

LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ____ day of _____, 20__ the "Effective Date"), by and between _____ (hereinafter referred to as "Lessor" whether one or more) and the City of San Antonio, a Texas municipal corporation, by and through its San Antonio Water System (the "Lessee"). Lessor hereby leases to Lessee the following unrestricted, fully transferable Edwards Aquifer water rights and related rights, on the following terms and conditions:

1. Water Rights.

Lessor leases to Lessee the Lessor's groundwater rights and Lessor's permit rights from the Edwards Aquifer Authority ("EAA") to withdraw ____ acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit _____ recorded as Document No. _____ in Volume __, Page ____ of the Official Public Records of _____ County, Texas (the "Groundwater Withdrawal Permit(s)") (the "Water Rights"). The Water Rights include all property rights to and for the quantity of rights above referenced, including the right to withdraw and/or beneficially use the Water Rights and all real and personal property rights, appurtenances, permits, authorities, licenses, consents and contracts, if any, pertaining to all such property rights. If the Water Rights consist of rights under more than one EAA Groundwater Withdrawal Permit, Lessor has attached to this Lease as Exhibit "A", a list identifying each EAA Groundwater Withdrawal Permit, with a description of the total amount of acre feet being leased to Lessee under each Groundwater Withdrawal Permit.

2. Additional Lease Rights.

The lease of the Water Rights as defined above shall also expressly include all of Lessor's Groundwater Withdrawal Permit rights pertaining to the Water Rights, all withdrawal or other permits pertaining to the Water Rights, and all modifications, amendments, renewals, extensions or successor or substitute permits relating to any of the above described items, and the right to withdraw and/or beneficially use the Edwards Aquifer water related to or pertaining to the Water Rights.

3. Term.

The term of this Lease ("Term") shall be for a period of ____ years commencing on _____ (the "Commencement Date") and continuing through _____ (the "Expiration Date"). Under this Lease, each calendar year that this Lease is in effect, beginning with the calendar year in which the Commencement Date occurs, is a Lease Year.

4. Appropriation.

Notwithstanding anything contained herein to the contrary, Lessee shall have the right to terminate this Lease at the end of each of its annual budget periods if it has not appropriated the necessary funds for payment of the lease payment due during the next annual budget period. Such election shall be made in writing to the Lessor within fifteen (15) days after the end of the applicable annual budget period and shall be effective upon Lessor's receipt of such written notice. Provided, however, Lessee agrees to use its best efforts to obtain and appropriate funds for the payment of all lease payments and other expenses and obligations due under the terms of this Lease. Pursuant to Section 271.903 of the Texas Local Government Code, Lessor acknowledges and agrees that all lease payments and other expenses and obligations due under the terms of the Lease shall be deemed to be the commitment of the Lessee's current revenues only.

5. Feasibility Period.

For a period of forty five (45) days beginning on the Effective Date of this Lease ("Feasibility Period"), Lessee will have the right at its cost to investigate all aspects of the Water Rights, including without limitation Lessor's title to the Water Rights and the existence of any encumbrances or clouds on Lessor's title to the Water Rights. Without limiting any other provisions of this Lease, during the Feasibility Period, Lessor shall cooperate with Lessee and execute or cause to be executed any documentation or instrument which is necessary or useful, as determined by Lessee, to resolve title issues, including but not limited to encumbrances or clouds, discovered by Lessee during its investigations. At Lessee's option, Lessee may extend the Feasibility Period by thirty (30) days by written notice to Lessor, to allow for completion of any title curative matters. Also during Feasibility Period, Lessor shall cooperate with Lessee and execute or provide any additional documentation to prove signatory authority, including but not limited to signed resolutions authorizing the transaction (if applicable). During the Feasibility Period, if Lessee determines in Lessee's sole discretion that it is not in the best interest of Lessee to lease all the Water Rights due to any defects in Lessor's title to or on non-transferability of all or part of the Water Rights for use by Lessee at Lessee's wells, Lessee may terminate this Lease by written notice to Lessor delivered within the Feasibility Period or Lessee may, by delivering notice to Lessor within the Feasibility Period, elect to lease any part of the Water Rights with the Rent adjusted based on the total amount of Water Rights Lessee elects to lease. **[If applicable:** This Lease is subject to the approval of the San Antonio Water System Board of Trustee, and if such approval is not obtained on or before the expiration of the Feasibility Period, this Lease shall automatically terminate.]

6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be _____
_____ per acre-foot, for a total lease payment of _____ and no/100 dollars
(\$ _____) per Lease Year (“Rent”).

All Rent payments are subject to any adjustment pursuant to Section 5 above (Feasibility Period) and Section 7 below (“Reductions and Changes in Designation”). Rent for each Lease Year is due in one lump-sum payment on or before January 31st of each Lease Year, but, notwithstanding the foregoing, in no event will a payment be made earlier than the expiration of the Feasibility Period or the recognition by the EAA of the transfer of the Water Rights. On or before the Effective Date of this Lease (a) Lessor agrees to provide to Lessee the Social Security Number or the Tax Identification Number for each Lessor; and (b) if Lessor desires that Lessee divide the Rent payments between two or more Lessors, Lessor shall provide Lessee the percentage of the Rent to be paid to each Lessor.

7. Reductions and Changes in Designation.

In the event that there is a permanent reduction by the EAA or other governmental authority of the maximum authorized withdrawal amount of the Groundwater Withdrawal Permit(s) (“Permanent Reduction”), Lessor must elect one of the two following options within sixty (60) days of the effective date of such Permanent Reduction: (1) Lessor may elect that the amount of the Water Rights leased by Lessee under this Lease shall be reduced on an equal percentage basis (or such method adopted by the EAA or other governmental authority) as of the effective date of the reduction of each Groundwater Withdrawal Permit under the Permanent Reduction, and the Rent shall be reduced accordingly on the per acre foot basis as described in Section 6 of this Lease for the first Lease Year in which the Permanent Reduction is applicable and each subsequent Lease Year; or (2) if Lessor, after such Permanent Reduction, owns sufficient rights under the Groundwater Withdrawal Permit(s) relating to the Water Rights to provide the full amount of the Water Rights described in Section 1, Lessor may elect that there is no reduction of the Water Rights or the Rent under this Lease. If, as a result of the first election, Lessee has prepaid Rent for a Lease Year in which Rent is reduced, then Lessor shall refund to Lessee the amount of the reduction in the Rent within 30 days of date Lessor makes such an election if the reduction in Rent occurs in the final Lease Year. If it is not the final Lease Year, then Lessor shall refund to Lessee the amount of the reduction in Rent for the Lease Year within 30 days of date Lessee makes such a request. If Lessee does not make such a request, Lessee may set off such refund amount against any Rent due Lessor in subsequent Lease Years. In the event of the second election, the parties agree to execute and deliver any documents which are required by the EAA or any other governmental authority.

This section 7 does not apply to a temporary reduction in the use of any part of the Water Rights due to demand management, critical period or similar rules of the EAA or other government authority.

8. Documents to be Delivered on Effective Date of Lease.

On the Effective Date of this Lease, Lessor shall deliver to Lessee the following documents executed and acknowledged by Lessor: (a) an EAA Application to Transfer and Amend Initial Regular Permit for the Water Rights, including all Exhibits and other forms or documents required by the EAA to approve the transfer of the use of the Water Rights to Lessee; (b) a signed consent, on a form provided by Lessee (attached hereto as Exhibit B), granting Lessee access to information maintained by the EAA relating to Lessor's Groundwater Withdrawal Permit(s) and to Lessor's compliance and/or noncompliance with the EAA Act and Rules; (c) a Memorandum of Lease of Groundwater in the form provided by Lessee and attached hereto as Exhibit "C" for each Groundwater Withdrawal Permit relating to the Water Rights; (d) evidence of signatory authority for the general partner of Lessor and authorization for the lease of the Water Rights by all of the partners (general and limited) of the Lessor (if applicable); and (e) evidence of signatory authority if Lessor is a limited liability corporation or corporation (if applicable).

9. Permits.

Lessee shall have the right but not the duty to initiate, seek party status in, and/or prosecute any proceedings relating to the Water Rights including, at its election, Lessor's EAA Groundwater Withdrawal Permits and the Real Property (hereinafter defined) as may be necessary for the protection of Lessee's interests in the Water Rights or Edwards Aquifer, including but not limited to (i) contesting the validity of law or regulatory action; (ii) contesting fees assessed to or levied upon the Water Rights; or (iii) protecting, defending, and/or preserving the rights to withdraw water from the Edwards Aquifer. Lessor shall cooperate with Lessee's efforts in connection therewith. Lessor shall not take any actions or omit to take any actions which will adversely affect the Water Rights.

10. Water Rights Information.

Lessor shall furnish to Lessee notice of all matters or actions related to or affecting the Water Rights, including, without limitation, actual or threatened litigation or administrative actions, within five (5) business days of the date Lessor is aware of such matters or actions. Lessor agrees to furnish to Lessee information concerning and copies of all documents pertaining to such matters or actions within five (5) business days of the date that Lessee requests such information or documents.

11. Continued Operation and Compliance with Lease.

From the Effective Date of this Lease, Lessor shall not take any actions (or omit to take any actions) which will harm or diminish Lessee's interests in the Water Rights. Lessor and Lessee agree to comply with all applicable EAA rules or regulations and other applicable federal, state or local laws, regulations or ordinances relating to Water Rights and the Groundwater Withdrawal Permits.

12. Quiet Enjoyment.

Lessor does hereby warrant and represent to Lessee that it has good and marketable title to the Water Rights, including Lessor's Groundwater Withdrawal Permits. Lessor does hereby represent and warrant to provide to Lessee quiet enjoyment, without restriction or limitation, of the Water Rights during the full term of this Lease. In addition to and notwithstanding the foregoing, in the event the Lessee is deprived of quiet enjoyment of all or any of the Water Rights at any time during the Term of this Lease, Lessee may, in addition to any other rights and remedies Lessee may exercise under this Lease, terminate this Lease in whole, or in part with respect to that portion of the Water Rights that Lessee is unable to quietly enjoy. LESSOR AGREES TO DEFEND AND INDEMNIFY LESSEE FOR ANY LOSSES, CLAIMS, LIABILITY, COSTS AND EXPENSES, INCLUDING COURT COSTS AND ATTORNEYS FEES, RESULTING FROM LESSOR'S BREACH OF THE AFOREMENTIONED REPRESENTATIONS AND WARRANTIES.

13. Proceeds From Awards.

Lessor assigns to Lessee all interest of Lessor in and to any condemnation awards or insurance proceeds which relate to Lessee's leasehold interest in the Water Rights, as determined by the market value of Lessee's leasehold interest at the time of condemnation.

14. Cooperation.

Lessor will use its best efforts, take such actions and execute and deliver such documents Lessee determines necessary to fully vest Lessee with and protect Lessee's interests in the Water Rights and make effective all of the terms of this Lease. In the event that the real property associated with the Water Rights ("Real Property") or the Water Rights itself is burdened by a financing statement, security agreement, mortgage or deed of trust, and the holder of such financing statement, security agreement, mortgage and deed of trust has not previously released their lien on the Water Rights, Lessor shall use best efforts to obtain and deliver to Lessee a Subordination, Nondisturbance and Attornment Agreement, in form and content acceptable to Lessee, executed by Lessee and the applicable holder of such financing statement, security agreement, mortgage or deed of trust.

15. Assignability.

Lessor and Lessee shall have the right to freely assign this Lease or any rights hereunder. Lessee may freely sublease all or any portion of the Water Rights.

16. Notices.

Any notices to be given hereunder shall be given by placing the notice in the United States mail, certified or registered, properly stamped and addressed to the address shown below or such other addresses as the respective party may direct in writing to the other, by overnight delivery service, or by personal delivery to such address. Notice shall be deemed effective upon such placing in the mails, on the next business day following delivery and acceptance for next day delivery by any overnight delivery service, or upon actual delivery if by personal delivery:

Lessor: _____

Lessee: San Antonio Water System
Water Resources Department
Mailing Address:
P.O. Box 2449
San Antonio, Texas 78212
Physical Address:
2800 U.S. Highway 281 North
San Antonio, Texas 78298

17. Fees.

Lessee will pay the EAA transfer application fees and county recordation fees necessary to transfer the Water Rights to Lessee. Lessee will also pay EAA Aquifer Management Fees associated with the Water Rights for each Lease Year, or if Lessor has paid some or all of the EAA Aquifer Management Fees for the initial Lease Year prior to the Effective Date of this Lease, Lessee shall reimburse Lessor for such payment. Lessee shall not be liable for any fees, taxes or assessments on the Real Property, or for any EAA fees assessed on or related to water or permit rights not leased to Lessee under this Lease.

18. Liens.

Lessor and Lessee shall promptly pay when due all items for which they are responsible which may result in the placement of a lien on the Water Rights or Lessor's Groundwater Withdrawal Permits or the Real Property. If Lessor or Lessee fail to pay any such item, including but not limited to any tax, charge or assessment, or any mechanic's or materialmen's expenses, or if a lien is placed upon the Water Rights or Lessor's Groundwater Withdrawal Permits or Real Property, the non-defaulting party shall have the right to make such payment and the defaulting party hereby covenants to reimburse the non-defaulting party, upon demand, for any amount so expended or paid, with interest

thereon at the highest legal rate per annum from the date of such payment until the date of such reimbursement, or the non-defaulting part may set off such amount against any monies due and owing the defaulting party, including Rent.

19. Default.

If for any reason Lessor fails to comply with any of the provisions of this Lease, or if any of the representations and warranties of Lessor prove to be false, Lessee, at its election, may exercise all rights which may be available to it at law or in equity, including termination of the Lease. If Lessee fails to comply with any provision of the Lease and such failure continues for a period of thirty (30) days after receiving written notice of such failure from Lessor, Lessor may, as its sole and exclusive remedy terminate the Lease and retain the prepaid Rent for the Lease Year in which the Lease is terminated as liquidated damages.

20. Waiver.

The failure on the part of either party to require the performance by the other of any portion of this Lease shall not be deemed a waiver of, or in any way affect that party's rights to enforce such provision. Any waiver by either party of any provision of this Lease shall not be a waiver of any other provision hereof.

21. Severability.

The invalidity or unenforceability of any provision of this Lease shall not affect the validity or enforceability of any other provision of this Lease.

22. Governing Law.

This Lease shall be governed by the laws of the State of Texas and is performable in Bexar County, Texas.

23. Binding Effect.

The Lease shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, except as provided in Section 15.

24. Authority.

Each of the persons signing on behalf of Lessor and Lessee hereby represent and warrant that they have the authority to execute this Lease on behalf of the party indicated by their signature and have the authority to bind such party thereto.

25. Survival.

Except as set out herein, all agreements and representations in this Lease shall survive the end of the Term.

26. Force Majeure.

If Lessee is denied its use of all or a part of the Water Rights by reason of any laws, regulations, or governmental action or other acts outside of the control of Lessor and Lessee, other than as described in Section 7 above, then Lessee and Lessor shall be excused from their obligations hereunder for so long as these circumstances exist; provided, however, that in the event the Water Rights are reduced as described in Section 7 above, the provisions of Section 7 shall control.

27. Further Assurances.

Lessor and Lessee shall take all further actions and shall execute and deliver to the other any other document or instrument which is necessary or useful to fully carry out the transactions evidenced by this Lease, including any amendments to the Permit Rights carried out in conformance with applicable EAA regulations or any documentation required by the EAA in order to evidence the termination of Lessee's interest in the Water Rights upon the termination of this Lease. In addition, the parties agree to amend this Lease in any manner necessary to cause this Lease to be in compliance with EAA rules and regulations. Lessee shall have the authority to file a Memorandum of Lease of Groundwater of public record to reflect its interest in the Water Rights as set out under the terms of this Lease. Lessor agrees to execute any such form of Memorandum of Lease of Groundwater or any amendment of such Memorandum of Lease of Groundwater provided by Lessee.

28. Attorneys Fees.

If any action at law or in equity is brought to enforce or interpret a provision of this Lease, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and other necessary litigation disbursements in addition to any relief to which it may be entitled.

30. Entire Agreement.

This Lease contains all agreements between the parties hereto and any agreement not contained herein shall not be recognized by the parties. The captions used herein are for convenience only and shall not be used to construe this Lease. Words of gender shall be construed to include any other gender, and words in the singular number shall include the plural and vice versa unless the context requires otherwise.

31. Counterparts.

This lease may be executed by the parties in any number of counterparts, each of which when so executed and delivered shall be deemed an original instrument, but all such counterparts together shall constitute but one and the same instrument.

[Signature Page to Follow]

Lessor*

(Printed Name)

Lessor*

(Printed Name)

*If there is more than one Lessor, each Lessor must sign. If the Water Rights are derived from property constituting the homestead of Lessor, Lessor's spouse must join in this lease, and the absence of such spouse's joinder to this lease shall constitute a representation and warranty by Lessor that the Water Rights are not part of the homestead.

Lessee

City of San Antonio, a Texas municipal corporation, by and through its San Antonio Water System

Robert R. Puente

Title: President/Chief Executive Officer

EXHIBIT "A"

If the Water Rights leased under this Lease consist of rights under more than one EAA Groundwater Withdrawal Permit, Lessor must list below each EAA Groundwater Withdrawal Permit, with a description of the total acre feet being leased to Lessee from each Groundwater Withdrawal Permit.

EAA Groundwater Withdrawal Permit No. _____

Total amount of Water Rights being leased to Lessee under this Permit: _____.

EAA Groundwater Withdrawal Permit No. _____

Total amount of Water Rights being leased to Lessee under this Permit: _____.

EAA Groundwater Withdrawal Permit No. _____

Total amount of Water Rights being leased to Lessee under this Permit: _____.

EAA Groundwater Withdrawal Permit No. _____

Total amount of Water Rights being leased to Lessee under this Permit: _____.

EXHIBIT "B"

CONSENT TO REVIEW OF EDWARD AQUIFER AUTHORITY ("EAA") RECORDS

The undersigned, as the owner or representative acting on behalf of the owner of certain water rights ("Consenting Party"), has entered into a Lease with the San Antonio Water System as Lessee ("SAWS") for the lease of those water rights to SAWS. In conjunction with such lease, Consenting Party hereby consents to and agrees to allow the review and copying by SAWS of any and all EAA records relating to Consenting Party and the Consenting Party's EAA Initial Regular Permit No(s). _____, as contained in the files of the Edwards Aquifer Authority ("EAA") at any location of the EAA. Such right granted hereby to SAWS includes but is not limited to files relating to permit issuance, amendment, revocation, application, adjudication or other action affecting such permit or permits, all files relating to compliance or noncompliance with the terms of such permit(s), compliance or noncompliance with EAA Act, rules and regulations, any and all correspondence by and between Consenting Party and the EAA or involving any third party, all materials relating to fees assessed, paid, adjudicated or protested with respect to such permit(s), all information relating to pumpage, water measurement, critical period/demand management withdrawal allocation schedules, water usage or non-usage, all files relating to transfers of water rights into and/or out of Consenting Party's EAA Initial Regular Permit No(s). _____ and any other data or information affecting such permit(s) as contained in the files of the EAA. Consenting Party in addition hereby requests the EAA to allow access to all such files by SAWS and its representatives without further consent or approval from Consenting Party.

This consent is effective until written notice revoking this consent is provided by Consenting Party to both SAWS and to the EAA.

Date: _____

CONSENTING PARTY:

EXHIBIT "C"

MEMORANDUM OF LEASE OF GROUNDWATER

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE.

MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this _____ day of _____, 2013 by and between _____ (the "Lessor") and the City of San Antonio, a Texas municipal corporation, acting by its San Antonio Water System (the "Lessee").

WITNESSETH:

1. On _____, Lessor and Lessee entered into a Lease of Groundwater (the "Lease") of the Water Rights described below:

Water Rights:

The Water Rights consist of the Lessor's groundwater rights and Lessor's permit rights from the Edwards Aquifer Authority ("EAA") to withdraw _____ acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit _____ recorded as Document No. _____ in Volume ___, Page ___ of the Official Public Records of _____ County, Texas (the "Groundwater Withdrawal Permit") (the "Water Rights"). The Groundwater Withdrawal Permit authorizes the withdrawal and beneficial use of groundwater from the Edwards Aquifer pursuant to the terms and conditions of the Groundwater Withdrawal Permit.

2. The Lease sets out the rights and obligations of the Lessor and Lessee to the Groundwater Withdrawal Permit. The Lease may also cover additional Groundwater Withdrawal Permits, and if so, a separate Memorandum of Lease of Groundwater has been recorded for each such Groundwater Withdrawal Permit.

3. The term of the Lease is for 2 years, from _____ to _____, provided, however, Lessor has the option to extend the Lease for an additional Lease Year. In the case where the Lease is extended, the Lease will terminate on _____.

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of _____ acre-feet per annum of Water Rights to Lessee.

5. This MOL is intended to act only as the notice of the existence of the Lease and its general terms. To the extent the terms of this MOL conflict with the terms of the Lease, the terms of the Lease shall control.

Lessor

(Printed Name)

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____,
201_ by _____.

NOTARY PUBLIC, State of Texas

(Seal)

Lessee:

City of San Antonio, a Texas municipal corporation, by and through its San Antonio Water System

Robert R. Puente

Title: President/Chief Executive Officer

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 201_ by **Robert R. Puente** for the City of San Antonio, a Texas municipal corporation, by and through its San Antonio Water System

NOTARY PUBLIC, State of Texas

(Seal)

After recording return to:

**Water Resources
Attn:
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449**