

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

AGREEMENT

This Agreement is made and entered into by and between the Town of Davidson, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "TOWN", and the City of Charlotte, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "CITY".

1. The TOWN, acting by and through its Board of Commissioners, and the CITY, acting by and through its City Council, have determined that it is in the best interests of their citizens and their water and sewer customers for the CITY to acquire, maintain and operate a water and sewer system within the TOWN, as set forth in the attached agreement (hereinafter referred to as the "Water and Sewer Agreement"), reference to which is hereby made.

2. If the entire Water and Sewer Agreement is declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction notwithstanding the provisions of Paragraph 29 of the Water and Sewer Agreement, it is the express intent of the parties that this Agreement shall take effect and shall govern the division of all water and sewer facilities between the TOWN and the CITY and shall also govern the division between the TOWN and the CITY of all duties, responsibilities, obligations and liabilities for providing water and sewer service within the corporate limits of the TOWN.

3. The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

a) "Facility" refers to any portion of the water and sewer system: 1) located within the corporate limits of the TOWN or its extra-territorial jurisdiction; or 2) which was owned or operated by the CITY prior to or after the effective date of the Water and Sewer Agreement.

b) "New Facility" refers to any facility constructed or installed pursuant to the Water and Sewer Agreement.

c) "Cost" shall mean the total, original cost of the construction of any facility, including but not limited to, land or right-of-way acquisition, engineering services, etc., but not including any item donated toward construction of any facility and not including the portion of the total, original cost of the construction of any facility financed by State or Federal grants. Cost does not include debt service expenses. Cost shall be reduced by depreciation on any facility on a straight line basis; provided that the portion of the cost of any facility incurred for land or right-of-way acquisition shall not be reduced for depreciation. Facilities constructed above ground, such as pump stations, shall be depreciated using a thirty (30) year period. Facilities

constructed below ground, such as water and sewer lines, shall be depreciated using a fifty (50) year period.

d) "Improvement" means the replacement of any facility with a substantially larger facility or the construction or installation of a facility in a location where no facility previously existed, such as but not limited to the replacement of a water and sewer pipe with a larger pipe or the re-location of all or a portion of any water and sewer line, regardless of the condition of the line which was replaced or relocated.

e) "Subject water and sewer system" shall have the same meaning in this Agreement as said phrase has in the Water and Sewer Agreement.

4. No consideration, monetary or otherwise, is to be given for the transfer of any facility as set forth below unless consideration is expressly required. Any required, monetary consideration shall be paid over a five (5) year period in five (5) equal payments, with a payment to be made at the end of each year during said five (5) year period. No interest shall be due on such payments.

5. If the entire Water and Sewer Agreement is declared void, invalid or otherwise unenforceable as set forth above, the following provisions shall govern:

a) Any facility owned by the CITY prior to the date of transfer under the Water and Sewer Agreement shall remain under the ownership of the CITY. Any customers who may lawfully continue service from said facility and who desire to continue service from CMUD through said facility may continue said service, notwithstanding that said facility, customer or the property being served is located wholly or partly within the corporate limits of the TOWN and notwithstanding any objection by the TOWN to the continuation of such service. Both parties shall be free to serve those customers which each party was serving prior to the date of transfer under the Water and Sewer Agreement.

b) The subject water and sewer system shall be transferred to the TOWN; provided that, the TOWN shall agree to pay the CITY the total amount of any lease payments from the CITY to the TOWN made pursuant to Paragraph 3(b) of the Water and Sewer Agreement and the cost of any improvements made to the subject water and sewer system; and provided further that, there shall be deducted from such amount any interest which was actually paid by the TOWN on funds borrowed to construct the facilities to be transferred pursuant to this subsection. The TOWN shall not be required to pay for all or any portion of the cost of any improvements financed by the TOWN and for which it has not been previously reimbursed or otherwise repaid by the CITY in any manner.

c) New facilities not financed by the TOWN which are located within the corporate limits of the TOWN shall be transferred to the TOWN; provided that the TOWN shall agree to pay the CITY the cost of such facilities.

d) New facilities financed by the TOWN which are located within the corporate limits of the TOWN shall be transferred to the TOWN; provided that, the TOWN shall agree to pay the CITY any amounts paid by the CITY to the TOWN under the provisions of Paragraphs 13(a) and/or 26(f) of the Water and Sewer Agreement; provided that the amount to be paid to the CITY by the

TOWN shall be reduced by depreciation in the same manner as set forth in Section 3(c) above so that any payments by the TOWN to the CITY shall include only the amount by which the former payments exceed depreciation.

e) New facilities located within the TOWN's extra-territorial jurisdiction shall be the property of the CITY; provided that the CITY shall agree to pay the TOWN the cost of said facilities to the extent financed by the TOWN and not previously reimbursed or otherwise re-paid by the CITY to the TOWN.

f) At such point(s) as facilities of the CITY and TOWN connect, one or more meters or other measuring devices shall be installed. Such meters or measuring devices shall be operated and maintained by the party providing service(s) to the other party and shall be the basis upon which bills are sent to the other party for payment for said service. The CITY agrees to pay such rate for water and sewer service from the TOWN and to abide by such terms and conditions for said service as the TOWN may lawfully impose. So long as said rate is paid and said terms and conditions are satisfied by the CITY, the TOWN may not involuntarily terminate said service. The TOWN agrees to pay such rate for water and sewer service from the CITY and to abide by such terms and conditions for said service as the CITY may lawfully impose. So long as said rate is paid and said terms and conditions are satisfied by the TOWN, the CITY may not involuntarily terminate said service.

g) The TOWN shall assume all duties, obligations and liabilities of the CITY for providing water and sewer services to customers connected to facilities transferred from the CITY to the TOWN. The TOWN shall assume all duties, obligations and liabilities of the CITY for the extension and construction of facilities within the corporate limits of the TOWN, including but not limited to contracts for the extension of facilities.

h) Such documents and records as are described in Paragraph 18(a) of the Water and Sewer Agreement shall be transferred from the CITY to the TOWN for such facilities as are transferred from the CITY to the TOWN. The deposits and advance payments that shall have been made to the CITY by customers or users connected to facilities that are to be transferred from the CITY to the TOWN shall be transferred from the CITY to the TOWN and shall become subject to the sole custody of the TOWN. The designee of the CITY and the designee of the TOWN shall be responsible for determining all other details related to the transfer of facilities and assumption of duties, obligations and liabilities as are set forth in this Agreement which are not specifically addressed herein, including but not limited to the date on which such transfers are to be made.

6. It is expressly understood that the CITY has the authority under the Water and Sewer Agreement to convey, transfer or abandon such portions of the subject water and sewer system and any new facilities acquired by the CITY which are subsequently determined by the CITY to be unnecessary to the proper operation of a water and sewer system for the foreseeable future under the Water and Sewer Agreement within the corporate limits of the TOWN and the TOWN'S extra-territorial jurisdiction. The CITY shall have no obligation to re-acquire such facilities which may be conveyed, transferred or abandoned or to account to the TOWN for any consideration received from the conveyance, transfer or abandonment of any facility or portion thereof prior to the termination of the

Water and Sewer Agreement or upon the termination of the Water and Sewer Agreement.

7. Such facilities as are not expressly transferred to the TOWN under this Agreement shall remain the property of the CITY and shall remain under the CITY's full control and ownership.

8. Any facility required to be transferred from the CITY to the TOWN by this Agreement which is subject to debt shall not be immediately transferred but shall remain the property of the CITY. Such facility shall be leased to the TOWN until the debt on such facility is retired. The TOWN shall agree as part of such a lease to make payments to the CITY of sums sufficient to pay all of the CITY's debt service on said facilities on an annual basis as and when such becomes due and payable. Upon the expiration of this lease arrangement, title to said facility shall pass to the TOWN upon the payment of One Dollar (\$1.00) to the CITY.

9. It is hereby declared to be the intention of the TOWN and the CITY that the paragraphs, sections, sentences, clauses and phrases of this Agreement are severable. If one or more paragraphs, sections, sentences, clauses or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the CITY and the TOWN without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase. If this entire Agreement is declared void, invalid, or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction notwithstanding the immediately preceding provisions of this Paragraph, it is the express intent of the parties that said court should be guided by the terms of this Agreement and the express intent of the parties in formulating such relief as the court determines to be appropriate.

10. This Agreement shall have no force and effect concerning the transfer of any water and sewer facility or the duties, obligations and liabilities for providing water and sewer service in the TOWN until and unless the Water and Sewer Agreement is declared to be void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction. The remaining provisions of this Agreement are effective upon the effective date of the Water and Sewer Agreement.

11. a) This Agreement shall be perpetual in duration. The parties hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement.

b) No joint agency is established by this Agreement.

c) Each party shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

d) Each party shall have the responsibility for financing the construction, operation and maintenance of the facilities which are transferred

to it under Paragraph 5 above. Each party shall be entitled to the receipt of all revenues from the facilities transferred to it under Paragraph 5 above.

e) This Agreement may be amended only by a document in writing, approved by the City Council of the CITY and the Board of Commissioners of the TOWN, and executed by the Mayors of the CITY and TOWN.

f) This Agreement shall be terminated only upon the agreement of the CITY and TOWN following the procedure described for amending this Agreement.

g) Prior to this Agreement taking effect for purposes of transferring facilities, duties, obligations and liabilities as set forth above, this Agreement shall remain binding upon the parties and shall not be subject to termination or amendment except as set forth above.

12. This Agreement contains the sole and entire agreement between the TOWN and the CITY regarding the consequences of the entire Water and Sewer Agreement being declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction.

This the 14 day of August, 1984.

CITY OF CHARLOTTE

BY: [Signature]
Mayor

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
City Attorney

TOWN OF DAVIDSON

BY: [Signature]
Mayor

ATTEST:

[Signature]
Town Clerk ~~COMM/SSC~~ WER

APPROVED AS TO FORM:

[Signature]
Town Attorney

[Signature]
W.E. Brannon, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

AGREEMENT

This Agreement is made and entered into by and between the Town of Davidson, a municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "TOWN" and the City of Charlotte, a municipal corporation duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as the "CITY".

1. The TOWN, acting by and through its Board of Commissioners, has determined that it is in the best interests of its citizens and water and sewer customers that the TOWN discontinue the operation of the TOWN's water and sewer system and transfer said system to the CITY pursuant to the terms and conditions hereinafter set forth. The CITY, acting by and through its City Council has determined that it is in the best interests of the citizens of the City of Charlotte and the customers of the Charlotte-Mecklenburg Utility Department, hereinafter referred to as "CMUD", to accept such transfer and to operate and maintain the TOWN's water and sewer system. This Agreement is undertaken pursuant to applicable law, including N.C.G.S. §§ 160A-274 and 321.

2. The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

a) "Effective date of this Agreement": The date by which all events described in Paragraph 31(a) of this Agreement have occurred.

b) "Date of transfer": The date on which title or leasehold to the subject water and sewer system passes from the TOWN to the CITY, which shall be a reasonable time after the effective date of this Agreement as set forth in Paragraph 19.

c) "Subject water and sewer system": The real and personal property forming a part of the TOWN's water and sewer system which is to be transferred to the CITY pursuant to this Agreement.

d) "Subject water intake and treatment facilities": The following real property and improvements, which are a part of the subject water and sewer system: the real property, including improvements thereto or used in conjunction therewith, which constitutes the raw water intake facility at Lake Norman (except such portion of the adjacent real property as is separately described in Exhibit A); the real property and improvements thereto which constitute the water treatment plant; the raw water main and all interests in real property associated therewith connecting the raw water intake facility and the water treatment plant; and the transfer from the TOWN to the CITY of all of the TOWN's right to remove water from Lake Norman.

e) "First year": The remainder of the fiscal year in which the date of transfer occurs.

f) "Inside prevailing rate": The rate(s) charged by the CITY to water and sewer customers inside the municipal boundaries of the CITY.

g) "Extra-territorial jurisdiction": The area outside the boundaries of the TOWN within which it has exercised its extra-territorial zoning authority, as such may be changed from time to time throughout the term of this Agreement.

h) "TOWN limits": The municipal boundaries of the TOWN as such may change during the term of this Agreement.

3. a) The TOWN shall transfer and convey, through the execution of appropriate deeds, bills of sale and other documents, to the CITY all real and personal property presently owned and utilized by the TOWN, as part of its water and sewer operation, except for such property as is described in Exhibit A; provided that such property as is subject to debt shall be transferred to the CITY as set forth in sub-section (b) below. Such property as is described in Exhibit A shall remain the property of the TOWN. Title to such real property shall pass to the CITY upon the payment of One Dollar (\$1.00) and such other consideration as is shown in Exhibit B to the TOWN. Appropriate documents needed for passage of title shall be prepared by the CITY and thereafter executed by the Mayors of the TOWN and CITY. Any and all interests in real property acquired by the TOWN after the date of transfer through dedication or gift for water or sewer purposes shall be transferred to the CITY for no additional consideration.

b) All real property, including water and sewer facilities affixed thereto, currently owned or utilized by the TOWN for the subject water and sewer system which was financed by debt of the TOWN, the transfer of which would constitute a breach of the debt instrument, shall be leased to the CITY for the consideration set forth in Exhibit B until all debt on each such property has been retired, at which time title to each will pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN. The lease term for currently owned or utilized properties which are subject to debt shall begin upon the date of transfer. Appropriate documents as may be needed to memorialize the lease may be prepared thereafter and executed by the Mayors of the CITY and the TOWN without further approval of the governing boards thereof.

c) Also included in Exhibit B is the amount of monetary consideration to be paid by the CITY to the TOWN which is attributable solely to the transfer of the subject water intake and treatment facilities ("water system consideration"). The TOWN may, in its sole discretion, give written notice signed by its Mayor directing that all or some specified portion of the water system consideration be applied as a credit to water bills from CMUD to water customers of the subject water and sewer system and any extensions thereof within the TOWN Limits ("TOWN water customers"). Such credits shall reduce the amount of the water system consideration owing from the CITY to the TOWN as fully as if equal amounts of money had been paid by the CITY to the TOWN. In the event the TOWN elects to apply a portion of this monetary consideration as a credit to the TOWN water customers, then the City will credit interest to the Town quarterly based on outstanding principle balance and determined by

the six month U.S. Treasury note rate published as of July 1 of each year. No credit will be made by the CITY, unless directed to do so by the TOWN; provided that, credits will be made by the CITY only if the following conditions are satisfied: written notice from the TOWN directing that such credits be made as received by the CITY at least thirty days after the effective date of this Agreement; the CITY and TOWN agree on the method of computing and applying such credits, including the date after which such credits are to be made; the TOWN directs that such credits are to be made to all TOWN water customers without exception; the CITY will never be required by virtue of the credits provided for in this paragraph to make any direct payment to any TOWN water customer or any other person or entity; such credits are not transferable from one account to another, from one customer to another or on any other basis; if at any time for any reason the current credit to be made exceeds the current water bill for any TOWN water customer, such excess credit will be carried over to apply to future water bills, if any, for such customer; any credits made under the provisions of this paragraph will terminate automatically when the total water system consideration has been satisfied by direct payment to the TOWN and/or by making such credits as are set forth in this paragraph, or earlier upon written notice from the TOWN signed by its Mayor with the effective date of such termination being agreed upon between the TOWN and the CITY; under no circumstances will the CITY be required to make credits to TOWN water customers under the provisions of this paragraph for more than eight years from and after the date of transfer; under no circumstances will the TOWN's direction that credits, as described in this paragraph, be made by the CITY to TOWN water customers be construed to create any rights in said TOWN water customers which are enforceable against the CITY or the TOWN; and the provisions of this paragraph are for the sole and exclusive benefit of the TOWN and the CITY. The TOWN represents that it owns marketable title to the subject water intake and treatment facilities and that the same will be transferred by a good and sufficient deed in fee simple with general warranty and free from incumbrances.

d) With respect to that portion of the 11.9 acre parcel conveyed to the TOWN from Duke Power Company dated August 20, 1962, and further separately described in Exhibit A as not conveyed to the CITY as part of the water intake and treatment facilities, the TOWN hereby grants to the CITY the first right of refusal to purchase such property which shall operate as follows: in the event the TOWN elects to sell such property or any portion thereof it shall deliver to the CITY written offer to sell the property to the CITY which shall set forth a description of the property, the selling price and terms of sale at which the TOWN will sell the property. The CITY shall have sixty (60) days thereafter to exercise its first refusal option to purchase the property by delivering written acceptance to the TOWN of its offer. Thereafter, the TOWN and the CITY shall effect a conveyance of the property within a reasonable time. Such conveyance shall be by good and sufficient deed in fee simple with good warranty and free of incumbrances, unless the TOWN's offer expressly provides otherwise. If the CITY fails to accept such offer within such sixty (60) day period or delivers a written rejection of the offer prior to the expiration of such sixty (60) day period, the TOWN shall be free within the next six (6) month period to enter into a contract to sell such property to any third party at a price equal to or greater than the price offered by the TOWN to the CITY and upon terms no less favorable to the TOWN than those contained in its offer to the CITY. No reduction in price below that offered to the CITY nor the granting of more favorable terms shall be made until a new offer with such price reduction

and/or more favorable terms is first offered to the CITY in accordance with the procedure set forth hereinabove.

e) If the CITY purchases some but not all of the property subject to the first refusal right herein granted, such right shall continue to apply to the remainder of the property. If the CITY fails to accept or reject an offer and the TOWN does not thereafter contract for the sale of the property within six (6) months and transfer such property thereafter in accordance with such contract, such property shall remain subject to the first refusal right herein granted.

f) The right of first refusal shall terminate twenty (20) years after the date of transfer.

g) The Mayors of the CITY and the TOWN shall execute a Memorandum of the terms of the first refusal for recording in the Mecklenburg County Public Registry as either party shall desire.

h) The CITY acknowledges that the TOWN may wish to develop and sell the remaining portion of that 11.9 acre parcel identified in subparagraph 3(d) above subject to the rights of the CITY thereunder. The CITY agrees that in the event the TOWN's plan of development for such property includes the relocation of the existing road, the CITY will (i) grant to the TOWN without cost a right of way for street purposes across CITY's water intake property acquired hereunder, and (ii) relocate the raw water distribution line running from the water intake facility to Torrence Chapel Road across the TOWN's property at no cost to the TOWN.

4. a) The transfer of all property, whether real or personal, under this Agreement is in an "as is" condition, as of the effective date of this Agreement, except as expressly set forth herein. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A quitclaim deed shall be executed by the TOWN to convey all interests in real property and improvements thereto which are subject to this Agreement; except as provided in Paragraphs 3(d) and 4(c). A Bill of Sale shall be executed by the TOWN to transfer ownership of all personal property subject to this Agreement. Such documents shall be sufficient to convey to the CITY all of the TOWN's right, title, and interest in and to the subject water and sewer system, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water and sewer system within any public streets within the TOWN. The TOWN shall cooperate with the CITY in establishing title to any portion of the subject water and sewer system which may be contested and shall take no position inconsistent with the unconditional right of the CITY without the payment of damages and just compensation to operate and maintain any portion of the subject water and sewer system. During the ten (10) year period immediately preceding the date of transfer, the TOWN covenants and warrants that it has not acquired any interest in any real or personal property to be transferred hereunder except by operation of law, purchase, gift or the exercise of its powers of eminent domain in compliance with relevant provisions of the North Carolina General Statutes or private acts of the North Carolina General Assembly applicable to the TOWN. All deeds and bills of sale transferring and conveying the subject Water and sewer system shall

be subject to this covenant and warranty. The TOWN shall be liable for one-half of the amount of any monetary damages suffered by the CITY for breach of this covenant and warranty on account of any claim or demand presented to the City within two years after the date of transfer. This paragraph shall not apply to any claim, demand or action, or portion thereof, seeking the recovery of damages for the negligent construction, operation or maintenance of the subject water and sewer system and which is not based upon allegations in the nature of inverse condemnation.

b) Prior to the date of transfer, the TOWN will be responsible for maintaining the subject water and sewer system in reasonable condition. The TOWN will be solely responsible for the expenses incurred in such maintenance. If subject water and sewer system is damaged prior to the date of transfer by a catastrophic event, the TOWN shall make the necessary repairs. The CITY will be obligated to reimburse the TOWN for the reasonable expenses incurred by the TOWN in making the necessary repairs caused by a catastrophic event, provided that: 1) such repairs are made according to applicable standards of CMUD; 2) such repairs are inspected and approved by the Director of CMUD (or his designee), such approval not to be withheld unreasonably; and 3) this Agreement becomes effective as provided in Paragraph 31, below. Any payment from the CITY to the TOWN under this sub-paragraph is due within sixty (60) days after the date of transfer. For purposes of this sub-paragraph, "catastrophic event" means a natural catastrophe such as abnormal and unforeseeable weather and does not include any intentional, unintentional or negligent act or failure to act by one or more persons, corporations, associations, governments or other entities, including but not limited to the TOWN, its officers, agents, and employees. This sub-paragraph will be effective immediately upon the execution of this Agreement, as set forth in Paragraph 31(b).

c) The subject water intake and treatment facilities shall be conveyed by good and sufficient deed in fee simple with general warranty and free of incumbrances.

5. In consideration of the transfer of ownership of the subject water and sewer system, and for future construction financed pursuant to Paragraph 7 below, the CITY shall make such payments to the TOWN at such times as are set forth in Exhibit B. At no point in time shall any obligation, debt, bond, or other liability of the TOWN arising from the construction, operation or maintenance of any portion of the subject water and sewer system be construed to be an obligation, debt, bond or other liability of the CITY, it being the intent and purpose of this Agreement that there be no transfer in any manner of such obligation, debt, bond, or other liability from the TOWN to the CITY.

6. In further consideration for this Agreement, the CITY and TOWN are entering into a separate agreement (hereinafter referred to as "annexation agreement") designating areas which are not subject to annexation by one or more of the municipalities participating in the annexation agreement, a copy of which is attached hereto as Exhibit D. The annexation agreement is an essential element of this Agreement.

7. Any TOWN water and sewer bonds, which are authorized for sale but have not yet been sold, may be sold by the TOWN for the purpose of providing funds for constructing water and sewer facilities within the TOWN listed in

Exhibit E. Any funds already on hand from the sale of TOWN water and sewer bonds shall be utilized for constructing or completing construction of the water and sewer facilities within the TOWN. Any investment earnings on unexpended funds from TOWN water and sewer bonds shall be used to pay for current debt service costs on said bonds. The CITY will assume responsibility for the construction of these facilities effective upon the date of transfer. When design for each of these facilities is completed and ready to be constructed, funds for construction will be transferred from the TOWN to the CITY prior to the start of construction. Upon completion of said facilities, ownership shall remain with the TOWN until said bonds are retired. Said facilities shall be leased to the CITY prior to being placed into operation through a new lease in compliance with the relevant provisions of Paragraph 3(b) above or by an addendum to any existing lease executed pursuant to said Paragraph. Each such new lease or addendum shall provide for payments by the CITY to the TOWN of sums sufficient to pay all of the TOWN's debt service on said bonds on an annual basis as and when such become due and payable. Upon the expiration of said lease arrangement, title to said facility shall pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN.

8. a) Upon the date of transfer, the CITY, through CMUD, shall have the immediate and sole duty and responsibility for planning, constructing, operating and maintaining the subject water and sewer system and any extensions thereof throughout the jurisdiction of the TOWN. Prior to the date of transfer, the TOWN will be responsible for the operation and maintenance of the subject water and sewer system as set forth in Paragraph 4(b) above. From and after the date of transfer, the subject water and sewer system shall be fully incorporated into the water and sewer system operated and maintained by CMUD. Said duty and responsibility shall be in accordance with current and future policies and procedures of CMUD which shall be applied in the TOWN to the same extent and in the same manner as applied in the CITY.

b) The CITY agrees to provide users of the subject water and sewer system and any extensions thereto service of a quality at least equal to the quality of service provided to water and sewer customers within the municipal boundaries of the CITY. The CITY specifically agrees that the geographical location of the water and sewer customers in the TOWN shall not have any substantial effect on the quality of service or timing of repairs to be made by CMUD.

9. Subject to the provisions hereof, it is intended that the operation and maintenance of CMUD shall be on a self-sustaining basis. All revenues of CMUD shall be used exclusively by the utility fund and shall not be used to subsidize any other operations. The schedule of rates, fees, charges and penalties currently charged by CMUD for water and sewer service shall apply to all customers of the subject water and sewer system except as set forth in Paragraph 10. Said schedule of rates, fees, charges and penalties shall not be changed except in accordance with such policies and procedures as apply to all other portions of the water and sewer system operated and maintained by CMUD except as set forth in paragraph 10.

10. a) The CITY shall be authorized to charge customers within the TOWN for water and sewer service based on fixed and variable rates not to

exceed the following multiples of rates charged within the CITY and based on the following time schedule:

<u>Applicable Effective Date of Rate</u>	<u>Factor to be Applied to Inside Prevailing Rate</u>
First year	1.9
Second year	1.8
Third year	1.7
Fourth year	1.6
Fifth year	1.5
Sixth year	1.4
Seventh year	1.3
Eighth year	1.2
Ninth year	1.1
Remaining Term of Agreement	1.0

b) If more than one rate is established by the CITY for water service or sewer service provided to water and sewer customers within the municipal boundaries of the CITY, the rate(s) for such service applicable to water and sewer customers in the TOWN shall be the same rate for substantially equivalent service provided to water and sewer customers within the municipal boundaries of the CITY. In no event will any rate for water or sewer service to a water or sewer customer in the TOWN be based upon: the distance of such customer from the CITY or any portion of the water and sewer system operated and maintained by CMUD; or any other geographical factor.

c) For purposes of determining charges for water and sewer customers within the TOWN, the CITY shall apply the factor for the first year set forth above on the date of transfer. The remaining factors shall be applied at the beginning of the appropriate fiscal year, as set forth in sub-section (a) above. From and after the ninth year, the CITY shall not charge higher rates than are charged for water and sewer service within the CITY to customers of the subject water and sewer system and any extensions thereof within the TOWN.

11. a) In the event of a default by either party hereunder, the non-defaulting party shall give written notice of such default (hereinafter "default notice") to the defaulting party, who shall have a reasonable time (depending upon the nature of the default) thereafter to cure such default. The default notice shall contain a description of the alleged default, the amount of money (if any) involved, and the remedy sought. If the default is not cured within the time period specified, the non-defaulting party shall be entitled to pursue any one or more of the following remedies, which are deemed to be cumulative:

i) specific performance, including the right to a temporary restraining order where conditions dictate immediate action;

ii) monetary damages; and

iii) if the default consists in whole or in part of a failure by a party to perform an act which can be adequately, efficiently, and responsibly performed by the non-defaulting party, the right (but not the obligation) to perform the act and charge the reasonable cost thereof to the defaulting party.

b) The parties agree that neither party shall be entitled to terminate this Agreement as a consequence of a default hereunder or for any other reason because of the nature of this Agreement, the extreme change in position to be undertaken by both parties hereafter, and the need to protect and preserve the health and safety of the public.

c) Any arbitratable claim or controversy arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the applicable Arbitration Rules of the American Arbitration Association (said Association hereinafter referred to as "AAA"), and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. For purposes of this sub-section, "arbitratable claim or controversy" shall mean any claim or controversy limited to factual disputes and which does not involve the interpretation or construction of this Agreement. Any party desiring to initiate arbitration under this sub-section shall file with the other party written notice of intention to arbitrate (hereinafter "arbitration notice") and submit to the AAA such copies of the arbitration notice and such additional information and payment as the AAA shall require. The arbitration notice shall be filed within 180 days of the default notice. The arbitration notice shall contain a description of the alleged default, the amount of money (if any involved), and the remedy sought. The preceding sub-sections of this Paragraph shall apply equally to arbitratable as well as non-arbitratable claims or controversies.

d) In any proceeding to enforce the terms of this Agreement, whether review is effected through arbitration or in court, the CITY and the TOWN irrevocably consent to the intervention as a party of one or more other Towns, if said terms are substantially similar to the terms of an agreement(s) between the CITY and said other Town(s). The TOWN hereby irrevocably consents to being added as an additional party in any proceeding to enforce the terms of an agreement, whether review is effected through arbitration or in court, between the CITY and any other Town(s), if said terms are substantially similar to terms in this Agreement. It is the intent of the parties to minimize disputes between the CITY, the TOWN and other Towns having similar agreements to this Agreement by including all affected Towns in the resolution of any dispute arising under this Agreement and similar agreements, regardless of the circumstances under which said dispute first arises.

12. The TOWN represents and warrants to the CITY that there is no discriminatory agreement between the TOWN and any customer or user of the subject water and sewer system which will or may survive this Agreement and be binding upon the CITY with the sole exception of the TOWN's agreement to sell water to the Town of Cornelius. For purposes of this Agreement, a discriminatory agreement is any agreement, contract or other understanding between the TOWN and any customer or user of the subject water and sewer system that provides that: water and/or sewer service be extended and/or provided in a different manner than such service is extended and/or provided to the remaining customers or users of the subject water and sewer system as to quality, quantity, or any other aspect of extending and/or providing such service; or water and/or sewer service be extended and/or provided upon the payment of a different schedule of rates, fees, charges, or penalties and/or at a different cost or schedule for reimbursement of costs or any other aspect of paying for the extension and/or provision of water and/or sewer service than is imposed

upon the remaining customers or users of the subject water and sewer system. In the event that a discriminatory agreement exists which survives this Agreement and is binding upon the CITY, the TOWN shall indemnify and hold the CITY harmless from any and all demands, claims, or actions (including the reasonable costs, expenses and attorney fees incurred by the CITY), of whatever nature or kind, arising in whole or in part from the existence of such discriminatory agreement, without regard to the relief sought or awarded and without regard to whether the claim, demand or action is raised by a party to the discriminatory agreement.

13. a) Subject to the provisions of this Paragraph and Paragraph 27 below, developer extensions of the subject water and sewer system or extensions requested by the TOWN shall be made under the policies now published and used by CMUD and shall be uniform throughout the CMUD system and the TOWN. The CITY may make such changes to these extension policies as the CITY determines to be appropriate only after following such policies and procedures as apply to all other portions of the water and sewer system operated and maintained by CMUD. No extension policy will be adopted which treats the TOWN and/or the area reserved for annexation to the TOWN as defined in the annexation agreement, or any developer or user within the TOWN and/or within the area reserved for annexation to the TOWN as defined in the annexation agreement differently than the CITY or any user or developer within the CITY without the prior written consent of the TOWN. "Extension policy" shall be construed to include within its meaning, but is not limited to, a geographical moratorium on extensions of water and/or sewer lines unless said moratorium is required under applicable State or Federal law, unless said moratorium applies throughout the CMUD system within Mecklenburg County, or unless emergency action is required in the form of a temporary moratorium to avoid an imminent and substantial threat to the health of the residents of the area subject to the moratorium.

b) Property located entirely within the TOWN, its extra-territorial jurisdiction and/or Iredell County may not be served with water or sewer service by the extension of any line without written approval of the TOWN signed by the Mayor thereof or his/her designated representative. No approval of the TOWN is required to serve any other property, even if a water and/or sewer line must be extended through the TOWN or its extra-territorial jurisdiction in order to serve such property. No approval of the TOWN is required for a service connection to any existing or future line, regardless of the location of the property to be served.

c) The TOWN agrees to indemnify and hold the CITY and CMUD harmless from any and all liability arising in any manner from the inability of the CITY and CMUD to provide water and/or sewer service to any person, partnership, association, corporation or other entity because the TOWN has not given the approval required by Paragraph 13(b) above. For purposes of this paragraph, "liability" includes but is not limited to damages, punitive damages, treble (or any other multiple) damages, court costs and all other reasonable costs and expenses, including attorney fees, incurred by the CITY and CMUD in any judicial or administrative proceeding or in preparation therefor.

14. Any water and/or sewer line operated and maintained by the CITY which is not an extension of the subject water and sewer system and which is located in an area annexed by the TOWN after the date of transfer shall be and remain the property of the CITY without any further consideration to the TOWN. Water and sewer customers located in any area annexed to the TOWN will be subject to the same schedule of rates, fees, charges and penalties that is charged to other water and sewer customers located within the TOWN. Any extensions of the subject water and sewer system financed by the CITY shall be and remain the pro-property of the CITY without any further consideration to the TOWN, but shall otherwise be subject to this Agreement.

15. a) The TOWN hereby irrevocably grants and permits the CITY the right to operate and maintain all portions of the subject water and sewer system in, on, and under any and all real property, including streets, dedicated streets or rights-of-way, which are owned by the TOWN or to which the TOWN claims an interest. The TOWN hereby irrevocably grants and permits the CITY the right and permission to construct, operate, maintain and perform all related activity for future water and/or sewer lines in, on, and under TOWN streets and dedicated streets or rights-of-way. In all instances, the CITY or its authorized contractor shall be required to restore and repair any street or other property of the TOWN upon the completion of any construction, operation, maintenance or related activity causing damage thereto. At or before such time as the TOWN shall close any street or sell any interest in any property in which a water and/or sewer line subject to this Agreement is actually located, the TOWN shall take such action as is necessary to protect as a matter of record the rights and interests previously transferred to the CITY pursuant to this Agreement, including but not limited to reserving the necessary easements and rights-of-way for the operation and maintenance of said line. The Director of the Charlotte-Mecklenburg Utility Department shall specify the necessary rights-of-way to be reserved, in accordance with engineering standards adopted by CMUD and which shall be parallel to the existing line. The TOWN shall also make adequate reservation for the necessary rights-of-way for all planned water and/or sewer lines prior to closing any street. If the TOWN fails to comply with the provisions of this paragraph, the TOWN shall reimburse the CITY in full for all expenses incurred in acquiring the necessary right-of-way by purchase or condemnation.

b) The TOWN represents that it has not awarded by franchise or otherwise conveyed in the past and agrees that it will not award by franchise or otherwise convey in the future rights to any third party to use any real property, including streets, dedicated streets or rights-of-way, owned or claimed by the TOWN in a manner which would unreasonably interfere with or impair the ability of the CITY to operate and maintain the subject water and sewer system or to construct, operate and maintain extensions thereof. Any future franchises which are renewed or awarded by the TOWN will be made expressly subject to the CITY's rights to operate and maintain the subject water and sewer system and to construct, operate and maintain extensions thereof. Franchisees of the TOWN, such as but not limited to operators of cable television systems, will be permitted to cross or encroach upon any portion of the subject water and sewer system or any extensions thereof which are located within streets, dedicated streets, rights-of-way, or other real pro-property owned by the TOWN for constructing, maintaining and operating authorized facilities of the franchisee at no cost to said franchisee upon reasonable terms and conditions; provided that, such crossing or encroachment

will not impair the CITY's ability to operate and maintain the portion of the water and sewer system affected. Any expense resulting from encroachment upon the subject water and sewer system or any extension thereof by said franchisee which results in impairment to the subject water and sewer system and any extensions thereof will be at said franchisee's expense. If any franchisee of the TOWN shall refuse to allow the CITY to cross or encroach upon property of the franchisee under the same terms and conditions as set forth above in this sub-section, the CITY shall have no obligation to permit said franchisee to cross or encroach upon the CITY's water and sewer system.

16. The CITY agrees to allow and permit the TOWN in the future to cross or encroach upon any portion of the subject water and sewer system or any extensions thereof for constructing and maintaining public streets or utility facilities at no cost to the TOWN upon reasonable terms and conditions; provided that, such crossing or encroachment will not impair the CITY's ability to operate and maintain the portion of the water and sewer system affected. Any expenses resulting from an encroachment upon the subject water and sewer system or any extensions thereof by the TOWN which results in impairment to the subject water and sewer system or any extension thereof will be at the TOWN's expense. The TOWN agrees to allow and permit the CITY in the future to cross or encroach upon any portion of any future street or dedicated street or right-of-way or utility easement owned by the TOWN for the purpose of constructing, maintaining, and operating any extension of the subject water and sewer system, at no cost to the CITY upon reasonable terms and conditions; provided that, such crossing or encroachment will not impair the TOWN's ability to operate and maintain the portion of its street system or utility system which is affected. Any temporary impairment resulting from construction and maintenance activity shall not be a basis for not allowing or permitting such crossing or encroachment. All construction and maintenance activities shall be performed in a timely manner so as not to unduly or unnecessarily impair the use of the TOWN's street system or utility system or the use of the CITY's water and sewer system. For purposes of this Paragraph, "utility" refers to any system(s) operated by the TOWN for: water production processing and distribution; the generation, transmission, and/or distribution of electric power or any related activity; and/or communication purposes, such as but not limited to telephone service and any related activity.

17. a) The CITY's duties and responsibilities for planning, constructing, operating and maintaining the subject water and sewer systems and any extensions thereof throughout the jurisdiction of the TOWN shall include the use of the subject water system for the consumption and use of water for residential, commercial, industrial, manufacturing, institutional, governmental and all other similar or related purposes. In the area of fire protection services, the CITY's duties and responsibilities to the TOWN are limited solely to operating and maintaining in a reasonable manner the subject water system and any extensions thereof with the TOWN's corporate limits at a level substantially equal to the level of the TOWN's maintenance of the subject water system on the effective date of this Agreement. The TOWN or any authorized volunteer fire department may secure water from the subject water system and any extensions thereof for active fire fighting purposes under the same policies of the City as apply to the water system of the CITY in the unincorporated areas of Mecklenburg County.

b) Fire hydrants will be installed and maintained by the CITY under the same policies that apply in the unincorporated areas of Mecklenburg County. No additional fire hydrants will be installed to the subject water system, unless the TOWN agrees to bear the full expense of installing and main-taining such additional fire hydrants.

18. It is the intent of the TOWN and the CITY that the rights of any third party to recover in any action arising from the construction, operation and maintenance of the subject water and sewer system and any extensions thereof shall not be increased or decreased by the existence of this Agreement.

19. a) The TOWN shall transfer to the CITY reproducible copies of any and all records arising from the construction, operation and maintenance of the subject water and sewer systems and any other related activity, including but not limited to the following: construction contracts, drawings, maps, and all other related documents evidencing the condition or location of any portion of the subject water and sewer systems including such documents as may be in the possession of any engineer or other consultant of the TOWN; billing, collection and payment records on all present and past customers of the subject water and sewer systems; contracts or agreements for the supply of materials; pending applications for water and/or sewer service; contracts or agreements to provide water and/or sewer service currently in effect; receipts, accounts and other records of deposits made by all present and past customers of the subject water and sewer systems; repair and maintenance records and any warranty information on any property transferred to the CITY pursuant to this Agreement; repair and maintenance records for all portions of the subject water and sewer systems; plans, specifications, surveys, etc. for water and sewer facilities listed in Exhibit E. The TOWN shall also provide copies of such records as are necessary to inform the CITY of the location of all facilities of the TOWN for other utility operations. The Director of CMUD for the CITY and an appropriate designee for the TOWN shall determine mutually satisfactory, administrative details for the transfer of the above-referenced records, including but not limited to establishing the method for determining and rendering final water and/or sewer bills to customers of the subject water and sewer systems which are payable to the TOWN. Water and sewer services provided to customers of the subject water and sewer systems thereafter shall be payable to the CITY. The CITY may provide reasonable assistance to the TOWN in the TOWN's efforts to collect any final unpaid water and/or sewer bill of the TOWN, including but not limited to terminating water and/or sewer service to any delinquent cus-tomer or user. If such service is terminated, the CITY shall be under no obligation to renew or reconnect service to such customer or user until such unpaid bills from the TOWN and from the CITY have been fully satisfied. The Director of CMUD for the CITY and an appropriate designee for the TOWN shall also be responsible for determining all other details related to this transfer Agreement not specifically addressed in this Agreement, including, but not limited to, the date of transfer. Determining the date of transfer shall not be delayed unreasonably by either Party. Any agreement(s) necessary to effect the transfer of the subject water and sewer system, deposits, and any other assets to be transferred will be finalized and executed prior to the date of transfer.

b) Immediately upon the execution of this Agreement, the TOWN shall allow the CITY access to all portions of the subject water and sewer systems for purposes of inspecting the condition thereof. This sub-paragraph will be effective immediately upon the execution of this Agreement, as set forth in Paragraph 31(b).

20. After the date of transfer, all requests for new service installation shall be made directly to the CITY. Prior to the date of transfer and thereafter, the TOWN agrees to provide, or otherwise cooperate with the CITY in providing, information to residents of the TOWN and to customers or users of the subject water and sewer system concerning applicable procedures for requesting maintenance of service from the CITY.

21. Any and all deposits and advance payments made by customers or users of the subject water and sewer system to the TOWN shall be transferred to and shall become subject to the sole custody of the CITY. Such deposits and advance payments shall be treated by the CITY in the same manner as other deposits and advance payments made to the CITY by customers or users of the water and sewer system operated and maintained by the CITY within the CITY. The CITY will indemnify and hold the TOWN harmless for any claims against the TOWN for the refund of any deposit transferred to the CITY which the CITY wrongfully refuses to refund.

22. a) Within ten (10) days after the effective date of this Agreement, the TOWN shall identify all persons employed by the TOWN on a permanent, full-time basis who have substantial duties in the operation and maintenance of the subject water and sewer system as of the effective date of this Agreement. For each TOWN employee who wishes to transfer employment to the CITY and who consents, a complete copy of the personnel file of each such employee shall be provided along with such identification. The CITY will offer to hire each such employee in as similar position as possible to the position held with the TOWN and for which such employee is qualified. TOWN employees shall have fifteen (15) days to accept such offer. All TOWN employees who accept such offer will not suffer any loss in pay, annual or sick leave. Effective upon the date of transfer, such employees shall be employees of the CITY and shall be subject to all rules and regulations applicable to other employees of the CITY and CMUD. Prior to the date of transfer and after the acceptance of the CITY's offer of employment by each such employee, the TOWN shall transfer to the CITY any and all funds necessary for the payment of any accrued leave for each such employee. In the event an employee's salary is higher than the similar position into which he is being transferred, the employee's pay will be frozen at that level until such time as the maximum level for the particular position reaches or exceeds the employee's salary.

b) As a result of the transfer of employment of any TOWN employee pursuant to this Paragraph, the CITY shall not assume or be responsible in any manner for any benefits to which such employee may be entitled as a result of his/her employment with the TOWN. The CITY shall cooperate with the TOWN and such employee in determining the retirement benefits to which such employee is entitled from the TOWN. No determination of such benefit shall be made without the agreement of the TOWN, the CITY and such employee. Upon the effective transfer of such employee to the CITY, such employee shall become a member of the North Carolina Local Government Retirement System and shall make the necessary contributions thereto.

23. As of the date of transfer, all customers or users of the subject water and sewer system shall become subject to all rules, regulations and ordinances of the CITY as the same apply to all users and customers of the water and sewer system of the CITY, and as same are now or may hereafter be amended. Such rules, regulations and ordinances and schedule of rates, fees, charges and penalties shall constitute a part of the agreement between the CITY and any customer or user of the subject water and sewer system and any extensions thereof for the provision of water and/or sewer service.

24. Prior to the date of transfer and as a condition of entering into this Agreement, the TOWN shall adopt such ordinance or ordinances as are reasonably necessary to regulate the proper use of the subject water and sewer system and any extensions thereof by the customers and users within the jurisdiction of the TOWN. Any ordinance(s) adopted by the TOWN which is in substantial conformance with the ordinances of the CITY (Chapter 16 of the Code of the City, Exhibit C) regulating the use of the water and sewer system of the CITY shall be deemed to be in compliance with this Paragraph. The TOWN shall maintain and enforce such ordinance or ordinances. The CITY shall reimburse the TOWN for the reasonable expenses of enforcing such ordinance or ordinances. In the alternative, the TOWN may, by agreement with the CITY, designate one or more appropriate employees, officers or representatives of the CITY to enforce such ordinance or ordinances. In the event of substantial changes by CITY in Chapter 16 of the Code of the CITY, TOWN agrees to adopt comparable changes in TOWN code within sixty (60) days after notification by CITY.

25. a) The TOWN shall take such action as is reasonably necessary to assist the CITY in applying for and obtaining financial assistance, including Federal and/or State funds, for improving, maintaining or operating water and/or sewer facilities in or near the TOWN.

b) The TOWN and CITY shall take such actions as are reasonably necessary to comply with all applicable portions of this Agreement. The TOWN shall, if necessary, institute such civil or criminal actions, including condemnations, or shall consent to become a party in any action to which the CITY is a party, as may be necessary or expedient to implement this Agreement and/or to permit the operation and maintenance of any portion of the subject water and sewer system or the construction, operation and maintenance of any extension thereof.

26. a) Upon the date of transfer, the TOWN will discontinue the operation of a water and sewer system.

b) Such discontinuance is permanent and irrevocable, except as set forth herein.

c) No person or entity shall be allowed to operate or maintain a water and/or sewer system within the jurisdiction of the TOWN without a franchise to do so. This provision shall have no effect upon any person or entity lawfully operating a water and sewer system within the jurisdiction of the TOWN prior to the execution of this Agreement; provided that no extension of such water and/or sewer system shall be made without a franchise.

d) The TOWN shall not award a franchise to operate any water and/or sewer system within the TOWN in areas served by the CITY. If the CITY shall fail to provide water and/or sewer service to any area within the TOWN within a reasonable time after such request is made in accordance with the CITY's established extension policies or if reimbursement of a reimbursable extension under established extension policies is not sufficient, based upon reasonable forecast, to reimburse the cost of a reimbursable extension, the TOWN may award a franchise to operate a water and/or sewer system within the TOWN to serve only those areas which CMUD has failed to serve. For purposes of this Paragraph, "reasonable forecast" means a reasonable estimate by the Director of CMUD of the future revenues to CMUD to be generated by the requested reimbursable extension and the portion of said revenues which are reimbursable under established extension policies. The propriety of such determination by the Director of CMUD shall be an arbitratable claim or controversy under Paragraph 11. Said forecast shall be made in the same manner as the financial feasibility of extensions are determined under Paragraph 27(f)(iii). Reimbursement shall be deemed sufficient for purposes of this Paragraph if said reimbursement equals ninety percent (90%) of the cost of the reimbursable extension. Any franchise awarded by the TOWN for a water and/or sewer system shall require the owner and operator of the franchised system to: (1) secure all necessary permits prior to beginning operation; (2) operate in compliance with all applicable statutes, ordinances and regulations; (3) construct the distribution and/or collector portion of the franchised system according to standards adopted by CMUD at the time the franchise is awarded, begin construction on the franchised system within one year of the award of the franchise and complete construction within a reasonable time thereafter, construct extensions from the franchised system according to CMUD standards adopted at the time such extension is approved by the TOWN, and maintain and operate the franchised system in a reasonable and prudent manner; (4) connect to the water and/or sewer system of CMUD within one (1) year whenever any portion thereof is located within five hundred feet of the franchised system's treatment facility at the sole expense of the owner of the franchised system, subject to reimbursement under any applicable established extension policy, and cease operation of the treatment facility thereafter; and (5) transfer said system to the CITY for incorporation into the CMUD system upon the payment by the CITY to said owner of One Dollar (\$1.00) and thereafter, said franchised system shall be fully subject to this Agreement.

27. To the extent any provision of this Agreement is authorized solely by Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes or other similar statutory authority authorizing interlocal cooperation between units of local government, the following provisions shall apply:

a) The purpose of this Agreement is to provide safe and sanitary water and sewer service within the TOWN, while relieving the TOWN of the financial burden of operating the subject water and sewer system and any extensions thereof, with the exception of provision 27(f) below.

b) This Agreement shall be perpetual. The TOWN and the CITY hereby agree that such perpetual duration is reasonable in light of the purposes of this Agreement.

c) No joint agency is established by this Agreement.

d) The CITY shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.

e) The responsibility for financing the construction, operation and maintenance of the subject water and sewer system and any extensions thereof shall be in accordance with the terms of this Agreement. The CITY shall be entitled to the receipt of all revenues from the subject water and sewer system and any extensions thereof.

f) i) Any extension to the subject water and sewer system or extensions thereof required by the TOWN shall be financed by the TOWN and shall be accomplished by contract between the TOWN and the CITY. Reasonable notice to proceed with such extensions will be provided to the CITY by the TOWN, such that applicable time limitations can be met; provided that, under no circumstances shall the CITY be liable to the TOWN for the payment of damages, penalties, fines or any other monetary recovery as a result of any failure to satisfy such time limitations.

ii) Reimbursement, if any, of the costs for such extensions will be provided by the CITY in accordance with established extension procedures which are otherwise applicable to customers of CMUD or to developers.

iii) As an alternative to the provisions of sub-section (f)(ii) above, the TOWN may finance under this sub-section any water and/or sewer system expansion or improvement which would be reimbursable under established extension procedures within the corporate limits of the TOWN or its extra-territorial jurisdiction which has the prior approval of the Director of CMUD based on technical engineering and financial feasibility, said approval not to be withheld unreasonably. If the TOWN finances said expansion or improvement by the issuance of general obligation bonds of the TOWN, said expansion or improvement shall be the property of the TOWN until said bonds are retired. Said expansion or improvement shall be leased to the CITY prior to being placed into operation through a new lease in compliance with the relevant provisions of Paragraph 3(b) above or by an addendum to any existing lease executed pursuant to said Paragraph. Each such new lease or addendum shall provide for payments by the CITY to the TOWN of sums sufficient to pay all of the TOWN's debt service on said bonds on an annual basis as and when such becomes due and payable. Upon the expiration of each lease arrangement, title to said expansion or improvement shall pass to the CITY upon payment of One Dollar (\$1.00) to the TOWN. All expenses of the TOWN in securing authority to issue said bonds and in issuing said bonds shall be the sole responsibility of the TOWN and shall not be reimbursed by the CITY in any manner. If the TOWN finances said expansion or improvement by any means other than the creation of debt, the preceding provisions of this sub-section shall fully apply; provided that, the term of the lease shall be fifteen (15) years with CITY making fifteen (15) equal payments,

one at the end of each year of the lease. Such payments shall total the cost of said expansion or improvement. If the TOWN proposes to use general obligation bonds to finance said expansion or improvement and after the TOWN has secured authority to issue said bonds, the TOWN shall notify the CITY in writing at least 60 days, but no less than 120 days, before the actual issuance of said bonds. Said notice shall contain the terms and conditions under which said bonds will be issued, including but not limited to the expected interest rate for said bonds. The CITY may, in its sole discretion, decide to finance said expansion or improvement through the issuance of general obligation bonds of the CITY or the use of any other available funds or means of financing said expansion or improvement. If the CITY decides to finance said expansion or improvement, written notice of such decision shall be given to the TOWN at least 30 days before the TOWN's issuance of its bonds or 30 days after receipt of the TOWN's notice of its intent to use bond financing, whichever date is later. Upon receipt of such notice the TOWN shall not issue such bonds. The CITY's decision to finance said expansion or improvement shall not unreasonably delay the beginning of construction thereof.

g) This Agreement may be amended only by a document in writing, approved by the City Council of the CITY and the Board of Commissioners of the TOWN, and executed by the Mayors of the CITY and TOWN.

h) This Agreement shall be terminated only upon the agreement of the CITY and TOWN following the procedure described for amending this Agreement.

28. Except as set forth in Paragraph 12, the CITY shall assume and honor all existing (as of the date of transfer) contracts and agreements with third parties previously entered into by the TOWN concerning the subject water and sewer system; provided that such contracts that require expenditure of CITY funds shall be reimbursed by TOWN in full within thirty (30) days after demand by CITY. Any such contract or agreement with third parties entered into by TOWN between the execution of this Agreement and the date of transfer shall require approval by the CITY.

29. All prior agreements and contracts between the CITY and TOWN regarding water and sewer service are rescinded as of the date of transfer. This Agreement contains the sole and entire agreement between the TOWN and the CITY regarding the provision of water and sewer service.

30. It is hereby declared to be the intention of the TOWN and the CITY that the paragraphs, sections, sentences, clauses and phrases of this Agreement are severable. If one or more paragraphs, sections, sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the CITY and the TOWN without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

31. a) This Agreement shall become effective upon the following: (1) approval by the North Carolina General Assembly of a bill authorizing municipalities within Mecklenburg County to enter into agreements concerning annexation (Exhibit F or any bill substantially similar thereto); (2) approval by the TOWN and the CITY of a separate agreement designating areas which are not subject to annexation by one or more of the participating municipalities (Exhibit D); (3) adoption of a TOWN ordinance outlined in Paragraph 24 above; (4) approval and execution of this Agreement; (5) approval and execution by CITY and Mecklenburg County of an amendment to The Agreement Between the City of Charlotte and Mecklenburg County With Respect to the Establishment of a City-County Utility Department, dated January 17, 1972, that requires TOWN approval of utility extensions within area defined in the annexation agreement; the TOWN's extra territorial jurisdiction; (6) approval and execution of a substantially similar water and sewer agreement (except for the purchase of water intake and treatment facilities) with the Town of Cornelius and approval and execution of similar water and/or sewer agreements by each of the other four TOWNS in Mecklenburg County; and (7) approval by the voters of the TOWN of the transfer of the water system to the CITY under the terms of this Agreement. The TOWN and the CITY will use their best efforts to secure the passage of said bill (Exhibit F or any bill substantially similar thereto).

b) Notwithstanding the provisions of Paragraph 31(a) above, the provisions of Paragraphs 4(b) and 19(b) above shall be effective immediately upon the execution of this Agreement.

c) If this Agreement takes effect pursuant to the provisions of Paragraph 31(a) above, the earlier agreement between the TOWN and the CITY transferring the TOWN's sewer system only to the CITY shall be rescinded automatically and shall have no force and effect. No additional action by the TOWN and the CITY shall be necessary to rescind said earlier agreement. If this Agreement does not take effect pursuant to the provisions of Paragraph 31(a), this Agreement shall have no force and effect and said earlier agreement shall not be rescinded in any manner but shall remain in full force and effect according to its provisions.

32. Whenever written notice is required under this Agreement, said notice shall be sufficient when received by the municipal clerk of the party for whom such notice was intended. Said notice may be mailed or hand-delivered but shall not be effective unless actually received. If notice is mailed to the CITY, it shall be addressed as follows:

City Clerk City Hall 600 East Trade Street
Charlotte, North Carolina 28202

If notice is mailed to the TOWN, it shall be addressed as follows:

Town Clerk Town Hall Davidson, North Carolina 28036

Either party may change its mailing address, by giving written notice of the new address. Unless so changed, the addresses set forth above shall apply.

This the 14th day of August, 1984.

CITY OF CHARLOTTE

BY:

[Signature]
Mayor

ATTEST:

[Signature]
City Clerk

APPROVED AS TO FORM:

[Signature]
City Attorney

TOWN OF DAVIDSON

BY:

[Signature]
Mayor

ATTEST:

[Signature]
Town Clerk

APPROVED AS TO FORM:

[Signature]
Town Attorney