procedural defect thereby affecting the legality of the annexation.

7. Germantown shall not reserve for annexation or annex any of the land area not located within the Germantown Reserve Area and otherwise available to Memphis for annexation, except with the express written permission of Memphis to do so.

8. Germantown shall take no actions or pass any ordinance which shall prohibit or prevent Memphis from annexing or reserving for annexation any land area not located within the Germantown Reserve Area.

9. Germantown shall provide or contract for all necessary public utilities, public services and capital improvements as provided for by law in the Germantown Reserve Area after same is annexed.

10. The Parties further agree that Germantown grants to Memphis the rights to purchase any water mains, meters, and fire hydrants which it may own in the areas reserved for Memphis annexation and which Memphis may hereafter annex, the price of same to be determined by the Agreement pertaining to the sale of Shelby County's water distribution system to Memphis Light Gas & Water dated June 30, 1999, attached hereto as Exhibit D, within ninety (90) days following the effective date of annexation by Memphis.

11. The Parties further agree that Memphis grants to Germantown the rights to purchase any water mains, meters, and fire hydrants which it may own in the areas reserved for Germantown annexation and which Germantown may hereafter annex, the price of same to be determined by the Agreement pertaining to the sale of Shelby County's water distribution system to Memphis Light Gas & Water dated June 30, 1999, attached hereto as Exhibit D, within ninety (90) days following the effective date of annexation by Germantown.

12. Germantown agrees that it shall share with Memphis, for a period of twenty (20) years beginning with the date of annexation of such area, fifty percent (50%) of sales tax revenues derived from businesses and transactions located on and within the Germantown Reserve Area. For purposes of this Agreement, sales tax revenues shall include wholesale beer revenues and local sales taxes as referred to in T.C.A. Section 6-51-115. Sales tax revenue shall not include the income tax on dividends authorized in T.C.A. Section 67-2-102 or any other tax distributed to counties and municipalities based upon the site of their collection.

13. This Agreement shall supercede and amend in its entirety, any Statement of Intent and amendments thereto, any other annexation reserve agreement and any agreement of any kind by and between the Parties setting out areas reserved for future annexation, previously entered into, but not including the Memorandum of

Understanding dated August 12, 1999 entered by and among the Mayors of the City of Memphis, Town of Arlington, City of Bartlett, City of Germantown, City of Lakeland, City of Millington and Shelby County, Tennessee.

14. The Parties hereto shall each be allowed to enter into annexation reserve agreements or agreements of any kind setting out areas to be reserved for municipal annexation or adjustment of boundary lines, with any other municipality, all without the express written consent of the other Party, so long as said agreement does not reduce the area reserved for annexation of the other Party or otherwise adjust the reserve area boundary lines of the other Party.

15. The Parties further agree that in the effort to encourage joint planning in the areas of zoning and subdivision, that any application received by the Memphis and Shelby County Office of Planning and Development within the area reserved to Germantown shall be forwarded to Germantown for its review and comment, and likewise an application received by Germantown located upon or near its corporate boundaries that may impact the future planning of public facilities for Memphis or Shelby County shall be forwarded to the Memphis and Shelby County Office of Planning and Development for review and comment. The reciprocal rights to review and comment shall in no way mean or imply the right or authority to approve or disapprove an application.

16. All notices, requests, demands and other communications provided for by this Agreement or arising hereby shall be in writing and shall be sufficiently given if and when mailed in the continental United States by registered or certified mail, or personally delivered to the Party entitled thereto. Notices shall be given by each Party to the Mayor and chairman of the City Council or Board of Alderman of the other Party and a copy to the City Attorney.

17. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing signed by the Mayor or other legally authorized representative of the Party. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either Party which are not expressly set forth in this Agreement.

18. This Agreement shall inure to the benefit of and be enforceable by the Party's successors and upon the executives, administrators and elected officials of the Party.

19 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but of which together will constitute one and the same instrument.

20. This Agreement shall be binding to the fullest extent of the law upon the Parties, but not less than twenty (20) years when properly executed by the authorized officials and approved by the respective legislative bodies.

21. It is the intent of the Parties hereto that this Agreement and similar Agreements between the Town of Arlington and City of Memphis, City of Bartlett and City of Memphis, Town of Collierville and City of Memphis, City of Lakeland and City of Memphis and City of Millington and City of Memphis (excluding any territory designated as rural in the Memphis Reserve Area) shall constitute the proposed urban growth boundaries to be submitted to the Coordinating Committee by each municipality as part of the recommended growth plan pursuant to T.C.A. 6-58-101, et seq. and subsequently submitted by the Coordinating Committee to the Local Government Planning Advisory Committee. Germantown will not oppose any necessary growth plan amendments to allow Memphis to annex any territory within the Memphis Reserve Area.

22. This Agreement (i) constitutes the entire Agreement both written and oral, by and between, the Parties, with respect to the subject matter hereof (ii) shall be governed in all respects, including validity, interpretation and effect, by the laws of Tennessee, except as to matters strictly governed by federal law; (iii) is not intended to be assigned by operation of law or otherwise; and (iv) all court proceedings, actions and claims pertaining to this Agreement, and between the Parties shall be litigated in Shelby County, Tennessee in state court without a jury.

23. The invalidity or unenforceability of any provision of this Agreement or the joinder provisions below shall not effect the validity or enforceability of any other provision of this Agreement or the joinder agreement, which latter shall continue in full force and effect.

24. It is intended by the Parties that this Agreement be binding upon the

Parties hereto to the fullest extent of the law, but not less than twenty (20) years. In the event, however, that this Agreement is determined by a court of law to be governed by the provisions of T.C.A. § 6-58-104(a)(b)(C), this Agreement shall automatically renew for successive periods of five (5) years, unless prior to the beginning of a five (5) year period, a Party hereto shall have given ninety (90) days written notice to the other Party and joining municipalities that such Party is entitled to a renegotiation or termination of this Agreement.

25. The Parties and joining municipalities to this Agreement hereby agree that this Agreement be binding upon the Parties, and joining municipalities and all agree that consideration exists among and between the Parties and joining municipalities for the promises, covenants and terms of this agreement; and further intend that this agreement shall be binding, to the fullest extent of the law, but not less than twenty (20) years, upon current and future administrations and legislative bodies of the Parties and joining municipalities, and that each of the respective parties may act in reliance on this agreement in performing their governmental functions.

26. The Parties and joining municipalities to this Agreement hereby agree that this Annexation Reserve Agreement be contingent upon the simultaneous approval of each and every Annexation Reserve Agreement between the City of Memphis and the other Shelby County municipalities joining herein.

27. The Parties and joining municipalities to this Agreement hereby agree that failure of any municipality to enter into the revised and amended Annexation Reserve Agreements, referred to herein above, shall render this Annexation Reserve Agreement null and void.

28. The Parties and joining municipalities to this Agreement hereby agree that this Annexation Reserve Agreement shall be contingent upon agreements being executed implementing each and every promise, covenant, and term set forth in the Memorandum of Understanding by and among the City of Memphis, Shelby County, Tennessee, Town of Arlington, City of Bartlett, Town of Collierville, City of Germantown, City of Lakeland and City of Millington on the 12th day of August, 1999.

29. The Parties and joining municipalities to this Agreement hereby agree that failure of any municipality or Shelby County, Tennessee to reach agreements implementing each and every promise, covenant and term set forth in the Memorandum

of Understanding referred to herein above on or before January 1, 2000, unless the Mayor of the City of Memphis consents to extend said period, shall render this Annexation Reserve Agreement null and void.

JOINDER of OTHER MUNICIPALITIES

In consideration of this Agreement and in reliance upon the representation of the City of Germantown that it will not reserve to itself for annexation or annex any of the land contained outside the boundaries of the Germantown Reserve Area without the express consent of the municipality in whose annexation reserve area such land may lie, each of the undersigned municipalities joins in this Agreement and agrees to the terms of this Agreement including, but not limited to, the understated and likewise; in consideration of this Agreement and in reliance upon the representation of the City of Memphis that it will not reserve to itself for annexation or annex any of the land contained outside the boundaries of the Memphis Reserve Area without the express consent of the municipality in whose annexation reserve area such land may lie, each of the undersigned municipalities joins in this Agreement and agrees to the terms of this Agreement including, but not limited to, the understated:

1. The undersigned municipalities shall not reserve for annexation or annex any of the land area located within the Germantown Reserve Area and Memphis Reserve Area.
2. The undersigned municipalities shall take no actions or pass any ordinance which shall prohibit or prevent the City of Germantown from annexing or reserving for annexation any land area located within the Germantown Reserve Area; and likewise, shall take no actions or pass any ordinance which shall prohibit or prevent Memphis from annexing or reserving for annexation any area located within the Memphis Reserve Area.
3. The undersigned municipalities agree that Germantown, Memphis and any of the undersigned may enter into agreement(s) with one another for the purpose of adjusting their boundary lines or for the provision of services, provided that such agreement(s) shall not affect Germantown, Memphis or the undersigned, without the written consent of Germantown, Memphis or the affected undersigned.
4. The provisions of the Agreement and this joinder agreement by, between and among the municipalities is binding upon the municipalities to the fullest extent of the law, but not less than twenty (20) years, provided however, if this joinder agreement is determined by a court of law to be governed by the provisions of T.C.A. § 6-58-104(a)(6)(C), this joinder agreement shall automatically renew for successive periods of five (5) years, unless prior to the beginning of a (5) five year period, any party shall have given ninety (90) days written notice to each municipality that such party is entitled to a renegotiation or termination of this joinder agreement.
5. The undersigned municipalities each represents and warrants that its legislative body has duly approved the execution, delivery and performance of this Agreement, to the extent that their interests are affected, and the joinder provisions, that said Agreement and joinder will not violate any provision of their charters or ordinances, and that this Agreement and the joinder provisions shall be binding upon them, and their successors, to the fullest extent of the law, but not less than twenty (20) years when properly executed by the authorized officials and approved by their legislative body.
6. This Agreement and these joinder provisions may be executed in one or more counterparts, each of which shall be deemed to be an original, but which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned, being authorized to do so, have executed this Agreement as of the date first written above.

APPROVED AS TO FORM:

CITY OF MEMPHIS, TENNESSEE

[Signature]
Attorney for the City of
Memphis, Tennessee

BY: [Signature]
Mayor W. W. Herenton

ATTEST:

Comptroller

APPROVED AS TO FORM:

CITY OF GERMANTOWN,, TENNESSEE

[Signature]
Attorney for the City
of Germantown, Tennessee

BY: [Signature]
Mayor Sharon Goldsworthy

attest: [Signature], City Clerk

CITY OF BARTLETT

[Signature] 12/22/99
Mayor Ken Fulmar

[Signature]

TOWN OF COLLIERVILLE

Mayor Linda Kerley

[Signature]

TOWN OF ARLINGTON

[Signature]
Mayor George Horton

CITY OF MILLINGTON

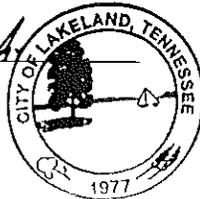
[Signature]
Mayor George R. Harvell, Jr.

CITY OF LAKELAND

[Signature] May 97
Mayor Jim Bomprezzi

[Signature]
City Attorney

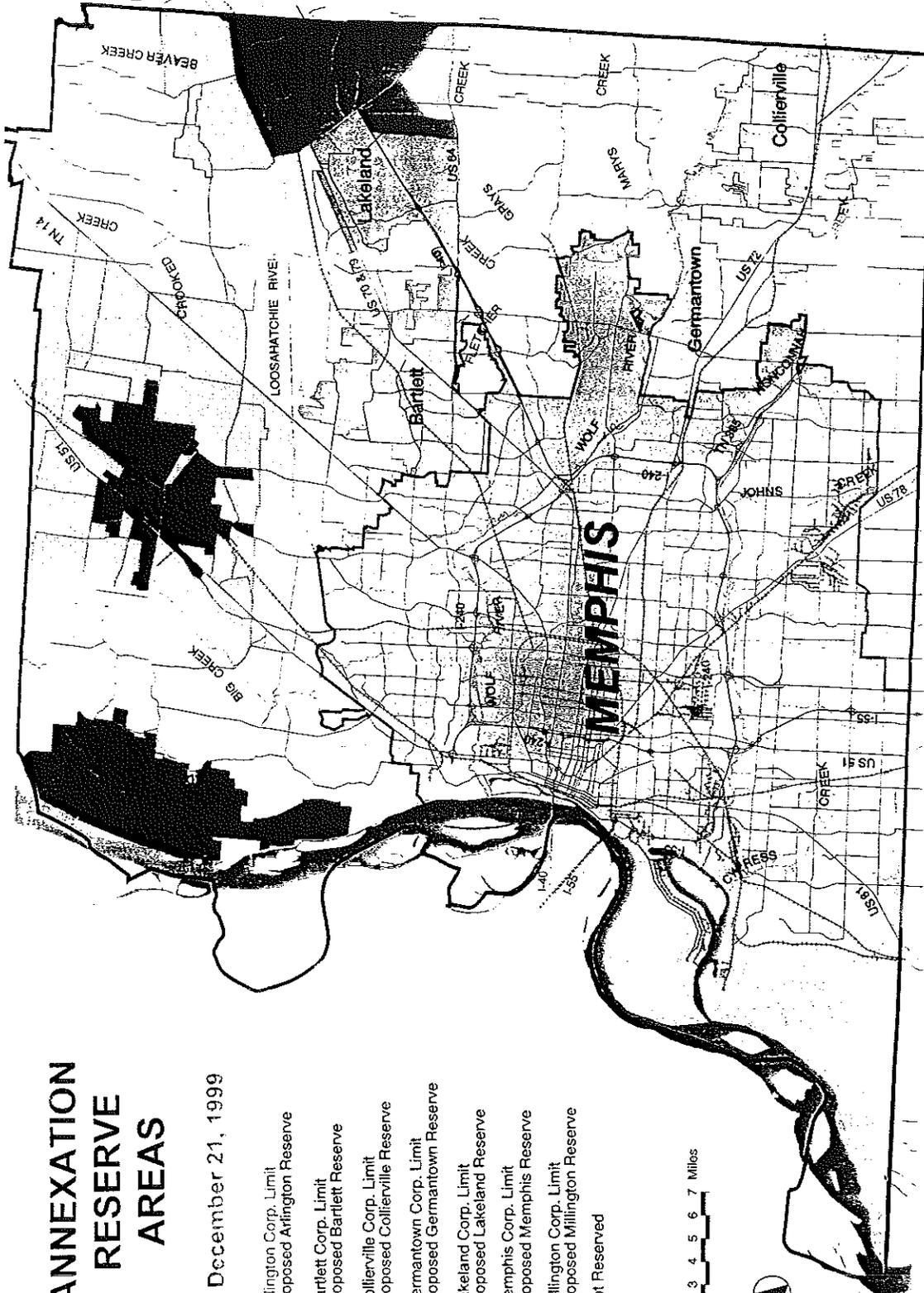
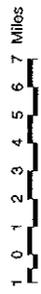
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ANNEXATION RESERVE AREAS

December 21, 1999

-  Millington Corp. Limit
-  Proposed Arlington Reserve
-  Bartlett Corp. Limit
-  Proposed Bartlett Reserve
-  Collierville Corp. Limit
-  Proposed Collierville Reserve
-  Germantown Corp. Limit
-  Proposed Germantown Reserve
-  Lakeland Corp. Limit
-  Proposed Lakeland Reserve
-  Memphis Corp. Limit
-  Proposed Memphis Reserve
-  Millington Corp. Limit
-  Proposed Millington Reserve
-  Not Reserved



Prepared By: Memphis and Shelby County Division of Planning and Development, December, 1999

**AGREEMENT
PERTAINING TO THE SALE OF THE
SHELBY COUNTY WATER DISTRIBUTION SYSTEM
TO THE MEMPHIS LIGHT, GAS AND WATER DIVISION OF THE
CITY OF MEMPHIS**

THIS AGREEMENT, made and entered into the day of execution hereof, by and between the County of Shelby, Tennessee (the "County") and Memphis Light, Gas and Water Division ("MLGW").

WITNESSETH

WHEREAS, The County owns, operates and maintains a water storage, pumping and distribution system which is more particularly described in Attachment "A" attached hereto and incorporated herein by reference (the "County Facility"). The County Facility serves a portion of the unincorporated area of Shelby County and has always been operated as an integral part of the overall water system owned and operated by MLGW, and

WHEREAS, MLGW desires to purchase the County Facility as an integral part of its plan to improve and expand its system to serve the Memphis and Shelby County region with safe and dependable potable water, and

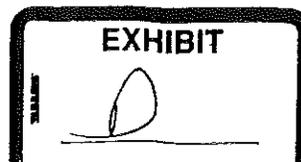
WHEREAS, the location and general capacity of the County Facility is such that it will require considerable new capital investment in the future to allow it to adequately serve the present and future citizens of the unincorporated area of Shelby County, and

WHEREAS, MLGW has the financial resources and expertise to operate the County Facility at lower cost to the customers as a part of an expanded MLGW system, and

WHEREAS, The parties estimate that current customers of the County Facility should experience a water service fee rate decrease of approximately fifteen percent (15%), to be applied in five annual increments of three percent (3%) beginning July 1, 1999, as a result of their service being transferred to MLGW, and

WHEREAS, Since the density of customers within the County Facility is less than other portions of the MLGW system, new customers outside the City of Memphis and not connecting to the MLGW system will be required to pay a system capacity fee as set forth in MLGW's water service policy to provide funding for future expansion of the MLGW system to serve such customers, and

WHEREAS, the governing bodies of Shelby County and MLGW believes that the best interests of all of the citizens of Shelby County will be served by the sale of the County Facility to



MLGW.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **General**

The County agrees to sell and MLGW agrees to purchase the County Facility on the terms and conditions set forth herein.

2. **Existing Conditions**

MLGW agrees to accept the County Facility in an "as-is" condition and hereby releases and discharges the County from any and all loss, cost or other expenses, either direct or consequential, which may arise from or as a result of existing defects in the County Facility discovered subsequent to the Transfer Date, which shall be the date of execution of this agreement. MLGW hereby agrees to assume all responsibility for the maintenance and repair of the County Facility as of the Transfer Date. MLGW further agrees to assume, as of the Transfer Date, all obligation and responsibility for providing water service to consumers served by the County Facility. Customers served by the County Facility shall be served in accordance with the provisions of Paragraph 5 herein from the Transfer Date forward .

3. **Consideration**

As consideration for the sale of the County Facility, the parties agree as follows:

- A. MLGW will pay to the County a lump sum cash payment of Five Million Dollars (\$5,000,000.00) on or before June 30, 1999.
- B. MLGW will forgive all debts related to operation or maintenance of the County Facility owed to it by the County and the Shelby County Board of Public Utilities as of December 31, 1998, which amount to \$3,465,598.74, plus accrued interest thereon as of the Transfer Date, totaling approximately \$4,100,000.00. County agrees to pay all expenses for operation and maintenance of the County Facility on a current basis between January 1, 1999 and the Transfer Date.
- C. MLGW agrees that between July, 1999 and June, 2019, it will make new investments in the total amount of \$15,000,000, in water system capacity improvements designed with a view toward serving as many presently unserved residents of Shelby County as possible, and improving the service of those customers already being served . The parties agree that this investments will be distributed approximately as follows: a minimum of \$2,500,000 by June, 2004; an additional \$4,000,000 by June, 2009; an additional \$4,000,000 by June 2014; and an additional \$4,500,000 by June, 2019. MLGW may, at its discretion, make any or all of these investments at such earlier times as it deems advisable . To assist in the funding of those water system lines which serve a relatively

few customers, MLGW will require new customers to pay a system capacity fee of \$500.00 per connection for residential customers, with such fee to be graduated upward for larger non-residential connections.

- D. For all County road improvement construction projects awarded between July, 1999 and June 2004, the County will allocate a contingency allowance of five percent (5%) of actual road construction costs of each such project, to be used to pay for the expansion and relocation of MLGW's facilities located therein. The County may relocate such MLGW facilities in accordance with design provided by MLGW, using its own contractors, or reimburse MLGW for its costs and expenses in making said improvements and relocations. In either event, the County's total obligation under this paragraph will not be greater than five percent (5%) of the actual road construction costs of each such project exclusive of the costs of such water system expansions and relocations.
- E. The County agrees that this sale includes the transfer of ownership of the property known as the Lucy-Woodstock Liquid Products Terminal and more particularly described in Attachment "B" attached hereto and incorporated herein by reference to MLGW as of the Transfer Date.

4. **Transfer of Service**

MLGW will begin collecting water service fees from customers connected to the County Facility effective on the Transfer Date and will provide continued water service pursuant to the terms of MLGW's service policy as approved by the Board of Commissioners. Subject to approval by the Memphis City Council, MLGW will continue to charge County Facility customers at County Facility rates for a period of five (5) years from the Transfer Date with annual water service fee rate decreases expected, in approximately equal increments each year of the five (5) year period, in order to bring their water service fee rates equal to the rates paid by other MLGW customers outside the City of Memphis at the end of five (5) years.

5. **Option to Repurchase**

The County shall have the option to repurchase the County Facility and all improvements and expansions thereto in the future, less any portions sold to the incorporated cities and towns of Shelby County, at an "Adjusted Value" negotiated in accordance with this paragraph. For purposes of this paragraph, "Facility Value" shall mean the value of the County Facility, including without limitation the Lucy-Woodstock Liquid Products Terminal, paid pursuant to paragraph 3.A. hereof plus the increase, as per the Handy-Whitman Index (Water Construction / Equipment for the South Atlantic Region) (hereinafter the "Handy-Whitman Calculated Increase"), in said value from the date of payment hereunder to the date of repurchase. "MLGW Improvements Value" shall mean the amount paid by MLGW for improvements made pursuant to paragraph 3C hereof plus the increase, as per the Handy-Whitman Calculated Increase, in said amount / value from the date of installation of such improvements to the date of repurchase.

"County Improvements Value" shall mean the amount paid by the County for expansion and relocation of MLGW facilities pursuant to paragraph 3D hereof plus the increase, as per the Handy-Whitman Calculated Increase, in said amount / value from the date of installation of such expansions and relocations to the date of repurchase. The Adjusted Value shall be calculated as the Facility Value plus the MLGW Improvements Value less the County Improvements Value. Depreciation shall be determined by utilizing the SI IOWA type curve and the formula as follows: Adjusted Value as defined above, divided by the average life since the Transfer Date, multiplied by the period of time from the Transfer Date to the date of repurchase.

6. **Representation of Authority**

Each party to this Agreement hereby represents that its execution, delivery and performance of this Agreement has been duly authorized by all requisite action and will not violate any provision of law, charter or bylaws.

7. **Entire Understanding**

This Agreement contains the entire understanding between the parties in regard to the subject matter hereof. Except as otherwise provided herein, this Agreement supersedes any prior written or oral agreements between the parties hereto in regard to the subject matter hereof.

8. **Choice of Law**

This Agreement will be interpreted in accordance with the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Agreement will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee.

9. **Unenforceability**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to have been written, construed and enforced as so limited.

10. **Amendment**

This Agreement may only be modified by amendment made in writing and signed by both parties.

11. **Matters to be Disregarded**

The titles of the several paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this

contract.

12. **Indemnity**

To the extent permitted by the law of the State of Tennessee, Shelby County agrees to indemnify and hold MLGW harmless from any and all pending or expected claims arising out of or relating to the County's ownership of the County Facility which were not caused by actions of MLGW or its employees in the normal course of maintaining the County Facility for County.

13. **Option for Purchase by Municipalities**

MLGW and the County hereby agree that the following terms and conditions shall be proposed to the incorporated cities and towns of Shelby County (Germantown, Collierville, Bartlett, Lakeland, Arlington, and Millington) (hereinafter the "Town(s)") for the purchase from MLGW of portions of the County Facility transferred herein, as well as future additions completed after the date of transfer of the County Facility to MLGW:

A. Following annexation, Towns will have the option, but not the obligation, to purchase any portion of the County Facility located within their corporate limits at any time, upon request and proper payment to MLGW, according to the schedule of values, without future inflation or depreciation, as follows:

3" line - \$1.29/LF, 4" line - \$1.72/LF, 6" line - \$2.15/LF, 8" line - \$2.43/LF,
10" line - \$2.72/LF, 12" line - \$3.15/LF, 14" line - \$4.73/LF, 16" line - \$5.58/LF
20" line - \$6.44/LF, 24" line - \$7.88/LF, 30" line - \$9.88/LF

B. Towns will be permitted to acquire at no cost any water facilities paid for by developers, at no cost to MLGW, upon their annexation of the area served and upon construction of facilities to separate such facilities from the MLGW system at no cost to MLGW. MLGW will transfer to Towns those storage tanks and pumping stations that are part of the County Facility at no cost to Towns, provided that such storage and pumping systems are not necessary to serve the remaining system owned by MLGW.

C. Upon annexation of the area served, Towns will have the option to purchase from MLGW those additions to the County Facility constructed by MLGW at its cost plus the Handy-Whitman Calculated Increase to the date of purchase less depreciation determined by the SI IOWA type curve.

D. MLGW will consult with Towns prior to construction of new water facilities within the Town's current or amended future annexation reserve area to ascertain the relationship of its service plan to the annexation and water service plans of the Town.

14. **Successors and Assigns**

The terms of this agreement shall be binding upon all successors and assigns of MLGW and

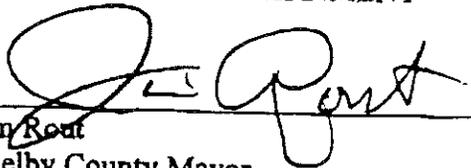
Shelby County.

Executed at Memphis, Tennessee this, the 30th day of June, 1999.

APPROVED AS TO FORM:


Asst. County Attorney/
Contract Administrator

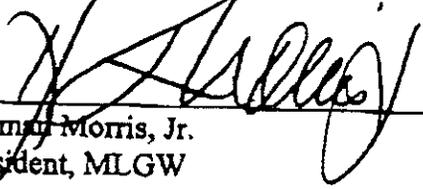
SHELBY COUNTY GOVERNMENT

By: 
Jim Rount
Shelby County Mayor

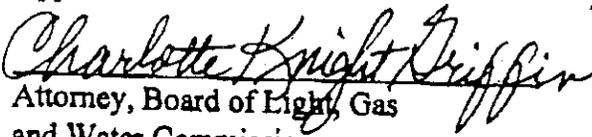
6-9-99
Date

Attest: 
Secretary-Treasurer

MEMPHIS LIGHT, GAS AND WATER DIVISION

By: 
Herman Morris, Jr.
President, MLGW

6/30/99
Date

Approved:

Attorney, Board of Light, Gas
and Water Commissioners