AGENDA

MEETING OF THE
SAN ANTONIO WATER SYSTEM
BOARD OF TRUSTEES
September 11, 2018, 9:00 A.M.
6th Floor Board Room #609
Administrative Offices
2800 U. S. Hwy 281 North, San Antonio, Texas 78212

1. MEETING CALLED TO ORDER.

2. Announcements.
   A. The San Antonio Water System Board of Trustees will, during the Meeting, close the Meeting and hold an Executive Session pursuant to and in accordance with Chapter 551 of the Texas Open Meetings Act. The Board of Trustees may, at any time during the Meeting, close the Meeting and hold an Executive Session for consultation with its attorneys concerning any of the matters to be considered during the Meeting pursuant to Chapter 551 of the Texas Open Meetings Act.

3. Minutes.
   A. Approval of the Minutes of the San Antonio Water System Board of Trustees Regular Board Meeting of July 10, 2018.


5. Public Comment.

SAN ANTONIO WATER SYSTEM
HANDICAPPED ACCESSIBILITY STATEMENT
The San Antonio Water System Buildings and Meeting Rooms are accessible to individuals with disabilities. Accessible visitor parking spaces as well as the accessible entrance and ramp are located at the west side main entrance of the SAWS Headquarters Building, Tower I, 2800 U.S. Highway 281 North. Individuals with disabilities in need of auxiliary aids and services, including Deaf interpreters, must request such aids and services forty-eight (48) hours prior to the meeting. For assistance, contact the Board Administrator at 210-233-3537 or 711 (Texas Relay Service for the Deaf).
CONSENT AGENDA ITEMS

Items 6 – 33

ITEMS CONCERNING THE PURCHASE OF EQUIPMENT,
MATERIALS AND SUPPLIES

6. A Resolution accepting recommendations regarding the contracting for certain services, equipment, materials, and supplies, and authorizing the acceptance of bids as follows: (DOUG EVANSON – YVONNE TORRES)

A. Award of New One Time Purchases of Materials, Equipment and Services.

1. Approving a one-time purchase from Alsay, Inc. to provide: installation of well pumps and motors at H2Oaks Brackish Groundwater Desalination Plant, Bid No. 18-18106, for a total of $1,815,300.00.

B. Award of New and Renewal Annual Goods & Services Requirement Contract and Maintenance Agreements. Estimated annual purchases are based on unit prices bid. Actual totals and quantities may vary from the estimate.

1. Acceptance of the bid of Harn R/O Systems, Inc. to provide: annual contract for cartridge filters for reverse osmosis membranes, Bid No. 18-16064, for a total of $134,250.00.

2. Acceptance of the sole source bid of Kinloch Equipment & Supply, Inc. to provide: annual contract for IBAK sewer inspection equipment parts and repair services, Bid No. 18-18071, for a total of $187,600.00.

3. Acceptance of the bid of Zenner Performance Meters, Inc. dba Zenner USA to provide: annual contract for water meter strainers, Bid No. 18-0034, Items 1, 2, 3 and 5, for a total of $113,150.10.

4. Acceptance of the sole source bid of Carahsoft to provide: annual contract for Salesforce Lightning Service Cloud Unlimited Edition licenses, (DIR-TSO-3149), Bid No. 18-18104, for a total of $102,060.00.

5. Acceptance of the best value bid of Dell Marketing, L.P. to provide: annual contract for Enterprise Encryption and Key Management Solution, (DIR-TSO-3763), Bid No. 18-18011, for a total of $117,974.00.

6. Acceptance of the bid of Commonwealth Computer Co. to provide: annual contract for Dell desktops, laptops, monitors and accessories, Bid No. 18-6023A, for a total of $623,112.05.
7. Acceptance of the single source bid of San Antonio Lighthouse for the Blind to provide: annual contract for office supplies, Bid No. 18-0106, for a total of $105,000.00.

CAPITAL IMPROVEMENT CONTRACTS

PROJECTS INVOLVING IMPROVEMENTS, EXTENSIONS AND ADDITIONAL CAPACITY

Water and Sewer Line Improvements

7. A Resolution awarding a construction contract to Facilities Rehabilitation, Inc. in an amount not to exceed $817,070.00 in connection with the Vantage View – E. Broadview to Hillcrest (Alley) Project. (ANDREA BEYMER – MICHAEL MYERS)

8. A Resolution approving Change Order No. 9 in the decreased amount of $184,150.00 and Change Order No. 10 in the amount of $841,209.94 to the construction contract with Oscar Renda Contracting, Inc. in connection with the C5 Culebra - Castroville to Laredo & C28 Zarzamora Creek - San Gabriel to NW 23rd Street, Phase 1B Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

9. A Resolution awarding a professional services contract to Arias & Associates, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

10. A Resolution awarding a professional services contract to Professional Service Industries, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

11. A Resolution awarding a professional services contract to Raba Kistner, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

12. A Resolution awarding a professional services contract to Terracon Consultants, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

REPLACEMENT AND ADJUSTMENT PROJECTS

Governmental Relocations and Replacements

13. A Resolution approving an Interlocal Agreement with Bexar County; authorizing expenditures in an amount not to exceed $1,578,114.22 for the adjustment of water facilities by Bexar County in connection with the Marshall Road: US 281 to Bulverde Road Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)
14. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $322,007.71 for the adjustment of water facilities by the Texas Department of Transportation in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project.  
(ANDREA BEYMER – GAIL HAMRICK-PIGG)

15. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $12,347.67 for the removal of asbestos cement pipe by the Texas Department of Transportation in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project.  
(ANDREA BEYMER – GAIL HAMRICK-PIGG)

16. A Resolution approving an Interlocal Agreement with the Alamo Regional Mobility Authority; authorizing expenditures in an amount not to exceed $1,413,184.29 for the adjustment of water and sewer facilities by the Alamo Regional Mobility Authority in connection with the Evans Road Phase I: Bulverde to TPC Parkway Project.  
(ANDREA BEYMER – GAIL HAMRICK-PIGG)

17. A Resolution authorizing the President/Chief Executive Officer or his duly appointed designee to negotiate and execute a Right of Entry Agreement with Drury Southwest, Inc. and RTSA Operations, LP in an amount not to exceed $100,000.00 in connection with Design Request 1091 - 800 N. Loop 1604 Sewer Main Project.  
(NANCY BELINSKY – BRUCE HABY)

18. A Resolution awarding contracts to Ford Engineering, Inc. and Bain Medina Bain, Inc. in an amount not to exceed $300,000.00 to provide real estate survey services in connection with the acquisition and disposition of real property and for various capital improvement projects over a three-year period with the option of two, one-year renewals.  
(NANCY BELINSKY – BRUCE HABY)

19. A Resolution awarding a construction contract to Facilities Rehabilitation, Inc. in an amount not to exceed $1,194,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract – Package 5.  
(MICHAEL BRINKMANN – SHAWN CRAWFORD)

20. A Resolution awarding a construction contract to Facilities Rehabilitation, Inc. in an amount not to exceed $1,169,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract – Package 6.  
(MICHAEL BRINKMANN – SHAWN CRAWFORD)

21. A Resolution approving Change Order No. 1 in an amount not to exceed $257,600.00 to the construction contract with Facilities Rehabilitation, Inc. in connection with 2018 Annual Water Distribution Leak Repairs Contract - Package 3.  
(MICHAEL BRINKMANN – SHAWN CRAWFORD)

BOARD MEETING 4 09-11-18
22. A Resolution approving Change Order No. 1 in an amount not to exceed $267,870.00 to the construction contract with Bartek Construction, Co. in connection with 2018 Annual Water Distribution Leak Repairs Contract - Package 4. (MICHAEL BRINKMANN – SHAWN CRAWFORD)

23. A Resolution ratifying the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $261,600.00 to the construction contract with Facilities Rehabilitation, Inc. in connection with 2018 Annual Water Distribution Leak Repairs Contract - Package 1. (MICHAEL BRINKMANN – SHAWN CRAWFORD)

24. A Resolution ratifying the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $260,378.00 to the construction contract with Bartek Construction, Co. in connection with 2018 Annual Water Distribution Leak Repairs Contract - Package 2. (MICHAEL BRINKMANN – SHAWN CRAWFORD)

25. A Resolution awarding a professional services contract to ADS, LLC dba ADS Environmental Services in an amount not to exceed $392,458.00 for the period beginning October 1, 2018 through October 1, 2021 with two additional one-year extensions in connection with wastewater flow metering services. (ANDREA BEYMER – TRACEY LEHMANN)

26. A Resolution approving an ordinance amending Chapter 34, Article V, Divisions 3 and 5 and Article VI, Division 5 of the City Code to comply with amendments to 40 C.F.R. Part 403 and TPDES Permit Number WQ0004284000; and amending Article VI, Division 8 of the City Code; authorizing the President/Chief Executive Officer or his duly appointed designee to recommend the ordinance amendments to the City Council and requesting that City Council pass an ordinance amending Chapter 34, Article V, Divisions 3 and 5; and Chapter 34, Article VI, Division 5; and Article VI, Division 8 of the City Code. (DONOVAN BURTON – SCOTT HALTY)

27. A Resolution accepting bids for the lease of Edwards Aquifer Authority groundwater rights and approving Lease Agreements with the holders of Edward Aquifer Authority groundwater rights for a total of 2,153.018 acre-feet per annum of Edwards Aquifer Authority groundwater rights at a cost of $276,992.34 per year for five years beginning in 2019 for a total obligation of the Lease Agreements in an amount not to exceed $1,384,961.70. (DONOVAN BURTON – DARREN THOMPSON)

28. A Resolution approving amendments to the Bylaws of the Community Conservation Committee and the Citizens Advisory Panel. (GAVINO RAMOS – DONOVAN BURTON)

29. A Resolution authorizing the purchase of insurance policies with Standard Insurance Company for the period of January 1, 2019 through December 31, 2019 in an amount not to exceed $1,114,932.00 in connection with basic life, accidental death and dismemberment, voluntary life insurance, and long term disability for the System's Employee Benefits Program. (SHARON DE LA GARZA)
30. A Resolution approving additional funds in an amount not to exceed $250,000.00 to various temporary employment agencies in connection with temporary employment services for Information Systems related positions.  
(DOUG EVANSON – SREE PULAPAKA)

31. A Resolution awarding a contract to JPMorgan Chase Bank, N.A. in connection with providing depository banking services to the San Antonio Water System and entering into a Custody Agreement with the Bank of New York Mellon Trust Company, N.A. to serve as custodian for investments of the San Antonio Water System, both for a two-year term with three optional one-year extensions.  (DOUG EVANSON)

32. A Resolution requesting the City Council of the City of San Antonio, Texas to approve a Third Amended and Restated Ordinance authorizing the City of San Antonio, Texas Water System Commercial Paper Notes, in multiple series and sub-series and as tax-exempt and taxable obligations, in an aggregate principal amount not to exceed $500,000,000.00 and the execution of related credit agreements and documentation.  (DOUG EVANSON)

33. A Resolution amending authorized representatives of the San Antonio Water System for Texpool, an investment pool permissible under the Texas Public Funds Investment Act and the San Antonio Water System Investment Policy.  (DOUG EVANSON)

ITEMS FOR INDIVIDUAL CONSIDERATION

CAPITAL IMPROVEMENT CONTRACTS

PROJECTS INVOLVING IMPROVEMENTS, EXTENSIONS AND ADDITIONAL CAPACITY

Developer Customer Contracts

34. A Resolution approving Utility Service Agreements to provide water and/or wastewater service to the tracts listed below requiring potential oversizing of mains (OVR), and/or are located outside the San Antonio Water System water and/or wastewater Certificate of Convenience and Necessity (CCN).  (ANDREA BEYMER – TRACEY LEHMANN)

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</table>
Water and Sewer Line Improvements

35. A Resolution awarding a construction contract to SAK Construction, LLC in an amount not to exceed $2,621,988.10 in connection with the Central Sewershed Package 5 Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

Production, Transmission and Treatment Improvements

36. A Resolution awarding a construction contract to Guy F. Atkinson Construction, LLC in an amount not to exceed $48,050,070.00 in connection with the Central Water Integration Pipeline Segment 5-1 Project. (ANDREA BEYMER – ALISSA LOCKETT)

37. A Resolution awarding a construction contract to S.J. Louis Construction of Texas, Ltd. in an amount not to exceed $3,829,046.60 in connection with the Central Water Integration Pipeline Segment 5-2 Project. (ANDREA BEYMER – ALISSA LOCKETT)

38. A Resolution awarding a construction contract to MGC Contractors, Inc. in an amount not to exceed $17,765,969.00 in connection with the Central Water Integration Pipeline - Bitters Pump Station and Segment 5-3 Project. (ANDREA BEYMER – ALISSA LOCKETT)

39. BRIEFING SESSION.

   A. Briefing and deliberation regarding Quarterly Financial and Investment Reports

   B. Briefing and deliberation regarding the Vista Ridge Project

   C. Briefing and deliberation regarding Automated Metering Infrastructure (AMI)

40. Inquiries of the Board of Trustees for future briefings and/or follow-up action.

41. The Regular Session of the September 11, 2018, Regular Board Meeting is hereby recessed to hold an Executive Session and discuss the matters listed pursuant to Section §551.071 of the Texas Open Meetings Act.

42. EXECUTIVE SESSION.

B. Consultation with attorneys regarding legal matters related to the Design Build Services Agreement with Teal Construction Company for the Phase II Service Center Project pursuant to §551.071, Texas Government Code.

C. Consultation with attorneys regarding advice on legal matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, pursuant to §551.071, Texas Government Code.

43. The Regular Session of the Regular Board Meeting of September 11, 2018, is hereby reconvened.

44. Adjournment. THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES MEETING OF SEPTEMBER 11, 2018, IS HEREBY ADJOURNED.
1. MEETING CALLED TO ORDER.

The meeting of the San Antonio Water System Board of Trustees was held on July 10, 2018, and called to order at 9:10 a.m. by Chairman Berto Guerra.

2. Announcements.

A. The San Antonio Water System Board of Trustees will, during the Meeting, close the Meeting and hold an Executive Session pursuant to and in accordance with Chapter 551 of the Texas Open Meetings Act. The Board of Trustees may, at any time during the Meeting, close the Meeting and hold an Executive Session for consultation with its attorneys concerning any of the matters to be considered during the Meeting pursuant to Chapter 551 of the Texas Open Meetings Act.

Chairman Guerra took a point of personal privilege and acknowledged the sudden loss of one of SAWS team members, Peggy Scheffler. Ms. Scheffler worked as a records management analyst in the Legal Department, and she came to SAWS in 2012 from BexarMet. Ms. Scheffler passed away suddenly, but left a lasting impression on this organization and the community. In her honor, Chairman Guerra asked for a moment of
silence.

3. Minutes.
   A. Approval of the Minutes of the San Antonio Water System Board of Trustees Regular Board Meeting of May 1, 2018.

Chairman Guerra asked if there were any corrections to the minutes. Hearing none, he stated the minutes were approved as presented.


None

5. Public Comment.

None

CONSENT AGENDA ITEMS

Items 6 – 25

ITEMS CONCERNING THE PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES

6. A Resolution accepting recommendations regarding the contracting for certain services, equipment, materials and supplies, and authorizing the acceptance of bids as follows: (DOUG EVANSO — YVONNE TORRES)

   A. Award of New One Time Purchases of Materials, Equipment and Services.
      1. Approving a one-time purchase from Silsbee Toyota to provide: five new Toyota Tacoma pickup trucks (BuyBoard 521-16), Bid No. 18-18080, for a total of $127,415.00.

      2. Approving a one-time purchase from Spectrum Biotechnologies, LLC to provide: cleaning of digesters tanks at the Dos Rios Water Recycling Center, Bid No. 18-18069, Items 1 and 2, Alternates 1 and 2, for a total of $735,600.00.

   B. Award of New and Renewal Annual Goods & Services Requirement Contract and Maintenance Agreements. Estimated annual purchases are based on unit prices bid. Actual totals and quantities may vary from the estimate.
      1. Acceptance of the bid of Pozzi Enterprises, Inc. dba Border Construction Services to provide: annual contract for general easement and brush clearing of SAWS properties, Bid No. 18-18024, for a total of $100,000.00.

      2. Acceptance of the bid of Core and Main, LP to provide: biennial contract for ductile iron pipe, Bid No. 18-0024, for a total of $297,704.00.
3. Acceptance of the single source bid of AT&T to provide: biennial contract for data and telecommunications services, Bid No. 18-18056, for a total of $1,267,627.20.

**CAPITAL IMPROVEMENT CONTRACTS**

**PROJECTS INVOLVING IMPROVEMENTS, EXTENSIONS AND ADDITIONAL CAPACITY**

**Water and Sewer Line Improvements**

7. A Resolution awarding a construction contract to Cruz Tec, Inc. in an amount not to exceed $1,357,226.50 in connection with the 2017 CIPP & Pipeburst Construction Contract Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

8. A Resolution approving Change Order No. 2 in an amount not to exceed $174,486.75 to the construction contract with RCO Construction, LLC in connection with the DR 1091 - 800 N. Loop 1604 Sewer Main Contract. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

9. A Resolution approving additional funds in an amount not to exceed $305,100.14 to the professional services contract with CAS Consulting and Services, Inc. in connection with the 2018 Small and Large Diameter Condition, Capacity, and Governmental Contracts. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

**Production, Transmission and Treatment Improvements**

10. A Resolution awarding a purchasing contract to U.S. Water Services, Inc. in an amount not to exceed $135,409.95 for early procurement of a pressure filtration system in connection with the Central Water Integration Pipeline Project. (ANDREA BEYMER – ALISSA LOCKETT)

11. A Resolution approving additional funds in an amount not to exceed $500,000.00 to the professional services contract with Arcadis U.S., Inc. in connection with the Treatment Facilities Engineering Work Order Contract. (ANDREA BEYMER – MICHAEL MYERS)

**REPLACEMENT AND ADJUSTMENT PROJECTS**

**Governmental Relocations and Replacements**

12. A Resolution authorizing expenditures in an amount not to exceed $167,400.00 for the adjustment of water and sewer facilities by the City of San Antonio in connection with the 2017 Bond Program – Pedestrian Mobility & Streets Task Order Contract Package 5. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

13. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $174,836.92 for the adjustment and replacement of water and sewer facilities by Texas Department
of Transportation in connection with the Loop 368 at North New Braunfels Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

14. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $11,447.68 for the removal of asbestos cement pipe by the Texas Department of Transportation in connection with the Loop 368 at North New Braunfels Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

15. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $664,637.73 for the replacement of water and sewer facilities by the Texas Department of Transportation in connection with the US 87: IH-10 East to Rigsby Road Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

16. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $23,086.37 for the removal of asbestos cement pipe by the Texas Department of Transportation in connection with the US 87: IH-10 East to Rigsby Road Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

17. A Resolution approving an Interlocal Agreement and Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $2,374,484.85 for the adjustment of water and sewer facilities by Texas Department of Transportation in connection with the FM 1560: SH 16 to Loop 1604 Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

18. A Resolution approving an Advance Funding Agreement with the Texas Department of Transportation; authorizing expenditures in an amount not to exceed $39,413.49 for the removal of asbestos cement pipe by the Texas Department of Transportation in connection with the FM 1560: SH 16 to Loop 1604 Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

19. A Resolution approving an Interlocal Agreement with the Alamo Regional Mobility Authority; authorizing expenditures in an amount not to exceed $283,019.89 for the adjustment of water facilities by the Alamo Regional Mobility Authority in connection with the Fischer Road Phase II: IH 35 South to Somerset Road Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

**EASEMENT AND REAL PROPERTY**

20. A Resolution approving the acquisition of a permanent water line easement being approximately 0.505 acres from Concord Terrace LLC, and located on the north side of Sonterra Boulevard across from Sigma Road, in the northeast quadrant of Bexar County, Texas in connection with the Central Water Integration Pipeline Project in an amount not to exceed $123,600.00. (NANCY BELINSKY – BRUCE HABY)
21. A Resolution approving the acquisition of a permanent water line easement being approximately 0.202 acres from Drury Southwest Inc., and located at the northwest corner of Loop 1604 and Sigma Road, in the north central quadrant of Bexar County, Texas in connection with the Central Water Integration Pipeline Project in an amount not to exceed $174,000.00. (NANCY BELINSKY – BRUCE HABY)

22. A Resolution approving the acquisition of a permanent water line easement being approximately 0.175 acres and temporary construction easements being approximately 1.449 acres from Global Evangelism, Inc., and located at the northwest corner of Loop 1604 and Stone Oak Parkway, in the northeast quadrant of Bexar County, Texas, in connection with the Central Water Integration Pipeline Project in an amount not to exceed $382,000.00. (NANCY BELINSKY – BRUCE HABY)

23. A Resolution approving the acquisition of a permanent water line easement being approximately 0.534 acres from XJ 1869 Development, LLC, and located outside Loop 1604 north of Reagan High School, in the northeast quadrant of Bexar County, Texas in connection with the Central Water Integration Pipeline Project in an amount not to exceed $154,500.00. (NANCY BELINSKY – BRUCE HABY)

MISCELLANEOUS ITEMS

24. A Resolution awarding a services contract to Alsay Incorporated in an amount not to exceed $112,697.00 in connection with the System's Water Well Mitigation Program. (DONOVAN BURTON – SCOTT HALTY)

25. A Resolution ratifying the actions of the Director of Contracting in executing the Letter Agreement extending the term through December 31, 2018, of the Bank Depository Agreement with Frost Bank; amending Resolution No. 13-354 by approving the extension the term of the Bank Depository Agreement with Frost Bank. (DOUG EVANSON)

Chairman Guerra asked if there were any items in the Consent Agenda that should be pulled for individual discussion or consideration.

Mr. Parra made a motion to approve the Consent Agenda Items 6 – 25. Mr. McGee seconded the motion.

Consent Agenda Items 6 – 25, were unanimously approved. Electronic voting.

ITEMS FOR INDIVIDUAL CONSIDERATION

CAPITAL IMPROVEMENT CONTRACTS

PROJECTS INVOLVING IMPROVEMENTS, EXTENSIONS AND ADDITIONAL CAPACITY

Developer Customer Contracts
26. A Resolution approving Utility Service Agreements to provide water and/or wastewater service to the tracts listed below requiring potential oversizing of mains (OVR), and/or are located outside the San Antonio Water System water and/or wastewater Certificate of Convenience and Necessity (CCN). (ANDREA BEYMER – TRACEY LEHMANN)

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<th>Tract Name</th>
<th>Developer</th>
<th>Acres</th>
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Tracey Lehmann presented the Utility Service Agreements (USA) for the Hultz Office Building Tract, the Tres Laurels Subdivision Tract, the Redland Plaza Tract, and the Living Faith Community Church Tract. He reviewed the stats for the executed USAs for 2018. There were approximately 14,000 water equivalent dwelling units (EDU) approved, which was about 3,500 EDUs higher than this same time last year. Wastewater EDUs were approximately 7,500 EDUs and about 2,000 EDUs less than last year.

The Hultz Office Building Tract was a revised USA that was approved by the Board in January 2018. At that time, the developer was requesting one wastewater EDU. Now, the developer had increased the request to three. The tract was located off Bandera Road near Scenic Loop. The tract was within the Helotes city limits and outside SAWS wastewater CCN. The developer was not requesting any water EDUs at this time, but would continue to use the existing well on the site. He reviewed project maps and proposed infrastructure options for the tract.

The Tres Laurels Subdivision Tract was a 303 acre residential development north of Highway 90 and west of Loop 1604. The developer was requesting approximately 1,000 water and wastewater EDUs. The tract was within the five-mile radius of military bases, with Lackland Annex being the closest facility. In addition, the development had an oversizing requirement for a seven million gallons per day pump station. The development would be included in the impact fee calculation during the next process effective in June 2019. If the project was included, the developer would be eligible for impact fee credits. He reviewed project maps and proposed infrastructure options for the tract. The developer would extend a 12-inch water main to the northwest side of the property from the Briggs Ranch area, and a 16-inch water main from existing infrastructure on Highway 90, going north along WT Montgomery and through the center of the tract. In March 2018, the Board approved two tracts along Grosenbacher that would interconnect with a 16-inch and form a loop system in the area providing redundancy. The oversize facility was south of Highway 90 and east of Masterson Road. Once capacity runs out in the area, SAWS would
partner with developers to build the facility. The developer would connect to an existing 30-inch sewer main on the east side of the tract.

The Redland Plaza Tract was on the northeast side of San Antonio, north of Loop 1604 and Redland Road. The developer requested approximately 160 wastewater EDUs for the 11-acre tract. The tract was within the recharge and contributing zone and within the five-mile radius of Camp Bullis. The project had oversizing requirements for a 24-inch water main. The project would be considered to be included in the impact fee calculation. Once the project was accepted and the new impact fees approved, the developer would be eligible for impact fee credits. He reviewed project maps and proposed infrastructure options for the tract. SAWS and the developer would partner to extend an existing 24-inch water main across the full frontage, and thus making a loop to the water main along Redland Road. The developer would also be required to extend an 8-inch water main to their tract to connect individual services. While SAWS had sewer infrastructure to the north, the tract was at a lower elevation and could not connect into the gravity mains. In order to avoid a lift station, the developer would be required to bore under Loop 1604 and extend the gravity sewer main.

The Living Faith Community Church Tract was on the west side, just off Talley Road and north of Potranco Road. The developer requested 19 water EDUs and zero wastewater EDUs. The project also had an oversizing requirement of a 16-inch water main. The project was not impact fee eligible at this time. He reviewed project maps and proposed infrastructure options for the tract. The developer would extend a 16-inch water main across the full frontage of their property. The tract could not flow by gravity into the sewer system so the developer elected to go with a septic system.

Staff recommended approval of the USA for the Hultz Office Building Tract, the Tres Laurels Subdivision Tract, the Redland Plaza Tract, and the Living Faith Community Church Tract.

Ms. Jasso made a motion to approve Item 26. Ms. Merritt seconded the motion.

Ms. Merritt inquired about the proposed timeline for oversizing the water mains. Mr. Lehmann responded that SAWS would partner with the developer to oversize the required 12-inch main to a 24-inch main, but the construction date had not been determined. Before construction, staff would bring a separate trilateral agreement to the Board for approval.

Mr. Parra asked if the developer would coordinate with TxDOT to go under Loop 1604. Mr. Lehmann confirmed and stated the project would be like any project within a TxDOT right-of-way. The plans would have to be submitted to TxDOT for their approval.

Ms. Merritt stated her vote was not showing. Chairman Guerra asked that the record show Pat Merritt voted in favor of Item 26.

After no further discussion, Item 26 was unanimously approved. Electronic voting.

Water and Sewer Line Improvements
27. **A Resolution awarding a construction contract to SAK Construction, LLC in an amount not to exceed $2,531,847.00 in connection with the 2018 CIPP Small Pipe Diameter Package.** (ANDREA BEYMER – GAIL HAMRICK-PIGG)

Gail Hamrick-Pigg presented Item 27, the award of a construction contract for the 2018 CIPP Small Pipe Diameter Package. The contract would rehabilitate sanitary sewer mains that were in poor condition and part of the Consent Decree requirements. The scope included approximately three and a quarter miles of 8-inch to 18-inch pipe. She reviewed a map of the 35 different project locations throughout San Antonio. The construction duration would be 312 days.

SAK Construction, LLC (SAK) was the low responsible bidder with the bid of $2,531,847.00. SAK was a local/non-SMWVB firm. The design engineer was Civil Engineering Consultants, Inc. (CEC), and the low bid represented a 29 percent decrease from the engineer's estimate. Since the bid was more than 25 percent from the engineer’s estimate, staff asked CEC to do a bid analysis, and an independent cost estimate was done internally. Staff met with the contractor to go over the bid items and the bid analysis, checked references, reviewed their performance on past projects, and looked at their capacity to do the work. Based on that review, staff determined SAK met the requirements to be the low responsible bidder. She discussed a list of past SAWS projects performed by SAK. Four of the six projects had been completed to date and two were under construction. SAK had either been on time or ahead of time and also had been on budget. There were no regulatory or public complaints, and SAK’s quality met SAWS quality testing and requirements.

Staff recommended the award of a construction contract to SAK Construction, LLC and approval of funds in the amount of $2,531,847.00 for the 2018 CIPP Small Pipe Diameter Package.

Ms. Jasso asked for a motion and second for Item 27. Mr. Parra made a motion to approve Item 27. Mr. McGee seconded the motion.

Mr. McGee asked where the line item differences were between the bid and the engineer’s estimate. Ms. Hamrick-Pigg replied there were three areas where there were significant differences, bypass pumping, material costs, and traffic control. SAK was self-performing the work and able to save that markup. SAK was already mobilized in town, so they talked about not even including mobilization. When staff met with SAK on the bypass pumping, they talked about doing longer shots to eliminate multiple setups along the line. SAK had gone out and looked at the flow in every manhole, and were able to see that they could do some of the bypass pumping themselves. There were a couple of projects that SAK would use subs to help with the bypass pumping.

Mr. McGee commented that SAK did a better, more thorough job on its bid than CEC did on its estimate. Ms. Hamrick-Pigg agreed and stated CEC’s estimate was conservative and they were looking at it like how any contractor might be able to do the work. CEC was not necessarily taking the risk that contractors may take during bidding and the market of being able to get good prices for the CIPP resin pipe. Another thing that came up in conversation with SAK was that they wanted to secure work in San Antonio and keep everyone busy.
After no further discussion, Item 27 was unanimously approved. Electronic voting.

28. **Briefing and deliberation regarding the Sanitary Sewer Overflow Reduction Program and a Resolution awarding a construction contract to S.J. Louis Construction of Texas, Ltd. in an amount not to exceed $30,705,920.68 in connection with the E19: Seguin Road to Nacogdoches Road, Segment 2 Project; authorizing additional expenditures in an amount not to exceed $247,451.00 to the professional services contract with Kimley-Horn and Associates, Inc. for related construction phase services.**

(ANDREA BEYMER – GAIL HAMRICK-PIGG)

Jeff Haby provided an update on the SSO Program. One of the major milestones of the program was the completion of the capacity and condition assessment work and associated reports in January. The report identified the challenges for condition and capacity, and then staff was doing an alternate analysis to determine what needed to be done to fix the issues that were identified. Staff was in the process of completing 30 percent design on those identified projects. In January 2019, the remedial measures plan for both capacity and condition were due to the EPA. The plan would identify the projects that must be done related to the identified issues, and would commit the dollars for the majority of the work. SAWS continued to perform the Early Action Programs. The Phase I Early Action condition work had been completed, and the Early Action Phase I capacity work and Early Action Phase II Program were on target. The deadline to construct the projects associated with the remedial measures plan was July 2023. If there were right-of-way issues and/or a large diameter pipe greater than 24 inches, the EPA could approve an extra two years until July 2025. The CMOM Program focused on O&M programs that monitor pipes for capacity and condition and continued capital improvements. One of the major milestones every year was the annual report due on June 30, which had been completed this year.

He discussed a graph from 2009 through 2017 that showed the SSOs for each month, the average number of SSOs, and the highest and lowest number of SSOs for each month. Four of the six months had been right at the lowest amount over the period. In 2017, there were 193 SSOs, which was a record year. This year, staff was working hard to get that down to 180 SSOs. He also discussed a graph that showed the SSOs by root cause. Each week staff met to discuss every SSO, determine the root cause, and decide what would be done to prevent the SSO in the future. He discussed the decline in grease, roots, debris and structure causes, since 2010.

There were four major areas that created a lot of problems, along Leon Creek on the west side, W31 at Boerne Stage Road and IH-10, the central sewered at the Donaldson Project, and E19, E20 and E16 on the east side that basically runs from Fort Sam all the way to Hwy 281 and Wurzbach Parkway. With the six inches of rain yesterday, there would be some public notices that would bring the total public notices to 75 since 2010. The W6 project area extends from Loop 410 on the south side all the way up to Loop 410 on the northwest side. Phases 1, 2 and 3 of W6 were completed and Phase 4 that goes all the way from Loop 410 on the south side to Southwest Military Drive was about to be completed. These projects were at a cost of about $30 million. There were some challenges with JBSA Lackland or former Kelly Air Force Base, some environmental challenges to get across the base that SAWS was working closely with the Air Force to finalize. Highway 90 to Loop 410 would...
be constructed in 2019. With the two from yesterday, there were about 27 public notices on that side of town. Another area was the Falcon Center Lift Station at Boerne Stage Road in the Leon Springs area. The lift station had been there since the 80’s, and there had been a tremendous amount of growth in that area. The W31 project would eliminate that lift station. The cost was about $14.5 million, and the project would be completed in October. The next area was probably one of the most challenging areas during wet weather and was on the east side along Salado Creek, basically extending from Fort Sam to Wurzbach Parkway and Hwy 281 area. There were 36 public notices since 2010 in this area. This area was particularly challenging to the south side because of some of the linear trails. The E19 project awarded earlier last year extends from Fort Sam to just past Rittiman Road. The project was under construction at a cost of about $35 million. Segment 2 of E19 would be presented today. Upstream was E20 and E16 that were both under design and expected to be awarded in 2019 and 2021 respectively. Lastly, the C12 project was one of the tougher projects, but the construction was complete. The project had a lot of coordination with the neighborhood association, the contractor, and citizens of San Antonio. He recognized Aaron Rodriguez with S.J. Louis, who also attended the public meetings on the project.

Dr. Juan Gomez presented Item 28, the award of a construction contract for the E19 Segment 2 Project. E19 Segment 1 was the largest project awarded to date. E19 Segment 2 would be the second largest project. E19 Segment 2 was in the northeast part of town, and would replace and upsize three miles of 42-inch and 48-inch pipe to 60-inch and 78-inch pipe. The project was along Salado Creek, and construction duration was expected to be two years.

SAWS utilized a competitive sealed proposal method because of the complex construction, large diameter pipe, deep construction, and narrow corridor along some areas of town. The requirements included archaeological observation and oversize of the construction. SAWS had to coordinate with multiple stakeholders, the San Antonio Parks, TxDOT, multiple HOAs, the Northeast Baptist Hospital, and other private businesses. In addition, there were time constraints within the various properties as part of the construction process. He reviewed the evaluation criteria utilized to select the contractor with price being 30 percent of the decision-making process. S.J. Louis Construction of Texas, Ltd. was selected as the best value proposal, and that was prior to any price information. The difference between the engineer’s estimate and the price proposal was 21.07 percent. Total SMWB participation was about 20 percent. The design engineer was Kimley-Horn and Associates, Inc., and construction duration was two years.

He discussed the criteria utilized to evaluate the proposals that included qualifications, experience, quality of the work, ability to deliver on schedule and within budget, and project approach. S.J. Louis was deemed the best value proposal overall because of the highest technical scores as well as the lowest price. Because of the difference between the engineer’s estimate and the contractor’s price proposal, staff went back and looked at the proposal and had a meeting with the contractor to discuss the complexity of the project. There were three or four areas that had the biggest differences. Price made a big difference for the 60-inch and 78-inch pipe. The jacking, boring or tunneling method also had a significantly large difference. Mobilization and preparation of right-of-way was an area the contractors had the ability to provide what was appropriate for them on the project. Whereas the design engineers normally look at mobilization as 10 percent of the project and preparation of right-of-way about five percent. He listed three recently completed projects by S.J. Louis.
The C12 project was about $7.2 million and was complete. The C5/C28 Emergency Trench Repair project at Laredo Street was about $4 million. The Southwest Bexar Sewer Pipeline Segment 5 was about $13 million.

Staff recommended the award of a construction contract to S.J. Louis Construction of Texas, Inc. and approval of funds in the amount of $30,705,920.68 for the E19 Segment 2 construction contract. Staff also recommended the approval of funds in the amount of $247,451.00 for the design engineer, Kimley-Horn and Associates, Inc., to provide additional construction phase services.

Ms. Jasso made a motion to approve Item 28. Ms. Merritt seconded the motion.

Ms. Hardberger inquired about the different causes of the SSOs and specifically the impact to the debris, grease and roots cause. Mr. Haby replied that the structural conditions were being addressed through point repairs. The Board awarded numerous point repairs contracts for defects that were found when CCTV was performed on the sewer lines. There were also smart covers that monitored the level of sewage in the system. When the level starts to rise, someone was dispatched to address the situation. The other thing from a grease perspective had been education, and specific areas with SSOs were targeted. The Smart Clean Program included frequent cleaning of sewer pipe that tends to have grease or other problems. These pipes were cleaned on a one-month, three-month, six-month, 12-month, or 24-month schedule. The smart covers helped monitor the problem areas to reduce the frequent cleaning of each pipe, and allowed for cleaning system wide.

Ms. Hardberger commented on how to encourage the public and SAWS as an institution to focus on preventing grease in the pipes rather than on the cleanup aspect because the price part was going to get passed along and prevention would be preferential. Mr. Haby discussed sending combo units out to neighborhoods or apartment associations to educate the public. Education was key to long-term success. SAWS FOG Program inspected grease traps and was enhanced by the Consent Decree.

Mr. Puente asked Gavino Ramos to talk a little bit about the Grease Monster and the educational programs SAWS had to teach the public on different ways to minimize the amount of grease and debris they put into the sewer system.

Mr. Ramos discussed the education program for kids from preschool all the way up to college. Staff also attended neighborhood and apartment association meetings and participated in the parades that got a lot of publicity. Staff was also taking to social media, be it Twitter, Facebook, Instagram, etc., to post photos of crews going out to clean pipes. Unfortunately, some of the grossest things were the most watched and reposted. With the holidays came San Antonio’s enjoyment of tamales, and staff goes out to educate the public to prevent great from being poured down the pipes.

Mr. Parra inquired about the contractor root causes for SSOs. Mr. Haby reviewed some of the ways contractors have caused SSOs such as dumping gravel down into the sewer main, new development leaving sewer plugs in the main, and contractors knocking manholes off when mowing. Vandalism was another challenging one that was just not understood. Staff had found Christmas trees and bricks in the sewer main and manholes. Staff met with
TxDOT and the City to further educate both on the challenges due to all the construction.

Ms. Jasso commented on the City’s contractor that was digging in her neighborhood and happened to hit one of the mains. Mr. Haby replied with all the fiber construction going on, staff was seeing some of that as well.

Ms. Jasso inquired about the purpose for archeological observation. Dr. Gomez explained that along the Salado Creek area, natives used to live in and around waterways. Since the project would go 30 feet down, there was a potential to expose some of the archeological remains.

Ms. Jasso stated that as a Board Member being out in the community, she was proud the Consent Decree was one of the top issues and the information was filed on a timely basis. She thanked staff for providing the detail because that allowed her to be a better ambassador for all the great work SAWS was doing.

Chairman Guerra commented on the review process for the proposals that first reviewed the technical qualifications of the different companies bidding before pricing was considered. Dr. Gomez responded the contracting department received two envelopes, one was the technical qualifications and the other was the price proposals that were held until the technical review was complete.

After no further discussion, Item 28 was unanimously approved. Electronic voting.

Chairman Guerra stated Item 29 had been pulled. He recognized Councilman John Courage, who was visiting the meeting.

REPLACEMENT AND ADJUSTMENT PROJECTS

Governmental Relocations and Replacements

29. A Resolution approving reimbursement to the City of San Antonio in an amount not to exceed $1,500,000.00 for professional engineering services in connection with the 2017 – 2022 Bond Program; authorizing the President/Chief Executive Officer or his duly appointed designee to execute a Memorandum of Understanding with the City of San Antonio for the project engineering work. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

Item 29 was pulled from the agenda and no action was taken on this item.

30. A Resolution approving an Interlocal Agreement and an Advance Funding Agreement with Texas Department of Transportation; authorizing expenditures in an amount not to exceed $7,073,413.09 for the adjustment of water and sewer facilities by Texas Department of Transportation in connection with the US 281: Stone Oak Parkway to Bexar/Comal County Line Project. (ANDREA BEYMER – GAIL HAMRICK-PIGG)

Ms. Hamrick-Pigg presented Item 30, an agreement with TxDOT for the U.S. 281: Stone Oak Parkway to Bexar/Comal County Line Project. The TxDOT project was going to
improve mobility, safety and the quality of the life to the traveling public. Since the project would impact SAWS infrastructure, SAWS would joint bid with TxDOT. The anticipated start date for the project was December 2018.

She reviewed the location and scope of the 4.8 mile project that was the second phase of the project. The first phase was approved by the Board in January 2017, and was from Loop 1604 up to Stone Oak Parkway. TxDOT’s portion of the project was $175 million. SAWS had water and wastewater infrastructure with portions being inside SAWS easement. The proposed improvements included dividend highway and northbound and southbound access roads. The utility accommodation rules under TxDOT did not allow SAWS infrastructure to remain under a paved right-of-way so the infrastructure had to move or be adjusted. SAWS work consisted of 13,000 feet of 8-inch through 24-inch water main and 700 feet of 8-inch through 18-inch wastewater main. SAWS portion of the construction cost was $7,073,413.09. SAWS would receive partial reimbursement related to infrastructure that was within SAWS easements for the relocation of those lines and for the easements as well.

Staff recommended the execution of the Interlocal Agreement and Advance Funding Agreement with TxDOT in the amount of $7,073,413.09 in connection with the U.S. 281: Stone Oak Parkway to Bexar/Comal County Line Project.

Mr. McGee made a motion to approve Item 30. Mr. Parra seconded the motion.

Mr. Parra inquired about SAWS right-of-ways once the improvements were added. Ms. Hamrick-Pigg replied the mains would be relocated inside the new right-of-way. TxDOT purchased additional right-of-way and SAWS infrastructure would be inside but outside of the paved area.

Mr. Parra asked if SAWS future needs would be covered by the new right-of-way. Ms. Hamrick-Pigg confirmed.

After no further discussion, Item 30 was unanimously approved. Electronic voting.

31. BRIEFING SECTION.

A. Briefing and deliberation regarding the Vista Ridge Project

Alissa Lockett provided an update on the SAWS portion of the Vista Ridge Project, the Central Water Integration Pipeline Project. She referenced the five items on the Consent Agenda and gave an overview of the construction schedule. The project was broken out into eight individual construction packages that would come to the Board starting in August with the rehabilitation of the Maltsberger Ground Storage Tank. The tank was built back in the 80’s, and was being rehabilitated so it could stay in service and be a reliable water storage facility to receive this water. One of the primary pipelines would be in the Stone Oak area, Segment 5-1, and included the tunnel to deliver water from the treatment facility all the way to an existing pipeline at the intersection of Loop 1604 and Voigt. Another segment of pipeline would connect from the treatment facility to the existing Stone Oak distribution system. The Bitters Pump Station Project would go to the Board in September, and would
add a new tank and rehabilitate the other tank at the Bitters Pump Station so more water could be delivered throughout the distribution system. There would also be another pipeline that connects and goes through the Hill Country Village/Hollywood Park area over to Bitters. Segment 5-4 of the pipeline would come to the Board in September and connects to the Basin Pump Station. Other improvements at Maltsberger Pump Station would make it more reliable and improve the electrical segment. Lastly, one of the biggest projects was the treatment plant. The big nexus of all of these was to get it done by December 2019, so SAWS could start taking the water and testing in January 2020. SAWS would start paying for the water in April 2020.

The first project that came to the Board in April was for the construction of a 10 million gallon tank at the terminus treatment facility. The contractor would pour concrete this month for the tank’s foundation. The tank project would be done in advance of the treatment facility primarily because the amount of space needed to pour and erect the over 80-feet tall concrete panels. The contractor was lined up for a substantial completion milestone of October to get the panels done so that they could reduce the amount of space on the site and leave room for the treatment facility contractor that would be coming to the Board in October.

She discussed the easement acquisitions for the project. The easement for Segment 5-1, which was the tunnel portion of the pipeline, included about $811,000.00 in acquisition. The easement for XJ 1869 and the easement for Reagan High School were executed. The easements for Concord, Drury Southwest and Cornerstone Church were on the Consent Agenda. The remaining easements for the Segment 5-1 portion of the pipeline included the Dague Ranch, a car wash and a mortgage and loan company at Voigt and Loop 1604. Those easements should be coming to the Board in the next month. Segment 5-3 of the pipeline connects from the 48-inch line that goes through Hill Country Village and Hollywood Park and then over to the Bitters Pump Station. This segment was presented as part of the necessity ordinances to City Council. This segment also included a shopping center at Bitters and West Avenue with Hobby Lobby as a primary tenant, a parking lot and an existing stormwater line.

She gave an overview of the treatment plant process. Another item on the Consent Agenda was for early procurement of the pressure filtration system. The site would receive potable water from the project company. The potable water had to be adjusted slightly to match Edwards water quality that had been pushed through the distribution system for many, many years. When the potable water comes into the site, it would pass through various chemical feeds, pressure filters, and a salt handling facility. The chemical feed consists of carbon dioxide that would depress the pH to optimize the lime treatment. Then the water would go through the filter pressure vessels, and from the pressure filter vessels, the water would go through disinfection. The disinfection system would be similar to what many of the primary pump stations had been upgraded to, which was on-site sodium hypochlorite generation. This disinfection system was much safer than chlorine gas in a dense residential area. There would also be a new pump station to convey up to about 20 million gallons a day into the Stone Oak area.

She discussed the early procurement for the large equipment at the treatment facility. Those items were being bid early because submittal review could take a long time sometimes by the engineers and the contractors going back and forth to work out all of the details of what
needed to be included in the submittals. The pressure filtration system was the longest lead item that needed Board approval because everything else was small enough that the five percent charged for that submittal process was less than the Board threshold. These items included the pumps, carbon dioxide system, lime system, switch gear, and on-site sodium hypochlorite generation system. The Terminus Treatment Facility Project would include this information in the contractor’s bid package so they would know the various equipment suppliers and know the price because that price would carry over directly onto their construction contract.

The tunnel had also been identified as part of the critical path. The tunnel was going to require specialized tunnel boring machines that could be mobilized very quickly so that production on the tunnel could be made as quickly as possible. Staff communicated to the project contractors by posting fax sheets on the website and posting a draft of the geotechnical baseline report used to design what tunnel boring machines would be needed in terms of the cutting head to cut through all that rock in the Stone Oak area. A brochure was distributed at the North American Tunneling Conference to make the tunneling contractors aware of the project. Staff also made several presentations in coordination with contracting and Marisol Robles to the small, minority, women-owned businesses to get some participation, and also at the Business Opportunities for Texans luncheon. Staff was doing many presentations in the community to get the word out about the project through the professional association meetings, the contractor community, and the general public. Other meetings included presentations made to the Stone Oak Property Owners Association, public meeting at Las Lomas Elementary, District 9 Alliance meeting at Stone Oak, Community of Mutual Amenities and meetings with various landowners that were providing easements. There was a standing offer to meet and provide updates throughout the construction process.

B. Briefing and deliberation regarding an overview of the Desal Operation

Steve Clouse gave an overview of the performance for the desal facility over the past 18 months. There were a couple of days that the system was offline because of electrical issues or something other than that, but the facility had been producing water every day. The mechanical and operational staff had teamed up well to where they had a good idea of how to operate the system. With the run time expertise, there were modifications that needed to be made to the facility and in the planning and engineering for future phases to produce the quantity of water needed in a drought.

The Aquifer Storage and Recovery (ASR) facility was started back in 2004. In 2006, SAWS was already conceptually looking at the possibility of building a desal facility on the site as well. The wells were started in 2012, the construction of the $204 million facility began in 2015, and a grand opening was held in January 2017. The system had always been planned to be modular so components to the system could be brought on as additional water was needed. The first phase was projected to be 13,440 acre-feet with the build out to be about 33,530 acre-feet of capacity. The more productive area of the aquifer was in the Wilson and Atascosa area. Because of some issues that were going on at the time, the decision was to squeeze Phase 1 completely into Bexar County. With Vista Ridge coming online, SAWS would not need to move to the subsequent phases of the facility until after 2040. He reviewed a graphic of the different wells and water supplies from three different aquifers. The water out of the Carrizo Aquifer was the first water supply. The second water supply were the
ASR wells. He noted the arrows were in both direction, since Edwards water was stored and produced through the same wells. Below the Carrizo level was the Lower Wilcox brackish water. The Carrizo wells and the ASR wells were at a 600 to 800 foot-depth range. The Wilcox wells were in a 1,600 to 1,800 foot-depth range and was where the desal water was produced. Those two aquifers were well separated by a clay layer. The last and probably most important was the injection well that dealt with the concentrate produced during the desal process. In 2007 or so, then Legislator Puente was involved in the passage of a bill through the legislature that allowed SAWS to put these wells in under a general permit. This was really the final issue that had to be addressed before moving forward with construction of the facility.

Chairman Guerra inquired about the depth and material for the injection well. Mr. Clouse responded the injection wells were about 5,000 feet deep, and there were different formations that included sand, rock and clay. The injection wells were in the very deepest part of the Edwards, the hyper saline part of the Edwards. The concentrate produced was about 15,000 parts per million of salt. The ocean was about 30,000 to 34,000 parts per million of salt. The deepest part of the Edwards was about 90,000 parts per million of salt so three times saltier than the ocean.

Mr. Clouse discussed the feasibility periods for the different components of the system. The pilot project tested membranes. The Wilcox Aquifer was a region where no one was using the aquifer. The Carrizo was freshwater, was a much shallower depth, was a robust supply, and developing municipalities were only drilling into the Carrizo. No one wanted to use the Wilcox because of the salt content. There was very little information and no other wells that had pumping records that could show how much water the aquifer could produce. The studies showed there was ample amounts of water in the Wilcox Aquifer, and the pilot testing showed the reverse osmosis process and specifically the types of membranes that needed to be used in the construction of the system.

He reviewed a diagram of how the water flowed through the system and an aerial photo of the well field. The plant, the disposal wells, the control systems, the operators, all had performed very well. There had been some problems with the wells producing excessive amounts of sand and silt. Knowing there would be challenges at start-up, a lot of flushing and extra maintenance was done. Over time, the wells were expected to improve, but some operational changes would be made to minimize the impact that the sand and silt might have on the membranes and the plant. To date, the well field had not performed quite as the initial models had projected. The water levels showed the Wilcox sands were denser than had been anticipated and were more resistant to passing flow towards the well head than what had originally been projected in the model. He referenced an illustration of the pump influence or cone of influence, and discussed what was actually seen in the well field compared to what the model had anticipated. The result was the facility would not be able to sustain the production level of 13 million gallons per day (mgd) without doing some modifications, which included lowering existing well pumps, adding additional wells and converting a test well. Additional data was needed to really understand what the final course of action needed to be to ensure that through all stages of a drought 13 mgd could be produced. Phase II and Phase III would need more wells than initially anticipated, and the wells would need to be spread out further so that the wells were not influencing each other.
The groundwater model was done by LBG Guyton back in early 2012. LBG Guyton built the model with very little information. They had done a good job on the model, but now there was better information. LBG Guyton was asked to go back and update the model with their predictions of what SAWS could expect in a multi-year hard-run scenario using good production data. With the updated model, the recommendations to run the facility at 10 mgd of production into San Antonio included two additional wells within Bexar County, and to run the facility up to the maximum production level of 12 mgd included three additional wells outside of Bexar County. SAWS would use a third party expert to evaluate the model results and the recommendations.

He discussed the potential costs for the recommendations. The additional sand protection for wells 9, 11 and 12 was an estimated at $1.2 million. The cost to convert the existing test well to a production well was $1.5 million. The estimated cost to drill a new well was $3.5 million. The collection pipeline and other costs for the two new wells was about $2.5 million. The cost to lower the existing wells was $3 million. The total estimated costs were around $11.7 million. Estimates for the additional wells to achieve 12 mgd had not been developed. He stated the lowering of the well pumps and additional sand protection should be done regardless of any decisions on additional wells for the facility to consistently produce water at the five to seven mgd rate. SAWS was well positioned with other water supply options to meet summer demand peaks. In the next two weeks, staff would run the desal and ASR system at maximum production to test the system. After the maximum production run, the desal system would be offline for maintenance work and to adjust the pump levels and install the sand protections. He stated he would return to the Board after the peer review of the model was complete and the evaluation of additional wells, locations and costs was done.

Chairman Guerra inquired about the lowering of wells and whether the water would come from the Carrizo Aquifer. Mr. Clouse stated that while the pumps sit in the Carrizo Aquifer, the water coming through the production wells was from the Wilcox Aquifer and would not mix with the Carrizo water. The Wilcox water was under artesian pressure that forced the water up into the wellhead.

Ms. Hardberger asked what studies or monitoring would be done to make sure that the bad water line did not migrate due to the injection wells. Mr. Clouse replied that SAWS had extensively studied the bad water line. Back in the early 1990s, tests were performed to see if the bad water line could be moved and the results were unsuccessful. Some of the large production facilities were a short distance from the bad water line. There were no studies regarding the injection well and its effect on moving the bad water line. The volume of water that would be injected through the desal process was diminutive at best. Donovan Burton added that there were Edwards brackish wells that monitored the system, but there was not a program that monitored that issue.

Ms. Hardberger inquired about the accuracy of the 2012 groundwater model and the data used. Mr. Clouse responded that while the model did not show exactly what to expect, all models were wrong and most models were very useful. The data included some well information that was remote to the facility and well information from the test wells. The consultant also did not have the sustained operation data that was now available after 18 months of operation.
Mr. McGee inquired about the legislative process for long term access to brackish water. Mr. Burton replied that the legislature was working on legislation to address the permit for brackish water. Last year, a bill was passed that created a better mechanism to permit brackish water throughout the state and would declare zones. As long as the standards and protections were in place, the permitting network would be more stabilized. The bill passed, but was mixed up in some politics to eventually be vetoed by the governor. There was interest in a similar bill in the next session.

Mr. McGee asked about the timing for the improvement to get more water. Mr. Clouse stated the maintenance work of lowering the pumps and sand protection would be done or mostly done in the next six months.

Mr. McGee asked about the electrical costs to lower the pumps. Mr. Clouse stated that the desal process in and of itself was a high electrical requirement. He did not know exactly what that additional cost would be, but did not think it would be enormous.

Mr. Parra asked if there was an opportunity to partner with a research university. Mr. Clouse stated it was a great opportunity. It was one of those situations that there was not enough good information, and staff would want to use every tool possible to get a better picture of what could be anticipated. The process was very complicated, so the support would need to be designed in way that the university could manage.

32. Inquiries of the Board of Trustees for future briefings and/or follow-up action.

Mr. McGee thanked staff for providing the cost analysis on Item 27 that was in response to the request from a prior meeting.

Chairman Guerra stated no executive session would be held. No discussion was held in executive session.

33. The Regular Session of the July 10, 2018, Regular Board Meeting is hereby recessed to hold an Executive Session and discuss the matters listed pursuant to Section §551.071 of the Texas Open Meetings Act.

34. EXECUTIVE SESSION.

A. Consultation with attorneys regarding advice on legal matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act, pursuant to §551.071, Texas Government Code.

35. The Regular Session of the Regular Board Meeting of July 10, 2018, is hereby reconvened.
Adjournment. THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES MEETING OF JULY 10, 2018, IS HEREBY ADJOURNED.

The San Antonio Water System Board of Trustees Meeting of July 10, 2018, adjourned at 11:01 a.m.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

__________________________________
Patricia Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees
FROM: Robert R. Puente, President/Chief Executive Officer
SUBJECT: Acceptance of Bids for Services, Equipment, Materials and Supplies

Board Action Date: September 11, 2018

The attached resolution accepts bids and awards contracts for services, equipment and supplies as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>This Board Meeting</th>
<th></th>
<th></th>
<th>Year-to-Date</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number of Contracts (SMWB)</td>
<td>Estimated Amount (SMWB)</td>
<td>Estimated Amount (SMWB)</td>
<td>Estimated Amount (SMWB)</td>
<td></td>
</tr>
<tr>
<td>A. Award of New One Time</td>
<td>1</td>
<td>0</td>
<td>1,815,300.00</td>
<td>0.00</td>
<td>18</td>
</tr>
<tr>
<td>Purchases of Materials,</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment or Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Award of New and Renewal</td>
<td>7</td>
<td>1</td>
<td>£1,383,146.15</td>
<td>623,112.05</td>
<td>39</td>
</tr>
<tr>
<td>of Annual Goods &amp; Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requirements Contracts and</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maintenance Agreements</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>1</td>
<td>£3,198,446.15</td>
<td>623,112.05</td>
<td>57</td>
<td>7</td>
</tr>
</tbody>
</table>

SMWB Purchasing Contracts (percentage) 12.50% | 19.48% | 12.28% | 8.11%

Approved:

Robert R. Puente
President/Chief Executive Officer

Reviewed:

Yvonne C. Torres, Director
Purchasing Division

Marisol V. Robles
SMWB Program Manager
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES ACCEPTING BIDS AND AWARDING CONTRACTS FOR THE PROCUREMENT OF CERTAIN SERVICES, EQUIPMENT, MATERIALS AND SUPPLIES; AUTHORIZING EXPENDITURES TO PROCURE THE SAID SERVICES, EQUIPMENT, MATERIALS AND SUPPLIES; AUTHORIZING THE DIRECTOR OF THE PURCHASING DIVISION, OR HER DESIGNEE, TO EXECUTE DOCUMENTS RELATED THERETO; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Director of the Purchasing Division of the San Antonio Water System (the "System") has recommended certain bids be accepted, that certain contracts be awarded, and that certain other actions be taken to procure services, equipment, materials and supplies which are necessary for the operation of the System; and

WHEREAS, the said recommendations are fully set out in "Attachment I" which is attached hereto and made a part hereof; and said recommendations have been approved by the System’s President/Chief Executive Officer; and

WHEREAS, the appropriate bidding procedures regarding the procurement of goods and services have been adhered to in the compiling of the attached recommendations, as reflected in administrative records supporting this resolution; and

WHEREAS, funds are available in the System’s budget to pay for the required services, equipment, materials and supplies; and

WHEREAS, the Board of Trustees of the San Antonio Water System desires (i) to accept the bids and award the contracts as recommended, (ii) to authorize from available funds of the System the expenditures necessary to carry out the recommended procurements, and (iii) to authorize the Director of the Purchasing Division or her designee to execute all contracts and other documents necessary to carry out the recommended procurements; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the bids are accepted and the contracts are awarded for procurement of the services, equipment, materials and supplies listed in Attachment I, as recommended by the Director of the Purchasing Division.

2. That the expenditure of the necessary funds from the appropriate budget fund of the System for the procurement of the said services, equipment, materials and supplies is hereby authorized.
3. That the Director of the Purchasing Division, or her designee, is hereby authorized to notify bidders of the acceptance of bids, to execute contracts and other documents, and to carry out all other actions necessary to procure the said services, equipment, materials and supplies.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of September, 2018.

____________________________
Berto Guerra, Jr., Chairman

ATTEST:

____________________________
Patricia E. Merritt, Assistant Secretary
**Award of New One Time Purchases of Materials, Equipment or Services**

A. The following items will establish price and delivery for the one time purchase of Materials, Equipment and Services. These items are included in the current budget. Payment will be made from the applicable fund.

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>DESCRIPTION</th>
<th>ITEM NO(s.)</th>
<th>ESTIMATED TOTAL PURCHASES</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alsay, Inc.</td>
<td>One Time Purchase and Installation of Well Pumps and Motors at H2Oaks Brackish Groundwater Desalination Plant Bid No. 18-18106</td>
<td>All</td>
<td>$1,815,300.00</td>
<td>This is a one time purchase and installation of well pumps and motors at H2Oaks Brackish Groundwater Desalination Plant. These items will be used on the production wells at the Desal Plant.</td>
</tr>
</tbody>
</table>

*Indicates vendor is an SMWB, unless otherwise noted vendor is non minority.*
**Award of New and Renewal Annual Goods & Services Requirement Contracts and Maintenance Agreements**

B. The following items will establish estimated quantities, unit price and delivery for the Service and Supply Contracts and their extensions. These items are included in the current budget. Payment will be made from the applicable fund. Estimated annual purchase is based on unit price bid; actual total and quantities, may vary from the estimate.

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>DESCRIPTION</th>
<th>NO(s.)</th>
<th>PURCHASES</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Harn R/O Systems, Inc.</td>
<td>Annual Contract for Cartridge Filters for Reverse Osmosis Membranes</td>
<td>All</td>
<td>$134,250.00</td>
<td>This is a new contract. This contract will be utilized by System to protect reverse osmosis membranes at the System Brackish Water Desalination Plant. This contract will be effective Date of Award (September 11, 2018) through June 30, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of three (3) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
<tr>
<td>2. Kinloch Equipment &amp; Supply, Inc.</td>
<td>Annual Contract for IBAK Sewer Inspection Equipment Parts and Repair Services</td>
<td>All</td>
<td>$187,600.00</td>
<td>This is a new Sole-Source contract. This contract will be utilized for the purchase of IBAK Sewer Inspection Equipment, Parts &amp; Services repairs for the System Distribution &amp; Collection Department on an as needed basis. These parts &amp; services will be used when repairing sewer inspection equipment on the combo units used to clean sanitary sewer lines. This contract will be effective October 1, 2018 through September 30, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of four (4) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
</tbody>
</table>

**DIRECTOR Comments**

The SAWS Line Cleaning & Televising Division includes seven crews that inspect sewer mains using IBAK closed-circuit televising equipment. The Televising Vans that were purchased in December of 2017 specified IBAK closed-circuit televising equipment due to their HD cameras and safety features such as built in gantry crane used to lower and raise the extremely heavy robotic camera. The intent is to eliminate shoulder and back injuries sustained from manually lowering televising equipment. Contract will be to procure replacement parts and repair services. Kinloch Equipment & Supply, Inc. is the exclusive dealer for IBAK parts and service in Texas. Recommend Award.

Board Date: September 11, 2018

*Indicates vendor is an SMWB unless otherwise noted vendor is non minority.
**Award of New and Renewal Annual Goods & Services Requirement Contracts and Maintenance Agreements**

B. The following items will establish estimated quantities, unit price and delivery for the Service and Supply Contracts and their extensions. These items are included in the current budget. Payment will be made from the applicable fund. Estimated annual purchase is based on unit price bid; actual total and quantities, may vary from the estimate.

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</thead>
<tbody>
<tr>
<td>3. Zenner Performance Meters, Inc. dba Zenner USA</td>
<td>Annual Contract for Water Meter Strainers</td>
<td>Items 1, 2, 3 &amp; 5</td>
<td>$113,150.10</td>
<td>This is a new contract. This contract will be utilized by System warehouse for the purchase of Water Meter Strainers on an as needed basis to be used by maintenance crews and meter techs when replacing water meters as required. This contract will be effective October 1, 2018 through September 30, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of four (4) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
<tr>
<td>4. Carahsoft</td>
<td>Annual Contract for Salesforce Lightning Service Cloud Unlimited Edition Licenses (DIR-TSO-3149)</td>
<td>All</td>
<td>$102,060.00</td>
<td>This is a new Sole-Source contract. This contract will be utilized to use Customer Relationship Management (CRM) Salesforce licenses as part of a pilot program being conducted in Customer Service. This contract will be effective Date of Award (September 11, 2018) through September 10, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of one (1) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
</tbody>
</table>

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**DIRECTOR Comments**

The Lightning Service Cloud Unlimited Edition Licenses will be used for a Customer Relationship Management (CRM) pilot program for Customer Service. Salesforce is the most established and well adopted CRM offered in the utility industry. The licenses will be purchased using a State of Texas Department of Information Resources (DIR) contract. DIR contracts leverage the volume buying power of the State of Texas, have been competitively bid and comply with state purchasing requirements. Recommend Award.

Board Date: September 11, 2018
Award of New and Renewal Annual Goods & Services Requirement Contracts and Maintenance Agreements

B. The following items will establish estimated quantities, unit price and delivery for the Service and Supply Contracts and their extensions. These items are included in the current budget. Payment will be made from the applicable fund. Estimated annual purchase is based on unit price bid; actual total and quantities, may vary from the estimate.

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<th>PURCHASES</th>
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</tr>
</thead>
<tbody>
<tr>
<td>5. Dell Marketing, L.P.</td>
<td>Request for Proposal for Enterprise Encryption and Key Management Solution (DIR-TSO-3763) Bid No. 18-18011</td>
<td>All</td>
<td>$117,974.00</td>
<td>This is a new contract. The Dell Enterprise Encryption solutions provides file based encryption for sensitive data to include but not limited to: PII, ePHI, Driver's License, etc. The use of encryption services greatly reduces the risk of disclosure of sensitive information that could impact System's operations, assets, or individuals. This contract will be effective Date of Award (September 11, 2018) through September 10, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of four (4) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
<tr>
<td>6. Commonwealth Computer Co. (MBE, SBE)</td>
<td>Annual Contract for Dell Desktops, Laptops, Monitors and Accessories Bid No. 18-6023A</td>
<td>All</td>
<td>$623,112.05</td>
<td>This is a new contract. This contract will be utilized by System for the annual purchase of Dell Laptops, Desktops, Monitors, and Accessories in support of System operations. This contract will be effective Date of Award (September 11, 2018) through August 31, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of four (4) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
</tbody>
</table>

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**Award of New and Renewal Annual Goods & Services Requirement Contracts and Maintenance Agreements**

B. The following items will establish estimated quantities, unit price and delivery for the Service and Supply Contracts and their extensions. These items are included in the current budget. Payment will be made from the applicable fund. Estimated annual purchase is based on unit price bid; actual total and quantities, may vary from the estimate.

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<th>NO(s.)</th>
<th>PURCHASES</th>
<th>REMARKS</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. San Antonio Lighthouse for the Blind</td>
<td>Annual Contract for Office Supplies</td>
<td>All</td>
<td>$ 105,000.00</td>
<td>This is a new contract. This contract will be utilized by System for the purchase and desk top delivery of office supplies to various System facilities. This contract will be effective Date of Award (September 11, 2018) through May 31, 2019. If determined that an extension is favorable to the system, price and service considered, the award includes the availability of three (3) additional one-year options to extend as provided for, and approved for in future years budgets.</td>
</tr>
</tbody>
</table>

**DIRECTOR Comments**

The bid was posted on SAWS website and DemandStar Onvia, was e-mailed directly to 10 vendors and was sent electronically to all vendors registered for office supplies on the SAWS website. Additionally, the bid was highlighted at a SMWVB outreach in April shortly after the bid was issued. The bid was extended one week based upon a request, however only two bids and one no-bid were received. One of the bids received took exceptions and indicated bid was in accordance to a cooperative contract, thus was deemed non-responsive. The San Antonio Lighthouse for the Blind has been serving people who are blind or vision impaired since 1933. The local non-profit 501 (C)(3) small business employees more than 480 employees with nearly half being visually impaired. Recommend Award.

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*Indicates vendor is an SMWB unless otherwise noted vendor is non minority.*
**SAN ANTONIO WATER SYSTEM**

**P. O. BOX 2449**

**SAN ANTONIO, TEXAS 78298-2449**

**TABULATION OF BIDS**

**PROPOSAL**

Purchase and Installation of Well Pumps and Motors at H2Oak Brackish Groundwater Desalination Plant

**TIME & DATE:** 3:00 p.m., August 24, 2018

**ITEM NO.** DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pump: Fabricate and deliver pumping unit (includes coating) in accordance with specifications</td>
<td>89,550.00</td>
<td>46,700.00</td>
</tr>
<tr>
<td>1 LS BGD-05 Type 316 Cast Stainless Bowls</td>
<td>UNIT PRICE</td>
<td>TOTAL</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-06 (Cast Iron, ASTM A48, Class 30)</td>
<td>62,550.00</td>
<td>47,300.00</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-07 (Cast Iron, ASTM A48, Class 30)</td>
<td>54,160.00</td>
<td>47,300.00</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-08 (Cast Iron, ASTM A48, Class 30)</td>
<td>53,980.00</td>
<td>49,300.00</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-09 (Cast Iron, ASTM A48, Class 30)</td>
<td>68,010.00</td>
<td>58,100.00</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-11 (Cast Iron, ASTM A48, Class 30)</td>
<td>60,260.00</td>
<td>47,300.00</td>
<td></td>
</tr>
<tr>
<td>1 LS BGD-12 (Cast Iron, ASTM A48, Class 30)</td>
<td>60,260.00</td>
<td>47,300.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL FOR ITEM 1</strong></td>
<td>448,770.00</td>
<td>343,300.00</td>
<td></td>
</tr>
</tbody>
</table>

| 2        | Additional Column Piping: Fabricate, Deliver (includes coating) and install with existing column pipe in accordance with specifications (see NOTE 1) | 91.00 | 101.00 |
| 3,000+/+ LF Additional column pipe sections for BGD-05, 06, 07, 08, 09, 11 and 12 | UNIT PRICE | TOTAL |
| **TOTAL FOR ITEM 2** | 273,000.00 | 303,000.00 |

| 3        | Line Shaft: Fabricate and Deliver (includes couplings and bearings) in accordance with specifications (see NOTE 2) | 80.00 | 89.00 |
| 6,520+/+ LF Line shaft for BGD-05, 06, 07, 08, 09, 11 and 12 | UNIT PRICE | TOTAL |
| **TOTAL FOR ITEM 3** | 521,600.00 | 580,280.00 |

| 4        | 300-hp Electric Motor: Fabricate and Deliver (includes coating) in accordance with specifications (see NOTE 3) | 53,440.00 | 39,000.00 |
| 1 LS BGD-05 | UNIT PRICE | TOTAL |
| 1 LS BGD-06 | UNIT PRICE | TOTAL |
| 1 LS BGD-07 | UNIT PRICE | TOTAL |
| 1 LS BGD-08 | UNIT PRICE | TOTAL |

**NO BID**
# SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

## TABULATION OF BIDS

**Purchase and Installation of Well Pumps and Motors at H2Oak Brackish Groundwater Desalination Plant**

**TIME & DATE:**
3:00 p.m., August 24, 2018

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 LS BGD-09</td>
<td></td>
<td>53,440.00</td>
<td>39,000.00</td>
</tr>
<tr>
<td>1 LS BGD-11</td>
<td></td>
<td>53,440.00</td>
<td>39,000.00</td>
</tr>
<tr>
<td>1 LS BGD-12</td>
<td></td>
<td>53,440.00</td>
<td>39,000.00</td>
</tr>
<tr>
<td><strong>TOTAL FOR ITEM 4</strong></td>
<td></td>
<td><strong>374,080.00</strong></td>
<td><strong>273,000.00</strong></td>
</tr>
<tr>
<td>1 LS BGD-05</td>
<td>Additional Components for the System including lubrication pump and motor (if required)</td>
<td>9,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>1 LS BGD-06</td>
<td></td>
<td>9,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>1 LS BGD-07</td>
<td></td>
<td>9,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>1 LS BGD-08</td>
<td></td>
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<td>9,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td>1 LS BGD-12</td>
<td></td>
<td>9,000.00</td>
<td>10,000.00</td>
</tr>
<tr>
<td><strong>TOTAL FOR ITEM 5</strong></td>
<td></td>
<td><strong>63,000.00</strong></td>
<td><strong>70,000.00</strong></td>
</tr>
<tr>
<td>1 LS BGD-05</td>
<td>Removal of existing electric motor and pump components including column pipe, pump bowl, and line shaft</td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-06</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-07</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-08</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-09</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-11</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
<tr>
<td>1 LS BGD-12</td>
<td></td>
<td>5,400.00</td>
<td>14,700.00</td>
</tr>
</tbody>
</table>

**NOTE:**
- No Bid
- Unit price calculations based on provided quantities and rates.
### SAN ANTONIO WATER SYSTEM
**P. O. BOX 2449**
**SAN ANTONIO, TEXAS 78298-2449**

#### TABULATION OF BIDS

**PROPOSAL**: Purchase and Installation of Well Pumps and Motors at H2Oak Brackish Groundwater Desalination Plant

**DATE**: 3:00 p.m., August 24, 2018

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LS</td>
<td>6,300.00</td>
<td>16,600.00</td>
</tr>
<tr>
<td></td>
<td>BGD-11</td>
<td>LS</td>
<td>6,300.00</td>
<td>16,600.00</td>
</tr>
<tr>
<td></td>
<td>BGD-12</td>
<td>LS</td>
<td>6,300.00</td>
<td>16,600.00</td>
</tr>
<tr>
<td><strong>TOTAL FOR ITEM 6</strong></td>
<td></td>
<td></td>
<td>39,600.00</td>
<td>106,700.00</td>
</tr>
</tbody>
</table>

**7.** Assemble and install pumping unit, components described above, and lube line in accordance with specifications

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>LS</td>
<td>11,125.00</td>
<td>24,800.00</td>
</tr>
<tr>
<td></td>
<td>BGD-05</td>
<td>LS</td>
<td>11,125.00</td>
<td>24,800.00</td>
</tr>
<tr>
<td></td>
<td>BGD-06</td>
<td>LS</td>
<td>11,125.00</td>
<td>25,300.00</td>
</tr>
<tr>
<td></td>
<td>BGD-07</td>
<td>LS</td>
<td>12,250.00</td>
<td>29,100.00</td>
</tr>
<tr>
<td></td>
<td>BGD-08</td>
<td>LS</td>
<td>12,250.00</td>
<td>29,100.00</td>
</tr>
<tr>
<td></td>
<td>BGD-09</td>
<td>LS</td>
<td>12,250.00</td>
<td>29,100.00</td>
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<tr>
<td></td>
<td>BGD-11</td>
<td>LS</td>
<td>11,125.00</td>
<td>25,300.00</td>
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<td>BGD-12</td>
<td>LS</td>
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<td>25,300.00</td>
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<tr>
<td><strong>TOTAL FOR ITEM 7</strong></td>
<td></td>
<td></td>
<td>81,250.00</td>
<td>188,000.00</td>
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**8.** Field Acceptance Testing

<table>
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<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>TOTAL</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>LS</td>
<td>2,000.00</td>
<td>2,245.00</td>
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<tr>
<td></td>
<td>BGD-05</td>
<td>LS</td>
<td>2,000.00</td>
<td>2,245.00</td>
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<tr>
<td></td>
<td>BGD-06</td>
<td>LS</td>
<td>2,000.00</td>
<td>2,245.00</td>
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<tr>
<td></td>
<td>BGD-07</td>
<td>LS</td>
<td>2,000.00</td>
<td>2,245.00</td>
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<tr>
<td></td>
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<td>BGD-09</td>
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<td>2,245.00</td>
</tr>
<tr>
<td></td>
<td>BGD-11</td>
<td>LS</td>
<td>2,000.00</td>
<td>2,245.00</td>
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</tbody>
</table>

---

**NOTE**: The table above outlines the tabulation of bids for the purchase and installation of well pumps and motors at the H2Oak Brackish Groundwater Desalination Plant. The bids were evaluated based on the specified requirements, and the total costs for each item are provided. The contracts were awarded to the bidders based on their proposals and adherence to the technical specifications.
**SAN ANTONIO WATER SYSTEM**  
P. O. BOX 2449  
SAN ANTONIO, TEXAS 78298-2449  
**TABULATION OF BIDS**

**PROPOSAL**  
Purchase and Installation of Well Pumps and Motors at H2Oak Brackish Groundwater Desalination Plant  
**TIME & DATE**  
3:00 p.m., August 24, 2018

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
<th>TOTAL FOR ITEM 8</th>
<th>TOTAL BID PRICING FOR ITEMS 1-8</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 LS</td>
<td>BGD-12</td>
<td>2,000.00</td>
<td>2,000.00</td>
<td>14,000.00</td>
<td>1,815,300.00</td>
</tr>
</tbody>
</table>

*LOW BIDDER*

**BID INVITATIONS E-MAILED TO AND/OR PICKED UP BY:**
- Alsay
- Andrews-Foster
- Conhagen
- Davenport Drilling
- DXP
- Layne
- Peerless Equipment
- Pump Solution
- SA Armature
- Smith Pump
- Weisinger Inc.

Terms:  
- Net
- 2%

Delivery Days:  
- 30 days
- 10 days
- 84 days
- 180 days

**Terms & Delivery Days:**

<table>
<thead>
<tr>
<th>Terms</th>
<th>Delivery Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net</td>
<td>30 days</td>
</tr>
<tr>
<td>2%</td>
<td>10 days</td>
</tr>
<tr>
<td>Net</td>
<td>84 days</td>
</tr>
<tr>
<td>2%</td>
<td>180 days</td>
</tr>
</tbody>
</table>

**NO BID**

Hydro Resources

<table>
<thead>
<tr>
<th>Alsay Inc.</th>
<th>3359 SE Loop 410</th>
<th>San Antonio, TX 78222</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weisinger Incorporated</td>
<td>PO Box 9009</td>
<td>Willis, TX 77378</td>
</tr>
</tbody>
</table>

Alsay  
Andrews-Foster  
Conhagen  
Davenport Drilling  
DXP  
Layne  
Peerless Equipment  
Pump Solution  
SA Armature  
Smith Pump  
Weisinger Inc.
SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

TABULATION OF BIDS

Annual Contract for Cartridge Filters for Reverse Osmosis Membranes
(Date of Award through June 30, 2019)

3:00 p.m., April 5, 2018

DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Cartridge filter as specified herein</td>
<td>8.95</td>
<td>134.250.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9.48</td>
<td>142.000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10.20</td>
<td>153.000.00</td>
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<td></td>
<td></td>
<td>10.43</td>
<td>156.450.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11.45</td>
<td>171.750.00</td>
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<td></td>
<td></td>
<td>11.62</td>
<td>174.300.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15.42</td>
<td>231.300.00</td>
</tr>
</tbody>
</table>

TOTAL

UNIT TOTAL | 134,250.00 |

EXTENSION 1

134,250.00

EXTENSION 2

134,250.00

EXTENSION 3

134,250.00

Terms

Net 30 days | Net 30 days |

Net 30 days | Net 30 days |

Net 30 days | Net 10 days |

Net 10 days | Net 10 days |

Net 30 days | Net 30 days |

Delivery

21 days | 35 days |

30-40 days | 30 days |

*LOW BIDDER

BID INVITATIONS E-MAILED TO AND/OR PICKED UP BY:

3M Purification
American Water Chemicals, Inc.
Biora
Dow Chemicals
EADS Co.
Fischer Robertson Inc.
GE Water
General Electric Co.
Graver Technologies
H2O Innovation USA
Harmsco
Hamm R/O Systems, Inc.
Lenstech
Membrane Svcs
MPW Industrial Water
Pentair
RO Technologies, Inc.
Tech Quip
Technology Int’l
The Eads Co.

Demandstar
SAWS Website

SAN ANTONIO WATER SYSTEM
310 Commerce
San Antonio, TX 78205

Tabulation of Bids

SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

TABULATION OF BIDS

Annual Contract for Cartridge Filters for Reverse Osmosis Membranes
(Date of Award through June 30, 2019)

3:00 p.m., April 5, 2018

DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Cartridge filter as specified herein</td>
<td>8.95</td>
<td>134.250.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9.48</td>
<td>142.000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10.20</td>
<td>153.000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10.43</td>
<td>156.450.00</td>
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<tr>
<td></td>
<td></td>
<td>11.45</td>
<td>171.750.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11.62</td>
<td>174.300.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15.42</td>
<td>231.300.00</td>
</tr>
</tbody>
</table>

TOTAL

UNIT TOTAL | 134,250.00 |

EXTENSION 1

134,250.00

EXTENSION 2

134,250.00

EXTENSION 3

134,250.00

Terms

Net 30 days | Net 30 days |

Net 30 days | Net 30 days |

Net 30 days | Net 10 days |

Net 10 days | Net 10 days |

Net 30 days | Net 30 days |

Delivery

21 days | 35 days |

30-40 days | 30 days |

*LOW BIDDER

BID INVITATIONS E-MAILED TO AND/OR PICKED UP BY:

3M Purification
American Water Chemicals, Inc.
Biora
Dow Chemicals
EADS Co.
Fischer Robertson Inc.
GE Water
General Electric Co.
Graver Technologies
H2O Innovation USA
Harmsco
Hamm R/O Systems, Inc.
Lenstech
Membrane Svcs
MPW Industrial Water
Pentair
RO Technologies, Inc.
Tech Quip
Technology Int’l
The Eads Co.

Demandstar
SAWS Website
BID 18-18071
ANNUAL CONTRACT FOR IBAK SEWER INSPECTION EQUIPMENT
PARTS AND SERVICE REPAIRS
SOLE SOURCE

The SAWS Line Cleaning & Televising Division includes seven crews that inspect sewer mains using closed-circuit televising equipment. These crews perform work required by the EPA Consent Decree. We are currently running two IBAK vans. The System received them at the end of 2017. We are expecting two more by the end of this year. IBAK was chosen due to their HD cameras and built in gantry crane to lower and raise the extremely heavy robotic camera. The intent was to eliminate shoulder and back injuries the TV crews were experiencing. This system puts a priority on safety which is a priority in D & C. There are a number of parts on the camera systems that have to be replaced periodically due to deterioration. Damages to equipment also occur during sewer line inspections in poor condition pipes. This contract provides a vehicle to purchase replacement parts and to have damaged equipment repaired and/or replaced so that the televising crews have the equipment they need to perform their work.

Kinloch Equipment & Supply, Inc. is the exclusive dealer for IBAK in Texas. IBAK is the sole source supplier of the parts required to maintain SAWS' IBAK sewer line televising equipment. SAWS has a significant investment in this equipment having used it for over five years.

- Contract will be to procure parts and labor to maintain existing video inspection camera systems and ancillary support equipment provided by IBAK.
- Prices are based on a negotiated labor rate and a pre-approved standard price list and items priced at manufacture list.
- Award is for one year with four one-year options to extend.

Base Year: 10/01/18 – 09/30/19 $187,600.00
Extension 1: 10/1/2019 – 09/30/20 $187,600.00
Extension 2: 10/1/2020 – 09/30/21 $187,600.00
Extension 3: 10/1/2021 – 09/30/22 $187,600.00
Extension 4: 10/1/2022 – 09/30/23 $187,600.00
### PRICING

**BASE PERIOD:** 10/01/2018 – 09/30/2019

**ITEM 1:** Various IBAK Parts Supplies – unit pricing on various items specified are contained in the file.

<table>
<thead>
<tr>
<th>Various ARIES Parts &amp; Supplies</th>
<th>UOM</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various IBAK Parts &amp; Supplies</td>
<td>lump</td>
<td>$120,000.00</td>
</tr>
<tr>
<td>SAWS Estimate Usage</td>
<td>sum</td>
<td></td>
</tr>
<tr>
<td>Item 1 - Schedule of Replacement Parts Sub Total</td>
<td></td>
<td>$120,000.00</td>
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</tbody>
</table>

**ITEM 2:** Other Unlisted Miscellaneous Parts

<table>
<thead>
<tr>
<th>Item No</th>
<th>Annual Estimated Usage (a)</th>
<th>Discount in % based on Manufacturer's Retail Price (b)</th>
<th>Total Discount (c) ( (a \times b) )</th>
<th>Extended Price ( (a - c) )</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$40,000</td>
<td>0 %</td>
<td>$0.00</td>
<td>$40,000.00</td>
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</table>

**Item 2 Sub Total**

$40,000.00

**ITEM 3:** Labor/Service Charge

<table>
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<tr>
<th>Item No</th>
<th>Description</th>
<th>UOM</th>
<th>Estimated Qty</th>
<th>Price / Hr</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Labor/Service Charges Regular Hours</td>
<td>hour</td>
<td>200</td>
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<tr>
<td>2</td>
<td>Labor/Service Charge Overtime Hours</td>
<td>hour</td>
<td>30</td>
<td>$120.00</td>
<td>$3,600.00</td>
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</table>

**Item 3 Sub Total**

$27,600.00

**GRAND TOTAL:** $187,600.00

Items I, II and III
SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

TABULATION OF BIDS

Annual Contract for Water Meter Strainers
(October 1, 2018 through September 30, 2019)
3:00 p.m., June 20, 2018

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>TOTAL</th>
</tr>
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<tr>
<td>1</td>
<td>Make &amp; Model Quoting:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Strainer for 2&quot; turbine water meter</td>
<td>UNIT</td>
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<td>Make &amp; Model:</td>
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</tr>
<tr>
<td></td>
<td>Mueller</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Neptune</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>NO BID</td>
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<td></td>
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<td>2</td>
<td>Make &amp; Model Quoting:</td>
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<td></td>
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<tr>
<td></td>
<td>Strainer for 3&quot; turbine water meter</td>
<td>UNIT</td>
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<td>Make &amp; Model:</td>
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<tr>
<td></td>
<td>Mueller</td>
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<td></td>
<td>Neptune</td>
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<td>NO BID</td>
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<td>Make &amp; Model Quoting:</td>
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<tr>
<td></td>
<td>Strainer for 4&quot; turbine water meter</td>
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<td>Make &amp; Model:</td>
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<td>Mueller</td>
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<td>Strainer for 6&quot; turbine water meter</td>
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<tr>
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<td>Mueller</td>
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<td></td>
<td>Neptune</td>
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<td></td>
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</tr>
<tr>
<td>5</td>
<td>Make &amp; Model Quoting:</td>
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</tr>
<tr>
<td></td>
<td>Strainer for 8&quot; turbine water meter</td>
<td>UNIT</td>
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<td>24,220.00</td>
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<td>Make &amp; Model:</td>
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</tr>
<tr>
<td></td>
<td>Mueller</td>
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<td></td>
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<td>6</td>
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<tr>
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<td>Strainer for 10&quot; turbine water meter</td>
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<td></td>
<td>Mueller</td>
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<td></td>
<td>Neptune</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>NO BID</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

TOTAL AWARD: 113,150.10

EXTENSION 1: 113,150.10

EXTENSION 2: 113,150.10

EXTENSION 3: 113,150.10

EXTENSION 4: 113,150.10

Terms: Net 30 days

Delivery Days: 30 days

LOW BIDDER

BID INVITATIONS E-MAILED TO AND OR PICKED UP BY:

- Act Pipe
- Aqua-Metric
- Badger Meter, Inc.
- Core & Main
- Fortiline Waterworks
- Mueller
- National Meter
- Neptune
- Sensus
- Techline Pipe
- Zenner Performance Meters

- Demandstar
- SAWS Website
ITEM
BID NO. 18-18104
LIGHTNING SERVICE CLOUD UNLIMITED EDITION
SOLE SOURCE

Bid No. 18-18104 solicited bids for Lightning Service Cloud Unlimited Edition to provide 40 licenses for a Customer Relationship Management (CRM) pilot program being conducted in Customer Service.

This pilot is seeking to improve efficiencies, improve the overall customer satisfaction in the Customer Service department, assist in the continuing quality improvement process, and assist in the development of new products and offers. There will be a technical and functional review at the end of the pilot to determine if the pilot was successful.

System IS Department used data generated by Gartner, a leading research and advisory company, to select Salesforce. Salesforce is the most established and well adopted CRM offered in the utility industry. It provides the best functions and support across the CRM market and is the best fit for the System.

Carahsoft is the single responsible bidder for the purchase of the Lightning Service Cloud Unlimited Edition licenses.

Twenty-three resellers were invited to bid, but only one bid was received from Carahsoft. Cited reasons as to why some of the vendors did not bid are as follows: “do not sell requested technology” and “unable to get a hold of someone who sells that product and was unable to meet the deadline”.

The bid submitted by Carahsoft meets all of the requirements and the specifications.

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extended Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>205-0005 Lightning Service Cloud Unlimited Edition For One Year</td>
<td>40 Each</td>
<td>$2,551.50</td>
<td>$102,060.00</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
<td>$102,060.00</td>
</tr>
</tbody>
</table>

- The award amount is $102,060.00/base year.
REQUEST FOR PROPOSAL
FOR
ENTERPRISE ENCRYPTION AND KEY MANAGEMENT SOLUTION
SAWS BID NO: 18-18011

SUPPLEMENTARY COMMENTS:
Staff recommends that the contract be awarded to Dell Marketing, L.P., a Non-Local/Non-SMWB firm, as the bidder who will provide the goods or services at the best value for the Water System based on the selection criteria set forth below. Price and other factors have been considered. In determining the “best value”, the Evaluation Criteria listed below have been considered and weighted as shown.

A) Evaluation Committee: All properly submitted bids were reviewed by an Evaluation Committee.

B) Weighted Evaluation Criteria: The following weighted criteria were considered to determine which bid offers the “best value” to the San Antonio Water System.

<table>
<thead>
<tr>
<th>Evaluation Criteria</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Functionality, Usability, and Project Approach</td>
<td>35</td>
</tr>
<tr>
<td>b. References, Similar Prior Experience, Project Team, and Resumes</td>
<td>20</td>
</tr>
<tr>
<td>c. Compensation Proposal</td>
<td>30</td>
</tr>
<tr>
<td>d. Adherence to Small, Minority, Woman and Veteran Owned Business (SMWB) Participation (Exhibit “B” Good Faith Effort Plan)</td>
<td>15</td>
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<tr>
<td>TOTAL</td>
<td>100</td>
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</tbody>
</table>

SAWS received proposals from the following companies:

<table>
<thead>
<tr>
<th>No</th>
<th>Bidders Name</th>
<th>Bid Amount</th>
<th>RFP Score</th>
<th>Local/SMWB</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>*Dell Marketing, L.P.</td>
<td>$117,974.00</td>
<td>308 points</td>
<td>Non-Local/Non-SMWB</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 1: $34,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 2: $34,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 3: $34,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 4: $34,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total: $253,974.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Carahsoft Technology Corp.</td>
<td>$299,320.00</td>
<td>171 points</td>
<td>Non-Local/Non-SMWB</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 1: N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 2: $44,700.00</td>
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<tr>
<td></td>
<td></td>
<td>Ext. 3: $47,052.63</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 4: $49,529.09</td>
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<tr>
<td></td>
<td></td>
<td>Total: $440,601.72</td>
<td></td>
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</tr>
<tr>
<td>3</td>
<td>Optiv Security, Inc.</td>
<td>$442,685.48</td>
<td>122 points</td>
<td>Non-Local/Non-SMWB</td>
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<tr>
<td></td>
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<td>Ext. 1: N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 2: N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ext. 3: N/A</td>
<td></td>
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<td></td>
<td>Ext. 4: N/A</td>
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<tr>
<td></td>
<td></td>
<td>Total: $442,685.48</td>
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</tbody>
</table>

*Proposer offering the best value.*
Additionally, the overall SMWB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Request for Proposal SAWS Bid No. 18-18011 For Enterprise Encryption and Key Management Solution</th>
</tr>
</thead>
<tbody>
<tr>
<td>DELL MARKETING, L.P.</td>
</tr>
<tr>
<td>SMWB ANALYSIS – BOARD AWARD</td>
</tr>
<tr>
<td>SBE</td>
</tr>
<tr>
<td>MBE – African American</td>
</tr>
<tr>
<td>MBE - Asian</td>
</tr>
<tr>
<td>MBE - Hispanic</td>
</tr>
<tr>
<td>MBE - Other</td>
</tr>
<tr>
<td>WBE - Minority</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
</tr>
<tr>
<td>SMWB Total</td>
</tr>
</tbody>
</table>

**PERIOD OF AWARD**

Contract period shall begin on September 11, 2018 through September 10, 2019. The contract shall include four (4) additional one-year options to extend, renewable and paid for annually. In determining the best value, staff considered relevant criteria specifically listed in the request for bid. Staff has determined that Dell Marketing, L.P. will provide services at the best value to System.
<table>
<thead>
<tr>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>642.19</td>
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<tr>
<td>2.</td>
<td>777.77</td>
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<tr>
<td>3.</td>
<td>704.40</td>
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<td>4.</td>
<td>955.19</td>
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<tr>
<td>5.</td>
<td>1,704.54</td>
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<tr>
<td>6.</td>
<td>1,174.59</td>
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<tr>
<td>7.</td>
<td>2,001.12</td>
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<tr>
<td>8.</td>
<td>3,077.48</td>
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<tr>
<td>9.</td>
<td>4,503.19</td>
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<td>10.</td>
<td>5,241.10</td>
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<tr>
<td>11.</td>
<td>5,910.99</td>
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<tr>
<td>12.</td>
<td>6,570.88</td>
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</table>

**SAN ANTONIO WATER SYSTEM**

**SAN ANTONIO, TEXAS 78228-2449**

**TABULATION OF BIDS**

<table>
<thead>
<tr>
<th>BASE YEAR: September 1, 2018 - August 31, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Firm:</strong> Annual Contract for Dell Desktops, Laptops, Monitors and Accessories</td>
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<tr>
<td><strong>Proposal:</strong> P.O. BOX 2449</td>
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<tr>
<td><strong>P.O. BOX 2449</strong></td>
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<tr>
<td><strong>SAN ANTONIO, TEXAS 78239</strong></td>
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<td><strong>300 P.M., August 17, 2018</strong></td>
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SAN ANTONIO WATER SYSTEM  
P. O. BOX 2449  
SAN ANTONIO, TEXAS 78298-2449  
TABULATION OF BIDS

PROPOSAL: Annual Contract for Dell Desktops, Laptops, Monitors and Accessories  
FOR:  
TIME & DATE: SEPTEMBER 1, 2018 THROUGH AUGUST 31, 2019  
3:00 P.M., AUGUST 7, 2018

<table>
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<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
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<td>13.</td>
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<td>2,860.86</td>
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<td>19.</td>
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<td>Dell Roadmap - January and July</td>
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<tr>
<td></td>
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<td>1,000.00</td>
<td>2,000.00</td>
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</table>

BASE YEAR TOTAL

<table>
<thead>
<tr>
<th></th>
<th>TOTAL</th>
<th>TOTAL</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>623,112.05</td>
<td>625,073.85</td>
<td>654,479.40</td>
</tr>
<tr>
<td></td>
<td>646,867.95</td>
<td>644,632.10</td>
<td></td>
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</tbody>
</table>

COST MARKUP% (NOT TO EXCEED 20%)
FILL IN THE MARKUP PERCENTAGE

<table>
<thead>
<tr>
<th></th>
<th>%</th>
<th>%</th>
<th>%</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0%</td>
<td>0%</td>
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<td>0%</td>
</tr>
<tr>
<td></td>
<td>2.8278%</td>
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</table>
## SAN ANTONIO WATER SYSTEM

### PROPOSAL
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

**FOR:**
(SEptember 1, 2018 through August 31, 2019)

**DATE:**
3:00 p.m., August 7, 2018

### TABULATION OF BIDS

**ITEM NO.** | **DESCRIPTION AND APPROXIMATE QUANTITY** | **BASE YEAR X MARKUP%** | **COST MARKUP TOTAL DOLLAR AMOUNT** | **TOTAL DOLLAR AMOUNT**
--- | --- | --- | --- | ---

| 1. | Dell-D-Standard Micro i5 8GB***as per Template | 185 ea. | 0.00 | 118,805.15 | 62,112.05 |
| 2. | Dell-D-Standard+ Micro i5 16 GB***as per Template | 31 ea. | 0.00 | 24,569.67 | 625,073.85 |
| 3. | Dell-D-Pro Mini i5 8GB***as per Template | 10 ea. | 0.00 | 7,184.00 | 654,479.40 |
| 4. | Dell-D-Pro+ Mini i7 16 GB***as per Template | 10 ea. | 0.00 | 9,551.90 | 646,867.95 |
| 5. | Dell-D-Ultra Precision Xeon 16 GB***as per Template | 15 ea. | 0.00 | 26,468.10 | 662,861.01 |
| 6. | Dell-D-Ultra+ Precision Xeon 32 GB***as per Template | 5 ea. | 0.00 | 24,348.98 | 662,861.01 |
| 7. | Dell-L-Standard Latitude i5 8GB***as per Template | 170 ea. | 0.00 | 207,760.40 | 662,861.01 |
| 8. | Dell-L-Standard + Precision i5 8GB***as per Template | 21 ea. | 0.00 | 26,901.00 | 662,861.01 |
| 9. | Dell-L-Standard + Precision i5 8GB***as per Template | 21 ea. | 0.00 | 31,647.42 | 662,861.01 |
| 10. | Dell-D-Pro Latitude i5 16GB***as per Template | 21 ea. | 0.00 | 29,800.05 | 662,861.01 |

**BASE YEAR TOTAL + COST MARKUP TOTAL DOLLAR AMOUNT**

| **ITEM NO.** | **DESCRIPTION AND APPROXIMATE QUANTITY** | **BASE YEAR X MARKUP%** | **COST MARKUP TOTAL DOLLAR AMOUNT** | **TOTAL DOLLAR AMOUNT** |
--- | --- | --- | --- | ---
| 1. | Dell-D-Standard Micro i5 8GB***as per Template | 185 ea. | 0.00 | 118,805.15 | 62,112.05 |
| 2. | Dell-D-Standard+ Micro i5 16 GB***as per Template | 31 ea. | 0.00 | 24,569.67 | 625,073.85 |
| 3. | Dell-D-Pro Mini i5 8GB***as per Template | 10 ea. | 0.00 | 7,184.00 | 654,479.40 |
| 4. | Dell-D-Pro+ Mini i7 16 GB***as per Template | 10 ea. | 0.00 | 9,551.90 | 646,867.95 |
| 5. | Dell-D-Ultra Precision Xeon 16 GB***as per Template | 15 ea. | 0.00 | 26,468.10 | 662,861.01 |
| 6. | Dell-D-Ultra+ Precision Xeon 32 GB***as per Template | 5 ea. | 0.00 | 24,348.98 | 662,861.01 |
| 7. | Dell-L-Standard Latitude i5 8GB***as per Template | 170 ea. | 0.00 | 207,760.40 | 662,861.01 |
| 8. | Dell-L-Standard + Precision i5 8GB***as per Template | 21 ea. | 0.00 | 26,901.00 | 662,861.01 |
| 9. | Dell-L-Standard + Precision i5 8GB***as per Template | 21 ea. | 0.00 | 31,647.42 | 662,861.01 |
| 10. | Dell-D-Pro Latitude i5 16GB***as per Template | 21 ea. | 0.00 | 29,800.05 | 662,861.01 |
## SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS  78298-2449

**TABULATION OF BIDS**

### PROPOSAL
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

**FOR:** (September 1, 2018 through August 31, 2019)

**TIME & DATE:** 3:00 p.m., August 7, 2018

### ITEM NO.  DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>UNIT TOTAL</th>
<th>ITEM PRICE</th>
<th>ITEM TOTAL</th>
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</thead>
<tbody>
<tr>
<td>11.</td>
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<td>35,427.84</td>
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### MONITORS

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### PRICE

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<td>1.</td>
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**SAN ANTONIO WATER SYSTEM**  
**P. O. BOX 2449**  
**SAN ANTONIO, TEXAS 78298-2449**  
**TABULATION OF BIDS**

**PROPOSAL**  
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories  
**FOR:**  
San Antonio, Texas 78298-2449  
**DATE:**  
3:00 p.m., August 7, 2018

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<th>UNIT PRICE</th>
<th>QUANTITY</th>
<th>TOTAL PRICE</th>
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<tr>
<td>10.</td>
<td>Dell-L-Pro Latitude i5 16GB***as per Template</td>
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<td>31,219.10</td>
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<tr>
<td>11.</td>
<td>Dell-L-Pro+Precision i7 16GB***as per Template</td>
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<td>31,219.10</td>
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<tr>
<td>12.</td>
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<td>31,219.10</td>
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<tr>
<td>13.</td>
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**MONITORS**

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**OTHER EQUIPMENT & SERVICES**

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**SAN ANTONIO WATER SYSTEM**

**P. O. BOX 2449**

**SAN ANTONIO, TEXAS 78298-2449**

**TABULATION OF BIDS**

**PROPOSAL:** Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

**FOR:** (September 1, 2018 through August 31, 2019)

**TIME & DATE:** 3:00 p.m., August 7, 2018

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**SAN ANTONIO WATER SYSTEM**  
**P. O. BOX 2449**  
**SAN ANTONIO, TEXAS 78298-2449**  
**TABULATION OF BIDS**

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Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

**FOR:**  
(September 1, 2018 through August 31, 2019)

**TIME & DATE:**  
3:00 p.m., August 7, 2018

**ITEM NO.**  
DESCRIPTION AND APPROXIMATE QUANTITY

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<td>Dell-L-Standard+ Latitude i5 16GB as per Template</td>
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<td>Dell-L-Pro+ Precision i7 16GB as per Template</td>
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**TOTAL**  
UNIT PRICE | TOTAL
---|---
228,536.44 | 28,182.00  | 33,154.44  | 31,219.10  | 37,114.88  | 39,327.44  | 26,950.00  | 5,314.23   | 54,381.05  | 36,286.20  | 36,286.20  | 36,286.20
## SAN ANTONIO WATER SYSTEM
### Annual Contract for Dell Desktops, Laptops, Monitors and Accessories
**TABULATION OF BIDS**

**FOR:**
- Time & (September 1, 2018 through August 31, 2019)

**DATE:** 3:00 p.m., August 7, 2018

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
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<td>Dell-Do-Standard D6000 Universal***as per Template</td>
<td>132.59</td>
<td>13,259.00</td>
</tr>
<tr>
<td>10 ea.</td>
<td>Dell-Do-Standard+ TB16 Thunderbolt***as per Template</td>
<td>232.04</td>
<td>2,320.40</td>
</tr>
<tr>
<td>10 ea.</td>
<td>Dell-DVD-Standard 429-AAUI***as per Template</td>
<td>37.55</td>
<td>375.50</td>
</tr>
<tr>
<td>2 ea.</td>
<td>Dell Roadmap – January and July</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td><strong>EXTENSION 3 TOTAL</strong></td>
<td></td>
<td>678,525.46</td>
</tr>
</tbody>
</table>

**COST MARKUP% (NOT TO EXCEED 20%)**

<table>
<thead>
<tr>
<th></th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2%</td>
<td>139.57</td>
<td>144.65</td>
</tr>
<tr>
<td>3%</td>
<td>39.53</td>
<td>45.11</td>
</tr>
<tr>
<td>0%</td>
<td>395.30</td>
<td>451.10</td>
</tr>
<tr>
<td>3%</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

**EXTENSION 3 TOTAL + COST MARKUP TOTAL DOLLAR AMOUNT**

<table>
<thead>
<tr>
<th></th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>13,570.51</td>
<td>21,118.28</td>
<td>701,821.13</td>
</tr>
</tbody>
</table>

**EXTENSION 4: September 1, 2022 - August 31, 2023**

### DESKTOPS

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>203 ea.</td>
<td>Dell-D-Standard Micro i5 8GB***as per Template</td>
<td>642.19</td>
<td>130,364.57</td>
</tr>
<tr>
<td>34 ea.</td>
<td>Dell-D-Standard+ Micro i5 16 GB***as per Template</td>
<td>792.57</td>
<td>26,947.38</td>
</tr>
<tr>
<td>11 ea.</td>
<td>Dell-D-Pro Mini i5 8GB***as per Template</td>
<td>718.40</td>
<td>7,902.40</td>
</tr>
<tr>
<td>11 ea.</td>
<td>Dell-D-Pro+ Mini i7 16 GB***as per Template</td>
<td>955.19</td>
<td>10,507.09</td>
</tr>
</tbody>
</table>

**EXTENSION 4 TOTAL**

<table>
<thead>
<tr>
<th></th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>692,095.97</td>
<td>701,067.37</td>
<td>712,660.75</td>
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</tbody>
</table>

**EXTENSION 4 TOTAL + COST MARKUP TOTAL DOLLAR AMOUNT**

<table>
<thead>
<tr>
<th></th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>725,061.06</td>
<td>842,185.36</td>
<td>810,538.95</td>
</tr>
</tbody>
</table>
## SAN ANTONIO WATER SYSTEM
### P. O. BOX 2449
### SAN ANTONIO, TEXAS 78298-2449

### TABULATION OF BIDS

**PROPOSAL**
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

**FOR:**
(September 1, 2018 through August 31, 2019)

**DATE:**
3:00 p.m., August 7, 2018

### ITEM NO. DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>Dell-Ultra Precision Xeon 16 GB per Template</td>
<td>1,764.54</td>
<td>29,997.18</td>
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<tr>
<td>6.</td>
<td>Dell-Ultra Precision Xeon 32 GB per Template</td>
<td>2,434.98</td>
<td>14,609.88</td>
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<tr>
<td>7.</td>
<td>Dell-Standard Latitude i5 8GB per Template</td>
<td>1,222.12</td>
<td>240,757.64</td>
</tr>
<tr>
<td>8.</td>
<td>Dell-Standard + Precision i5 8GB per Template</td>
<td>1,281.00</td>
<td>29,463.00</td>
</tr>
<tr>
<td>9.</td>
<td>Dell-Standard + Precision i5 8GB per Template</td>
<td>1,507.02</td>
<td>34,661.46</td>
</tr>
<tr>
<td>10.</td>
<td>Dell-Pro Latitude i5 16GB per Template</td>
<td>1,419.05</td>
<td>32,638.15</td>
</tr>
<tr>
<td>11.</td>
<td>Dell-Pro+Precision i7 16GB per Template</td>
<td>1,687.04</td>
<td>38,801.92</td>
</tr>
<tr>
<td>12.</td>
<td>Dell-Ultra Precision i7 16GB per Template</td>
<td>1,950.54</td>
<td>11,703.24</td>
</tr>
<tr>
<td>13.</td>
<td>Dell-Ultra Precision Xeon 32 GB per Template</td>
<td>2,776.74</td>
<td>16,660.44</td>
</tr>
<tr>
<td>14.</td>
<td>Dell-Rugged Latitude i3 8GB per Template</td>
<td>1,347.50</td>
<td>8,085.00</td>
</tr>
<tr>
<td>15.</td>
<td>Dell-Rugged+ Latitude i5 8GB per Template</td>
<td>1,612.37</td>
<td>9,672.22</td>
</tr>
<tr>
<td>16.</td>
<td>Dell-M-Standard P2417H per Template</td>
<td>161.27</td>
<td>967.62</td>
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<tr>
<td>17.</td>
<td>Dell-M-Standard+ U2417H per Template</td>
<td>201.59</td>
<td>36,286.20</td>
</tr>
</tbody>
</table>
**SAN ANTONIO WATER SYSTEM**  
P. O. BOX 2449  
SAN ANTONIO, TEXAS 78298-2449  
TABULATION OF BIDS

**FOR:**  
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories  
(September 1, 2018 through August 31, 2019)

**DATE:** 3:00 p.m., August 7, 2018

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION AND APPROXIMATE QUANTITY</th>
<th>UNIT PRICE</th>
<th>UNIT TOTAL</th>
<th>COST MARKUP% (NOT TO EXCEED 20%)</th>
<th>FILL IN THE MARKUP PERCENTAGE</th>
<th>COST MARKUP TOTAL DOLLAR AMOUNT (EXTENSION 4 X MARKUP%)</th>
<th>EXTENSION 4 TOTAL + COST MARKUP TOTAL DOLLAR AMOUNT</th>
<th>GRAND TOTAL (BASE, EXT 1, EXT 2, EXT 3, EXT 4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>18.</td>
<td>Dell-M-Pro P2717H***as per Template</td>
<td>259.19</td>
<td>1,555.14</td>
<td></td>
<td></td>
<td>14,050.34</td>
<td>716,567.18</td>
<td>3,327,384.72</td>
</tr>
<tr>
<td>19.</td>
<td>Dell-M-Pro + U2717D***as per Template</td>
<td>345.59</td>
<td>8,294.16</td>
<td></td>
<td></td>
<td>366.61</td>
<td>8,528.64</td>
<td>1,599.12</td>
</tr>
<tr>
<td>20.</td>
<td>Dell-Do-Standard D6000 Universal***as per Template</td>
<td>132.59</td>
<td>9,944.25</td>
<td></td>
<td></td>
<td>10,225.50</td>
<td>10,225.50</td>
<td>1,599.12</td>
</tr>
<tr>
<td>21.</td>
<td>Dell-Do-Standard+ TB16 Thunderbolt ***as per Template</td>
<td>232.04</td>
<td>2,320.40</td>
<td></td>
<td></td>
<td>249.71</td>
<td>2,386.00</td>
<td>1,599.12</td>
</tr>
<tr>
<td>22.</td>
<td>Dell-DVD-Standard 429-AAUI***as per template</td>
<td>37.55</td>
<td>375.50</td>
<td></td>
<td></td>
<td>45.11</td>
<td>386.10</td>
<td>1,000.00</td>
</tr>
<tr>
<td>23.</td>
<td>Dell Roadmap – January and July</td>
<td>0.00</td>
<td>0.00</td>
<td></td>
<td></td>
<td></td>
<td>2,000.00</td>
<td>1,599.12</td>
</tr>
</tbody>
</table>

**EXTENSION 4 TOTAL**  
TOTAL 702,516.84  
703,958.88  
737,832.70  
728,532.03  
726,581.74

**COST MARKUP% (NOT TO EXCEED 20%)**  
FILL IN THE MARKUP PERCENTAGE  
% 2% 3% 0% 3% 20%

**COST MARKUP TOTAL DOLLAR AMOUNT (EXTENSION 4 X MARKUP%)**  
14,050.34  
21,118.77  
0.00  
21,855.96  
145,316.35

**EXTENSION 4 TOTAL + COST MARKUP TOTAL DOLLAR AMOUNT**  
716,567.18  
725,077.65  
737,832.70  
750,387.99  
871,898.09

**GRAND TOTAL (BASE, EXT 1, EXT 2, EXT 3, EXT 4)**  
TOTAL 3,327,384.72  
3,364,076.54  
3,458,893.87  
3,500,194.43  
3,977,075.86
SAN ANTONIO WATER SYSTEM
P. O. BOX 2449
SAN ANTONIO, TEXAS 78298-2449

TABULATION OF BIDS

PROPOSAL
Annual Contract for Dell Desktops, Laptops, Monitors and Accessories

FOR:
(September 1, 2018 through August 31, 2019)

DATE:
3:00 p.m., August 7, 2018

ITEM NO. DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>Terms</th>
<th>Net 30 days</th>
<th>Net 30 days</th>
<th>Net 30 days</th>
<th>Net 30 days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery Days</td>
<td>10-20 days Laptops</td>
<td>20 days Laptops</td>
<td>20 days Laptops</td>
<td>20 days Laptops</td>
</tr>
<tr>
<td></td>
<td>7-10 Other Items</td>
<td>10 Other Items</td>
<td>20 Other Items</td>
<td>10 Other Items</td>
</tr>
</tbody>
</table>

*LOW BIDDER

BID INVITATIONS EMAILED TO AND/OR PICKED UP BY:

Avatech Tech
CDW Government
Centre Tech
Checkpoint Services
Commonwealth Computer
Dell Marketing
EST Group
GCS Technology
General Datatech
GovConnection
GTS Technology Solutions
HiEd Inc.
Insight Public Sector
Logical Front

Mark III Sys Inc.
Netsync Network Solutions
PC Specialists Inc dba Technology Assets
Pivot Solutions
Premier Logitech
Prime Systems
SHI
Sirius
Spectrum Imaging Tech
Sterling Computers
Summus Industries
TanChes Global
Technog et
The Personal Computer Store
Unique Digital Technology
Virtual Communication Specialists
Waypoint Business Solutions
Weaver Technologies
Worldwide Imaging Supplies
Zones

NO BID

CONNECTION - CAN NOT BE COMPETITIVE
GDT - CAN NOT COMPETITIVE
PRESIDIO - CAN NOT BE COMPETITIVE
NOWUBA - CAN NOT MEET THE SPECIFICATIONS
TABULATION OF BIDS

FOR: Office Supplies
TIME: (September 11, 2018 through May 31, 2019)
DATE: 3:00 p.m., April 30, 2018

ITEM DESCRIPTION AND APPROXIMATE QUANTITY

<table>
<thead>
<tr>
<th>Core List Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>CATALOG PRICING</td>
</tr>
</tbody>
</table>

Estimate that the San Antonio Water System will purchase $95,000.00 of items using the catalog pricing (discount or markup):
1. Percent of Discount or markup offered
2. Product Identification (Mfg)
3. Type price schedule (dealer, jobber, etc.)
4. Price schedule number
5. Date of price schedule
6. Price schedule column on which discount or markup is based (i.e., distributor, net, wholesale)

Annual estimate core list
Annual estimate for catalog pricing
Total annual estimated usage

**LOW BIDDER**

<table>
<thead>
<tr>
<th>BID NOT TABULATED NON-RESPONSIVE BID EXCEPTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>NO BID</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dealer</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/30/2018 Mfr. List</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,369.82</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DELIVERY DAYS</th>
<th>TERMS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 days</td>
<td>10 days</td>
<td>$85,687.00</td>
</tr>
<tr>
<td>2%</td>
<td>2%</td>
<td>$35,000.00</td>
</tr>
<tr>
<td>10 days</td>
<td></td>
<td>$70,000.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$105,000.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BID INVITATIONS WERE E-MAILED TO AND/OR PICKED UP BY:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consolidated Office Systems</td>
</tr>
<tr>
<td>General Office Products</td>
</tr>
<tr>
<td>Gulf Coast Paper Co.</td>
</tr>
<tr>
<td>Midas Office Products, Inc.</td>
</tr>
<tr>
<td>Office Depot</td>
</tr>
<tr>
<td>Pollock Paper Distributors</td>
</tr>
<tr>
<td>Gulf Corporation</td>
</tr>
<tr>
<td>SA Lighthouse for the Blind</td>
</tr>
<tr>
<td>Staples</td>
</tr>
<tr>
<td>Universal Pm &amp; Print, Inc. dba Cube Co.</td>
</tr>
</tbody>
</table>
ITEM
BID NO. 18-0106
ANNUAL CONTRACT FOR THE PURCHASE OF OFFICE SUPPLIES
SINGLE SOURCE

Bid No. 18-0106 solicited bids for the purchase and desk top delivery of office supply items to various SAWS' facilities on an as needed basis as requested by SAWS staff.

Bid was posted on SAWS website and DemandStar Onvia. Bids were e-mailed directly to 10 vendors and electronically to 60 vendors registered on the SAWS website. Additionally, the bid was highlighted at a Small Minority Women Owned outreach in April shortly after bid was issued. We did receive a request to extend the due date, which we did by 1 week. Two bids were received and one no-bid was received. One of the bids received took exceptions to our Terms and Conditions and indicated a cooperative contract Terms and Conditions would take precedence in the event of an award; thus they were deemed non-responsive. Historically we have received additional bidders, however, when reviewing previous bid tabulations, it was determined that the other vendors were not price competitive.

San Antonio Lighthouse for the Blind is the incumbent, has had the contract for four years and has performed well.

Recommend approval of award to San Antonio Lighthouse for the Blind. San Antonio Lighthouse has been serving people who are blind or vision impaired since 1933. The local non-profit 501(C)(3) small business employs more than 480 employees with nearly half being visually impaired.

- The annual award amount is $105,000.00
TO: San Antonio Water System Board of Trustees

FROM: Michael L. Myers, P.E., Director, Plants and Major Projects, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE VANTAGE VIEW – E. BROADVIEW TO HILLCREST (ALLEY) PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, in the amount of $817,070.00 in connection with the Vantage View – E. Broadview to Hillcrest (Alley) Project (the “Project”).

- This contract will be used to replace water and sewer mains based on age and condition. The scope of work includes 2,315 feet of 6-inch and 8-inch water main from E. Broadview Drive to Hillcrest Drive (located within the alley), and approximately 2,340 feet of 8-inch sewer main located within an alley for the Vantage View – E. Broadway to Hillcrest.

- The water mains in the project area were installed in 1954 and are showing signs of fatigue and corrosion, which corresponds with the high break rate. According to the San Antonio Water Systems’ (the “System”) Operations Support’s draft condition assessment scoring, one section of this pipeline ranked in the top one percent of the system in regards to the likelihood of failure.

- The sewer mains were installed in 1953 and are in severe condition. The project will replace and upsize approximately 2,315 feet of 6-inch water main to 8-inch, and replace approximately 2,340 feet of sewer main.

- RPS was contracted under the Pipelines Engineering Services Work Order Contract to develop the design documents.

- Facilities Rehabilitation, Inc. has submitted the lowest responsible bid of $817,070.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2017 Capital Improvement
Program. The water work is included in the Water Delivery Core Business, Governmental – Water Category, and Governmental Water Replacements budget line item. The amount is $428,975.00 for water work. The job number is 17-5109.

The sewer work is included in the Wastewater Core Business, Governmental – Wastewater Category, and Governmental Wastewater Replacements budget line item. The amount is $388,095.00 for sewer work. The job number is 17-5591.

SUPPLEMENTARY COMMENTS:

RPS prepared the plans and specifications for this project under their professional services contract. The engineer’s estimated construction cost was $900,415.00.

A bid opening was held on July 31, 2018 at 10:00 AM. The following bids were submitted.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities Rehabilitation, Inc.*</td>
<td>$817,070.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Pronto Sandblasting &amp; Coating &amp; Oilfield Services</td>
<td>$863,351.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>T Gray Utility &amp; Rehab Co., LLC</td>
<td>$869,929.00</td>
<td>Non-Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Engineer’s Estimate</td>
<td>$900,415.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>D Guerra Construction, Ltd.</td>
<td>$949,510.70</td>
<td>Local/MBE-Hispanic</td>
</tr>
</tbody>
</table>

*Lowest Responsible Bidder

The bid amount represents a nine percent decrease from the estimated construction cost. This contract has 118 calendar days for construction completion.

Additionally, the overall SMWVB analysis is shown in the following table:
Vantage View – E. Broadview to Hillcrest (Alley) Project

Facilities Rehabilitation, Inc.

<table>
<thead>
<tr>
<th>SMWVB Analysis – Board Award</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>SBE</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE–African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE–Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE–Hispanic</td>
<td>93.88%</td>
</tr>
<tr>
<td>MBE–Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE–Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE–Non–Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>93.88%</td>
</tr>
</tbody>
</table>

Michael L. Myers, P.E.
Director
Plants and Major Projects

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO FACILITIES REHABILITATION, INC. IN THE AMOUNT OF $817,070.00 IN CONNECTION WITH THE VANTAGE VIEW – E. BROADVIEW TO HILLCREST (ALLEY) PROJECT; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $817,070.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH FACILITIES REHABILITATION, INC., AND TO PAY FACILITIES REHABILITATION, INC. AN AMOUNT NOT TO EXCEED $817,070.00 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, this contract will be used to replace water and sewer mains based on condition assessment; and

WHEREAS, the San Antonio Water System (the “System”) has solicited bids for the project work; and

WHEREAS, RPS was contracted under the Pipelines Engineering Services Work Order Contract to develop the design documents; and

WHEREAS, Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, has submitted a bid of $817,070.00 for the project work and this bidder has been determined to be the lowest responsible bidder; and

WHEREAS, System funds in the amount of $817,070.00 are required for the project work; and

WHEREAS, the total amount of $817,070.00 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to Facilities Rehabilitation, Inc. in the amount of $817,070.00 in connection with the Vantage View – E. Broadview to Hillcrest (Alley) Project, (ii) to approve the expenditure of funds and make available an amount not to exceed $817,070.00 from the System’s Project Fund
for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $817,070.00 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $817,070.00 is hereby awarded to Facilities Rehabilitation, Inc. in connection with the Vantage View – E. Broadview to Hillcrest (Alley) Project.

2. That the expenditure of funds in an amount not to exceed $817,070.00 for the project work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $817,070.00 in connection with the Vantage View – E. Broadview to Hillcrest (Alley) Project.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall notwithstanding stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail A. Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF CHANGE ORDER NOS. 9 AND 10 IN CONNECTION WITH THE C5 CULEBRA - CASTROVILLE TO LAREDO AND C28 ZARZAMORA CREEK - SAN GABRIEL TO NW 23RD STREET PHASE 1B PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves Change Order No. 9 in the decreased amount of $184,150.00 and Change Order No. 10 in the amount of $841,209.94 payable to Oscar Renda Contracting, Inc., a non-local, Non-SMWVB firm, in connection with the C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B Project.

- The change orders to the contract that is the subject of the attached resolution will, if approved, authorize work required by Section V. B- Early Action Program of the Consent Decree between the San Antonio Water System (the "System"), the United States of America and the State of Texas lodged in the United States District Court for the Western District of Texas on July 23, 2013.

- The C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street is being constructed in multiple phases: Phase 1A, 1B, 2, and 3. The project consists of approximately 26,000 feet of 12-inch to 42-inch sewer mains for the Central Basin along Apache Creek and Bandera Branch Tributary between South San Jacinto Street and Culebra Road and approximately 6,000 feet of 15-inch to 21-inch sewer mains along West Houston, Landa Avenue and Zarzamora Creek from Northwest 23rd Street to North San Gabriel.

- C5/C28 Phase 1B includes the construction of approximately 12,700 feet of 8-inch through 36-inch sewer mains along Laredo Street along Apache Creek to W. Houston Street. The construction then heads westbound along Houston Street and terminates at NW 26th Street.

- This project was identified in the Comprehensive Wastewater Master Plan development by the System’s Master Planning Division. This project will replace sewer pipe, which is in poor condition and requires additional capacity.
The City of San Antonio joint bid the Apache Creek Trail North improvements that occur within the limits of the System’s project. These improvements are a part of the Apache Creek portion of the Westside Creeks Restoration Project extending along the eastside of Apache Creek from Potosi to NW 19th Street.

On August 2, 2016, the System’s Board of Trustees, by Resolution No. 16-216, authorized a construction contract with Oscar Renda Contracting, Inc., in the total amount of $12,976,849.00 in connection with the project work.

The City of San Antonio Parks and Recreation Department decided to remove the work associated with lighting improvements associated with the Apache Creek Trail North improvements. Change Order No. 9, in the decreased amount of $184,150.00, provides a credit to the System for the costs associated with removing the lighting improvements for the Apache Creek Trail North.

Unexpected delays occurred during construction of the C5/C28 Phase 1A Project, which affected the C5/C28 Phase 1B Project Contractor’s ability to divert sewer flows and initiate construction. As a result, the Contractor submitted a delay claim. Negotiations for the claim were completed. Additional funding is required to settle the delay claim by the Contractor. Additional construction time is also required to complete the installation.

Change Order No. 10, in the amount of $841,209.94, provides for the costs and additional time associated with negotiating the delay claim by the Contractor.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

The Project Fund will finance this additional expenditure included in the CY 2018 Capital Improvement Program. This project is included in the Wastewater Core Business budget line item. The total amount requested for Change Order No. 10 is $841,209.94. The job number is 15-4503.

The revised authorizations for this project are as follows:

<table>
<thead>
<tr>
<th>Contract</th>
<th>Amount Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Amount (Resolution No. 16-216)</td>
<td>$12,976,849.00</td>
</tr>
<tr>
<td>Change Order Nos. 1 through 8</td>
<td>399,651.18</td>
</tr>
<tr>
<td>Proposed Change Order Nos. 9 and 10</td>
<td>657,059.94</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$14,033,560.12</td>
</tr>
</tbody>
</table>
Approval of Change Order No. 9 and No. 10
C5 Culebra - Castroville to Laredo and
C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B

The new contract amount for the System’s work as a result of all change orders is $14,033,560.12, which represents an increase of 8.14 percent from the original contract amount.

SUPPLEMENTARY COMMENTS:

The original completion date for this contract was April 7, 2018. As a result of the previous change orders and these change orders, which adds a total of 365 days, the contract has been extended and the new completion date is May 24, 2019.

Gail A. Hamrick-Pigg, P.E.
Director
Pipelines

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING CHANGE ORDER NO. 9 IN THE DECREASED AMOUNT OF $184,150.00 AND CHANGE ORDER NO. 10 IN THE AMOUNT OF $841,209.94 FOR THE ADDITIONAL PROJECT WORK IN CONNECTION WITH THE C5 CULEBRA - CASTROVILLE TO LAREDO AND C28 ZARZAMORA CREEK - SAN GABRIEL TO NW 23RD STREET PHASE 1B PROJECT; AMENDING RESOLUTION NO. 16-216 BY APPROVING AN ADDITIONAL AMOUNT NOT TO EXCEED $657,059.94 BE MADE AVAILABLE AND EXPENDED FROM THE SYSTEM'S PROJECT FUND FOR THE ADDITIONAL PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE CHANGE ORDER NO. 9 AND NO. 10, AND TO PAY OSCAR RENDA CONTRACTING, INC. AN ADDITIONAL AMOUNT NOT TO EXCEED $657,059.94 FOR ADDITIONAL PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the C5 Culebra – Castroville to Laredo and C28 Zarzamora Creek – San Gabriel to NW 23rd Street Phase 1B Project (the “Project”) was identified in the Comprehensive Wastewater Master Plan developed by the San Antonio Water System’s (the “System”) Master Planning Division to repair or replace mains in poor condition due to deterioration and required additional capacity; and

WHEREAS, on August 2, 2016, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 16-216, authorized a construction contract with Oscar Renda Contracting, Inc., in the amount of $12,976,849.00 in connection with the project work; and

WHEREAS, negotiations between the System and Oscar Renda Contracting, Inc. resulted in a credit of $184,150.00 for Change Order No. 9 to remove the work associated with lighting improvements for the Apache Creek Trail North; and

WHEREAS, Oscar Renda Contracting, Inc. submitted a delay claim regarding delays caused by unexpected construction issues during construction of Phase 1A of the Project; and

WHEREAS, Change Order No. 10 is required to settle the delay claim by the
Contractor; and

WHEREAS, negotiations between the System and Oscar Renda Contracting, Inc. resulted in a cost of $841,209.94 for Change Order No. 10 for the additional project work; and

WHEREAS, additional System funds in an amount not to exceed $657,059.94 are required in connection with the project work; and

WHEREAS, the total amount of $657,059.94 is available in the System’s Project Fund; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve Change Order No. 9 in the decreased amount of $184,150.00 and Change Order No. 10 in the amount of $841,209.94 in connection with the C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B Project, (ii) to amend Resolution No. 16-216 by approving an additional amount not to exceed $657,059.94 be made available and expended from the System’s Project Fund for additional project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute Change Order Nos. 9 and 10, and to pay Oscar Renda Contracting, Inc. an additional amount not to exceed $657,059.94 for additional project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That Change Order No. 9 in the decreased amount of $184,150.00 and Change Order No. 10 in the amount of $841,209.94 in connection with the C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B Project are hereby approved.

2. That Resolution No. 16-216 is hereby amended by authorizing an additional amount not to exceed $657,059.94 payable to Oscar Renda Contracting, Inc. in connection with the C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B Project.

3. That an additional amount not to exceed $657,059.94 is hereby made available and is to be expended from the System’s Project Fund.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute Change Order No. 9 in the decreased amount of $184,150.00 and Change Order No. 10 in the amount of $841,209.94, and to pay Oscar Renda Contracting, Inc. an additional amount not to exceed $657,059.94 in connection with the C5 Culebra - Castroville to Laredo and C28 Zarzamora Creek - San Gabriel to NW 23rd Street Phase 1B Project.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.
6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

7. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

___________________________________
Berto Guerra, Jr., Chairman

ATTEST:

___________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACT IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a professional services contract to Arias & Associates, Inc., a local, MBE-Hispanic firm, and authorizes funds in the amount of $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

- The San Antonio Water System’s (the “System”) Construction Division manages Capital Improvement Program (CIP) projects that are under construction. A need exists for professional engineering services related to geotechnical and construction materials testing and reporting for the quality control and quality assurance of construction related activities.

- The use of Geotechnical Engineering and Materials Testing Services Work Order contracts, over the past several years, has been very successful in ensuring that the System is able to meet the construction schedules of CIP projects.

- A Request for Qualifications was issued on June 25, 2018. A total of fourteen firms submitted statements of qualifications for this solicitation. Arias & Associates, Inc. was selected based on the System’s Architect and Engineer Selection Process.

- Projects will be assigned to the contract on a work order basis as they are identified. The scope of services and fees will be negotiated for each project prior to authorization to proceed.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2017 and CY 2018 Capital Improvement Program. The water work is included in the Water Delivery Core Business, Main Replacement – Water Category budget line item. The amount is $40,000.00 for water related geotechnical engineering work. The job number is 18-4008.
The wastewater work is included in the Wastewater Core Business, Main Replacement – Wastewater Category budget line item. The amount is $160,000.00 for sewer related geotechnical engineering work. The job number is 18-4514.

SUPPLEMENTARY COMMENTS:

Fourteen firms responded to the Request for Qualifications. Arias & Associates, Inc. was selected through the System’s Architect and Engineer Selection Process as a qualified consultant. The submitting firms are as follows:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpha Testing, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td><strong>Arias &amp; Associates, Inc.*,</strong></td>
<td><strong>Local/MBE–Hispanic</strong></td>
</tr>
<tr>
<td>TTL, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Fugro Consultants, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Integrated Testing and Engineering Company of San Antonio, L.P.</td>
<td>Local/WBE–Asian</td>
</tr>
<tr>
<td>Professional Service Industries, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Raba Kistner, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Terracon Consultants, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Braun Intertec Corporation</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>ECS Southwest, LLP.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>PaveTex Engineering, LLC.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>HVJ South Central Texas – M&amp;J, Inc.</td>
<td>Local/MBE–Asian</td>
</tr>
<tr>
<td>Rock Engineering &amp; Testing Laboratory, Inc.</td>
<td>Local/WBE–Asian</td>
</tr>
<tr>
<td>Frost GeoSciences, Inc.</td>
<td>Local/WBE–Caucasian</td>
</tr>
</tbody>
</table>

*Selected Firm

Arias & Associates, Inc. proposed to use the following subconsultants for services on this contract:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Percent of Fee</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eagle Drilling, Inc.</td>
<td>25%</td>
<td>Local/WBE–Caucasian</td>
</tr>
</tbody>
</table>
Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>SMWVB Analysis – Board Award</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>SBE</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>75.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>75.00%</td>
</tr>
<tr>
<td>MBE – Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Non–Minority</td>
<td>25.00%</td>
</tr>
<tr>
<td><strong>SMWVB Total</strong></td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

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**APPROVED:**

Gail A. Hamrick-Pigg, P.E.
Director
Pipelines

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A PROFESSIONAL SERVICES CONTRACT TO ARIAS & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED $200,000.00 IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $200,000.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT ENGINEERING WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH ARIAS & ASSOCIATES, INC., AND TO PAY ARIAS & ASSOCIATES, INC. AN AMOUNT NOT TO EXCEED $200,000.00 FOR THE PROJECT ENGINEERING WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the San Antonio Water System (the “System”) requires professional engineering services (the “project engineering work”) related to geotechnical engineering and construction materials testing services during construction on various capital improvement projects; and

WHEREAS, the project engineering work will consist of geotechnical engineering and construction materials testing and reporting for the quality control and quality assurance of the System’s construction related activities; and

WHEREAS, Arias & Associates, Inc., a local, MBE-Hispanic firm, was selected through the System’s Architect and Engineer Selection Process for the project engineering work; and

WHEREAS, a contract in an amount not to exceed $200,000.00 is to be awarded to Arias & Associates, Inc.; and

WHEREAS, the amount of $200,000.00 is available from the System’s Project Fund for the project engineering work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a professional services contract to Arias & Associates, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing
Services, (ii) to approve the expenditure of funds and make available an amount not to exceed $200,000.00 for the project engineering work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a professional services contract with Arias & Associates, Inc., and to pay Arias & Associates, Inc. an amount not to exceed $200,000.00 for the project engineering work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a professional services contract in an amount not to exceed $200,000.00 is hereby awarded to Arias & Associates, Inc. in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

2. That the expenditure of funds in an amount not to exceed $200,000.00 for the project engineering work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a professional services contract with Arias & Associates, Inc., and to pay Arias & Associates, Inc. an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

______________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACT IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a professional services contract to Professional Service Industries, Inc., a local, non-SMWVB firm, and authorizes funds in the amount of $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

- The San Antonio Water System’s (the “System”) Construction Division manages Capital Improvement Program (CIP) projects that are under construction. A need exists for professional engineering services related to geotechnical and construction materials testing and reporting for the quality control and quality assurance of construction related activities.

- The use of Geotechnical Engineering and Materials Testing Services Work Order contracts, over the past several years, has been very successful in ensuring that the System is able to meet the construction schedules of CIP projects.

- A Request for Qualifications was issued on June 25, 2018. A total of fourteen firms submitted statements of qualifications for this solicitation. Professional Service Industries, Inc. was selected based on the System’s Architect and Engineer Selection Process.

- Projects will be assigned to the contract on a work order basis as they are identified. The scope of services and fees will be negotiated for each project prior to authorization to proceed.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Main Replacement Core Business budget line item. The amount is $40,000.00 for water related geotechnical engineering work. The job number is 18-4008.
The wastewater work is included in the Wastewater Main Replacement Core Business budget line item. The amount is $160,000.00 for sewer related geotechnical engineering work. The job number is 18-4514.

SUPPLEMENTARY COMMENTS:

Fourteen firms responded to the Request for Qualifications. Professional Service Industries, Inc. was selected through the System’s Architect and Engineer Selection Process as a qualified consultant. The submitting firms are as follows:

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*Selected Firm

Professional Service Industries, Inc. proposed to use the following subconsultants for services on this contract:

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<th>Percent of Fee</th>
<th>Local/SMWVB</th>
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<tr>
<td>Integrated Testing and Engineering Company of San Antonio</td>
<td>40%</td>
<td>Local/WBE–Asian</td>
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</table>
Additionally, the overall SMWVB analysis is shown in the following table:

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<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Other</td>
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<tr>
<td>WBE – Minority</td>
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</tr>
<tr>
<td>WBE – Non-Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>40.00%</td>
</tr>
</tbody>
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Gail A. Hamrick-Pigg, P.E.  
Director  
Pipelines  

APPROVED:  

Robert R. Puente  
President/Chief Executive Officer  

Andrea L.H. Beymer, P.E.  
Vice President  
Engineering and Construction
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A PROFESSIONAL SERVICES CONTRACT TO PROFESSIONAL SERVICE INDUSTRIES, INC. IN AN AMOUNT NOT TO EXCEED $200,000.00 IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $200,000.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT ENGINEERING WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH PROFESSIONAL SERVICE INDUSTRIES, INC., AND TO PAY PROFESSIONAL SERVICE INDUSTRIES, INC. AN AMOUNT NOT TO EXCEED $200,000.00 FOR THE PROJECT ENGINEERING WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the San Antonio Water System (the “System”) requires professional engineering services (the “project engineering work”) related to geotechnical engineering and construction materials testing services during construction on various capital improvement projects; and

WHEREAS, the project engineering work will consist of geotechnical engineering and construction materials testing and reporting for the quality control and quality assurance of the System’s construction related activities; and

WHEREAS, Professional Service Industries, Inc., a local, non-SMWVB firm, was selected through the System’s Architect and Engineer Selection Process for the project engineering work; and

WHEREAS, a contract in an amount not to exceed $200,000.00 is to be awarded to Professional Service Industries, Inc.; and

WHEREAS, the amount of $200,000.00 is available from the System’s Project Fund for the project engineering work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award
a professional services contract to Professional Service Industries, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services, (ii) to approve the expenditure of funds and make available an amount not to exceed $200,000.00 for the project engineering work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a professional services contract with Professional Service Industries, Inc., and to pay Professional Service Industries, Inc. an amount not to exceed $200,000.00 for the project engineering work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a professional services contract in an amount not to exceed $200,000.00 is hereby awarded to Professional Service Industries, Inc. in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

2. That the expenditure of funds in an amount not to exceed $200,000.00 for the project engineering work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a professional services contract with Professional Service Industries, Inc., and to pay Professional Service Industries, Inc. an amount not to exceed $200,000.00 for the project engineering work.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACT IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a professional services contract to Raba Kistner, Inc., a local, non-SMWVB firm and authorizes funds in the amount of $200,000.00 for the 2018 Geotechnical Engineering and Construction Materials Testing Services.

- The San Antonio Water System’s (the “System”) Construction Division manages Capital Improvement Program (CIP) projects that are under construction. A need exists for professional engineering services related to geotechnical and construction materials testing and reporting for the quality control and quality assurance of construction related activities.

- The use of Geotechnical Engineering and Materials Testing Services Work Order contracts, over the past several years, has been very successful in ensuring that the System is able to meet the construction schedules of CIP projects.

- A Request for Qualifications was issued on June 25, 2018. A total of fourteen firms submitted statements of qualifications for this solicitation. Raba Kistner, Inc. was selected based on the System’s Architect and Engineer Selection Process.

- Projects will be assigned to the contract on a work order basis as they are identified. The scope of services and fees will be negotiated for each project prior to authorization to proceed.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Main Replacement Core Business budget line item. The amount is $100,000.00 for water related geotechnical engineering work. The job number is 18-4008.
The wastewater work is included in the Wastewater Main Replacement Core Business budget line item. The amount is $100,000.00 for sewer related geotechnical engineering work. The job number is 18-4514.

SUPPLEMENTARY COMMENTS:

Fourteen firms responded to the Request for Qualifications. Raba Kistner, Inc. was selected through the System’s Architect and Engineer Selection Process as a qualified consultant. The submitting firms are as follows:

<table>
<thead>
<tr>
<th>Name of Firm</th>
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<tr>
<td>Arias &amp; Associates, Inc.</td>
<td>Local/MBE–Hispanic</td>
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<tr>
<td>TTL, Inc.</td>
<td>Local/Non–SWMV</td>
</tr>
<tr>
<td>Fugro Consultants, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Integrated Testing and Engineering Company of San Antonio, L.P.</td>
<td>Local/WBE–Asian</td>
</tr>
<tr>
<td>Professional Service Industries, Inc.</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td><strong>Raba Kistner, Inc.</strong>*</td>
<td><strong>Local/Non–SMWVB</strong></td>
</tr>
<tr>
<td>Terracon Consultants, Inc.</td>
<td>Local/Non – SMWVB</td>
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<tr>
<td>Braun Intertec Corporation</td>
<td>Local/Non–SMWVB</td>
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<tr>
<td>ECS Southwest, LLP</td>
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<tr>
<td>HVJ South Central Texas – M&amp;J, Inc.</td>
<td>Local//MBE–Asian</td>
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<td>Rock Engineering &amp; Testing Laboratory, Inc.</td>
<td>Local/WBE–Asian</td>
</tr>
<tr>
<td>Frost GeoSciences, Inc.</td>
<td>Local/WBE–Caucasian</td>
</tr>
</tbody>
</table>

*Selected Firm

Raba Kistner, Inc. proposed to use the following subconsultants for services on this contract:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Percent of Fee</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eagle Drilling, Inc.</td>
<td>15%</td>
<td>Local/WBE–Caucasian</td>
</tr>
<tr>
<td>Farley Management Company, LLC</td>
<td>6%</td>
<td>Local/ WBE–Hispanic</td>
</tr>
<tr>
<td>HVJ South Central Texas – M&amp;J, Inc.</td>
<td>19%</td>
<td>Local/WBE–Asian</td>
</tr>
<tr>
<td>Altus Traffic Management</td>
<td>3%</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Olson Engineering</td>
<td>3%</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>TRI Environmental, Inc.</td>
<td>3%</td>
<td>Local/Non–SMWVB</td>
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</table>
Additionally, the overall SMWVB analysis is shown in the following table:

<table>
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<tr>
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<td>0.00%</td>
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<tr>
<td>MBE – African American</td>
<td>0.00%</td>
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<td>0.00%</td>
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<tr>
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<td>0.00%</td>
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<tr>
<td>MBE – Other</td>
<td>0.00%</td>
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<tr>
<td>WBE – Minority</td>
<td>25.00%</td>
</tr>
<tr>
<td>WBE – Non–Minority</td>
<td>15.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>40.00%</td>
</tr>
</tbody>
</table>

Gail A. Hamrick-Pigg, P.E.  
Director  
 Pipelines  

APPROVED:  

Robert R. Puente  
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A PROFESSIONAL SERVICES CONTRACT TO RABA KISTNER, INC. IN AN AMOUNT NOT TO EXCEED $200,000.00 IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $200,000.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT ENGINEERING WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH RABA KISTNER, INC., AND TO PAY RABA KISTNER, INC. AN AMOUNT NOT TO EXCEED $200,000.00 FOR THE PROJECT ENGINEERING WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the San Antonio Water System (the “System”) requires professional engineering services (the “project engineering work”) related to geotechnical engineering and construction materials testing services during construction on various capital improvement projects; and

WHEREAS, the project engineering work will consist of geotechnical engineering and construction materials testing and reporting for the quality control and quality assurance of the System’s construction related activities; and

WHEREAS, Raba Kistner, Inc., a local, non-SMWVB firm, was selected through the System’s Architect and Engineer Selection Process for the project engineering work; and

WHEREAS, a contract in an amount not to exceed $200,000.00 is to be awarded to Raba Kistner, Inc.; and

WHEREAS, the amount of $200,000.00 is available from the System’s Project Fund for the project engineering work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award
a professional services contract to Raba Kistner, Inc. in an amount not to exceed $200,000.00 in
collection with the 2018 Geotechnical Engineering and Construction Materials Testing Services,
(ii) to authorize the expenditure of funds and to make available an amount not to exceed
$200,000.00 from the System’s Project Fund for the project engineering work, and (iii) to authorize
the President/Chief Executive Officer or his duly appointed designee to execute a professional
services contract with Raba Kistner, Inc., and to pay Raba Kistner, Inc. an amount not to exceed
$200,000.00 for the project engineering work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF
TRUSTEES:

1. That a professional services contract in an amount not to exceed $200,000.00 is hereby
awarded to Raba Kistner, Inc. in connection with the 2018 Geotechnical Engineering and

2. That the expenditure of funds in an amount not to exceed $200,000.00 for the project
engineering work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby
authorized to execute a professional services contract with Raba Kistner, Inc., and to pay Raba
Kistner, Inc. an amount not to exceed $200,000.00 for the project engineering work.

4. It is officially found, determined and declared that the meeting at which this resolution is
adopted was open to the public, and that public notice of the time, place and subject matter of the
public business to be conducted at such meeting, including this resolution, was given to all as
required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason
held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon
any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective,
the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted
without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees  
FROM: Gail Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction  
THROUGH: Robert R. Puente, President/Chief Executive Officer  
SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACT IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES  

Board Action Date: September 11, 2018  

SUMMARY AND RECOMMENDATION:  
The attached resolution awards a professional services contract to Terracon Consultants, Inc., a local, non-SMWVB firm, and authorizes funds in the amount of $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.  

- The San Antonio Water System’s (the “System”) Construction Division manages Capital Improvement Program (CIP) projects that are under construction. A need exists for professional engineering services related to geotechnical and construction materials testing and reporting for the quality control and quality assurance of construction related activities.  
- The use of Geotechnical Engineering and Materials Testing Services Work Order contracts, over the past several years, has been very successful in ensuring that the System is able to meet the construction schedules of CIP projects.  
- A Request for Qualifications was issued on June 25, 2018. A total of fourteen firms submitted statements of qualifications for this solicitation. Terracon Consultants, Inc. was selected based on the System’s Architect and Engineer Selection Process.  
- Projects will be assigned to the contract on a work order basis as they are identified. The scope of services and fees will be negotiated for each project prior to authorization to proceed.  

Staff recommends that the Board approve this resolution.  

FINANCIAL IMPACT:  
The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Main Replacement Core Business budget line item. The amount is $40,000.00 for water related geotechnical engineering work. The job number is 18-4008.
The wastewater work is included in the Wastewater Main Replacement Core Business budget line item. The amount is $160,000.00 for sewer related geotechnical engineering work. The job number is 18-4514.

SUPPLEMENTARY COMMENTS:

Fourteen firms responded to the Request for Qualifications. Terracon Consultants, Inc. was selected through the System’s Architect and Engineer Selection Process as a qualified consultant. The submitting firms are as follows:

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*Selected Firm

Terracon Consultants, Inc. proposed to use the following subconsultants for services on this contract:

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<td>30%</td>
<td>Local/MBE–Hispanic</td>
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<td>San Antonio Testing Laboratory, LLC</td>
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<tr>
<td>Ramco Drillers, LLC</td>
<td>5%</td>
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<td>Gail A. Hamrick-Pigg, P.E.</td>
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<td>Robert R. Puente</td>
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<td>President/Chief Executive Officer</td>
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RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A PROFESSIONAL SERVICES CONTRACT TO TERRACON CONSULTANTS, INC. IN AN AMOUNT NOT TO EXCEED $200,000.00 IN CONNECTION WITH THE 2018 GEOTECHNICAL ENGINEERING AND CONSTRUCTION MATERIALS TESTING SERVICES; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $200,000.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT ENGINEERING WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH TERRACON CONSULTANTS, INC., AND TO PAY TERRACON CONSULTANTS, INC. AN AMOUNT NOT TO EXCEED $200,000.00 FOR THE PROJECT ENGINEERING WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the San Antonio Water System (the “System”) requires professional engineering services (the “project engineering work”) related to geotechnical engineering and construction materials testing services during construction on various capital improvement projects; and

WHEREAS, the project engineering work will consist of geotechnical engineering and construction materials testing and reporting for the quality control and quality assurance of the System’s construction related activities; and

WHEREAS, Terracon Consultants, Inc., a local, non-SMWVB firm, was selected through the System’s Architect and Engineer Selection Process for the project engineering work; and

WHEREAS, a contract in an amount not to exceed $200,000.00 is to be awarded to Terracon Consultants, Inc.; and

WHEREAS, the amount of $200,000.00 is available from the System’s Project Fund for the project engineering work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a professional services contract to Terracon Consultants, Inc. in an amount not to exceed $200,000.00 in connection with the 2018 Geotechnical Engineering and Construction Materials
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a professional services contract in an amount not to exceed $200,000.00 is hereby awarded to Terracon Consultants, Inc. in connection with the 2018 Geotechnical Engineering and Construction Materials Testing Services.

2. That the expenditure of funds in an amount not to exceed $200,000.00 for the project engineering work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a professional services contract with Terracon Consultants, Inc., and to pay Terracon Consultants, Inc. an amount not to exceed $200,000.00 for the project engineering work.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail A. Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVING AN INTERLOCAL AGREEMENT AND AUTHORIZING EXPENDITURES TO BEXAR COUNTY IN CONNECTION WITH THE MARSHALL ROAD: US 281 TO BULVERDE ROAD PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes the President/Chief Executive Officer to execute an Interlocal Agreement with Bexar County through the Bexar County Public Works Program (the “County”) and authorizes expenditures to the County in an amount not to exceed $1,578,114.22 for the joint construction of water facility adjustments in connection with the Marshall Road: US 281 to Bulverde Road Project.

- The County proposes to construct street and drainage improvements in the area illustrated on the attached maps. The County’s improvement work is estimated to cost $5,254,225.67.

- Due to the reconstruction and improvements with the Marshall Road: US 281 to Bulverde Road Project, the existing water mains that were installed from 1987 through 2005 require adjustment to avoid conflicts with the County’s street and drainage improvements.

- There are no sewer facilities within the project limits that require adjustment or replacement; therefore, there is no sewer work on this project.

- The water work will consist of the adjustment of approximately 2,457 feet of 6-inch through 24-inch water main.

- The County anticipates approving the bid of Curran Contracting Company for construction of this project in September, 2018. As part of joint bidding, advanced approval for funding and for the execution of an Interlocal Agreement is required by the County prior to issuing a notice to proceed on construction.

- Funds as determined by the amount bid will be transferred to the County following the execution of the Interlocal Agreement.

Staff recommends that the Board approve this resolution.
Approval of an Interlocal Agreement and Authorization for Expenditure of Funds to Bexar County for the Marshall Road: US 281 to Bulverde Road Project

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Delivery Core Business, Governmental - Water Category, and Governmental Water Replacements budget line item. The amount is $1,578,114.22 for water work. The job number is 17-5021.

Gail A. Hamrick-Pigg, P.E.
Director
Pipelines

APPROVED:

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
SAN ANTONIO WATER SYSTEM
PROJECT AREA MAP
ATTACHMENT I

MARSHALL ROAD
US 281 TO BULVERDE ROAD

LEGEND
★ PROJECT SITE
EDWARDS AQUIFER RECHARGE ZONE
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AN INTERLOCAL AGREEMENT WITH BEXAR COUNTY AND AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE THE INTERLOCAL AGREEMENT FOR THE ADJUSTMENT OF WATER FACILITIES BY BEXAR COUNTY IN CONNECTION WITH THE MARSHALL ROAD: US 281 TO BULVERDE ROAD PROJECT; AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED $1,578,114.22 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Bexar County through the Bexar County Public Works Program (the “County”) proposes to construct the Marshall Road: US 281 to Bulverde Road Project; and

WHEREAS, the Marshall Road: US 281 to Bulverde Road Project will require the adjustment of certain water facilities (the “project work”) of the San Antonio Water System (the “System”); and

WHEREAS, the County has requested that the System execute an Interlocal Agreement and pay for the System’s share of the project work costs; and

WHEREAS, System funds in an amount not to exceed $1,578,114.22 are required for the project work; and

WHEREAS, the total amount of $1,578,114.22 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve an Interlocal Agreement with the County for the adjustment of water facilities by the County in connection with the Marshall Road: US 281 to Bulverde Road Project and to authorize the President/Chief Executive Officer or his duly appointed designee to execute an Interlocal Agreement, and (ii) to authorize the expenditure of funds in an amount not to exceed $1,578,114.22 for the System’s share of the project work; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That an Interlocal Agreement with the County substantially in the form of the agreement attached hereto is hereby approved and the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute the Interlocal Agreement with the County in connection with the Marshall Road: US 281 to Bulverde Road Project.

2. That the expenditure of funds in the amount of $1,578,114.22 for the adjustment of water facilities by the County in connection with the Marshall Road: US 281 to Bulverde Road Project is hereby approved.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including the resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_________________________________
Patricia E. Merritt, Assistant Secretary
This Interlocal Agreement (the “Agreement”) is made and entered into this day of , 2018, by and between the COUNTY OF BEXAR, a political subdivision of the State of Texas (“COUNTY”), and SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, a political subdivision of the State of Texas (“SAWS”) (also, individually, a “Party” or, collectively, the “Parties), pursuant to the Interlocal Cooperation Act, Chapter 791 of the Government Code.

PURPOSE

1.01 The purpose of this Agreement is to facilitate the COUNTY’s improvement of the Marshall Road: US 281 to Bulverde Road (the “Project”) by including certain necessary SAWS adjustments in COUNTY’s Specifications for the Project, thus assuring the coordination of COUNTY’s road and drainage improvements with SAWS’s adjustments.

SERVICES

2.01 COUNTY agrees to include in the Bexar County Public Works Specifications for the Project the plans and specifications for SAWS Water Job No. 17-5021 (the “SAWS Work”) which SAWS shall prepare and deliver to COUNTY and is incorporated by reference herein, and to contract for the performance of the SAWS Work.

2.02 Immediately after tabulating all of the bids received for the Project, COUNTY will notify SAWS in writing of the name of the contractor selected by COUNTY for the Project (the “Contractor”) and the bid amount (the “Original Bid”) for the SAWS Work.

2.03 COUNTY agrees to use its best efforts to enforce all of its rights and remedies against the Contractor for the SAWS Work.

2.04 COUNTY agrees to allow SAWS access to the Project site to (i) inspect and witness testing of the SAWS Work and to determine if the SAWS Work is in conformity with the plans, specifications and special provisions applicable thereto and is in good working order, and (ii) verify all quantities used in connection with the SAWS Work.

FEE

3.01 COUNTY acknowledges that SAWS has provided the COUNTY with two (2) signed copies of this Interlocal Agreement. COUNTY will return one fully executed original to SAWS upon COUNTY’s approval. Additionally, COUNTY acknowledges that SAWS has conditionally delivered to COUNTY good and sufficient funds (the “Funds”) for the bid amount (See Exhibit A) plus two percent (2%) contingency. Any and all control and beneficial use of the funds by the COUNTY, will be contingent on SAWS receiving a fully executed original of this Interlocal Agreement from the COUNTY.
3.02 For materials and construction used in the SAWS Work, SAWS agrees to pay to COUNTY the amount of One Million, Five Hundred Seventy-Eight Thousand, One Hundred Fourteen Dollars and Twenty-Two Cents ($1,578,114.22), which includes the Original Bid amount and a two percent (2%) contingency.

3.03 If the cost of performing the SAWS Work exceeds the Original Bid, the following provisions shall apply:

(a) Costs exceed Original Bid but do not exceed the Original Bid plus two percent (2%) contingency. Once COUNTY receives notice from the Contractor that additional funds will be needed for SAWS Work, COUNTY will notify SAWS in writing of the change order. Unless, SAWS objects within five (5) business days of receipt of the written notification of the change order, COUNTY will proceed with SAWS Work and utilize the contingency amount for payment to the Contractor.

(b) Change Orders. If change orders are requested by SAWS or required for SAWS Work under this Agreement, SAWS will make a change order request and SAWS staff or SAWS’s Consultant shall prepare the change order. If COUNTY requires a change order that affects the SAWS Work, the change order will be submitted to SAWS staff for approval. SAWS staff agrees to use good faith efforts to respond to change orders within five business days after SAWS staff’s receipt of request, or such additional period of time as may be reasonably necessary under the circumstances based on the complexity of the change order. In no event will SAWS’s deliberative process be allowed to jeopardize COUNTY’s timely completion of COUNTY’s Project, as determined by COUNTY. SAWS staff is under no obligation to approve any change orders, and in no event shall SAWS be responsible for costs or expenses under change orders that are not approved by SAWS staff.

(c) If a change order results in total costs exceeding the amount stated in §3.02, COUNTY will send copies of invoices covering the additional amounts authorized by a change order approved by SAWS staff, and SAWS shall pay COUNTY the additional amounts in the approved change order within fifteen (15) days, unless further time is required for Board action to appropriate funds.

3.04 If the cost of performing the SAWS Work is less than the amount stated in §3.02, COUNTY agrees to refund the overpayment to SAWS within fifteen (15) days of determination of same.

3.05 After County’s final recapitulation with the contractor, County will refund SAWS for Funds previously paid but unused.

3.06 The Parties acknowledge that the financial commitments stated in this Agreement are independent of the necessary operating and maintenance expenses that are SAWS’s responsibilities.
SAWS’ RESPONSIBILITY

4.01 SAWS agrees to accept full responsibility for inspection and acceptance of work performed as the SAWS Work.

4.02 Following Substantial Completion of SAWS Work, SAWS shall be responsible for all costs associated with operating and maintaining SAWS Work. Substantial Completion is the date, certified by COUNTY, County’s design professional and SAWS (including SAWS design professional) that the contractor has reached that stage of completion when SAWS and COUNTY accept use of SAWS Work for its intended purposes.

ENTIRE AGREEMENT

5.01 This Agreement, along with the specifications for the SAWS Work, supersedes any and all other agreements, either oral or in writing, and no other agreement, statement, or promise relating to the subject matter of this Agreement that is not contained herein shall be valid or binding.

ATTORNEY’S FEES

6.01 If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, to the extent allowed by law, the prevailing Party shall be entitled to reasonable attorney’s fees in addition to any other relief to which the prevailing Party may be entitled.

TEXAS LAW TO APPLY

7.01 This Agreement is performable in Bexar County, Texas and the validity of any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas.

SEVERABILITY

8.01 If any one or more of the provisions contained in the Agreement is for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision and this Agreement will be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

AMENDMENT

9.01 No amendment, supplementation, modification, or alteration of the terms hereof will be binding unless it is in writing, dated subsequent to the date hereof and duly executed by the Parties.

THIRD PARTY BENEFICIARY

10.01 SAWS shall be considered a third party beneficiary under COUNTY’s contract for the Project; provided, however, that prior to final completion of the work under the contract for the Project, SAWS shall not enforce any remedies against the Contractor without the prior written consent of COUNTY, which consent may be withheld if COUNTY reasonably believes that
enforcement would have an adverse effect on final completion of the Project. Prior to final completion of the work under the contract for the Project, COUNTY shall cooperate in the prosecution of any action against the Contractor, to the extent consistent with the terms of the Project Contract Documents, which SAWS may reasonably determine to be necessary to undertake in connection with the SAWS Work done by the Contractor or its subcontractors.

**INDEMNIFICATION**

11.01 COUNTY agrees to include SAWS in the list of parties being indemnified by the COUNTY contractors under contract documents, so that SAWS receives the benefit of all indemnities under the contract documents.

**INSURANCE**

12.01 In all contracts entered into by COUNTY for SAWS Work, County shall include provisions reflecting:

(a) With regard to insurance coverage during the construction phase of the Project, COUNTY shall require all consultants, contractors, subcontractors and suppliers to maintain insurance coverage limits that are sufficient to compensate COUNTY and SAWS for their respective interests in the Project, with regard to any liability a third party may have due to the services, equipment, or materials provided for construction of the Project. SAWS shall be named as an additional insured on all policies naming COUNTY as an additional insured. COUNTY shall provide SAWS’s Designated Representative with copies of the completed Certificates of Insurance which Certificates shall be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon. SAWS reserves the right to review the insurance requirements during the effective period of this Agreement, and any extension or renewal hereof, and to modify insurance coverage and limits when deemed necessary and prudent by SAWS’s Risk Manager based upon changes in statutory law or court decisions. If SAWS requests a coverage modification which results in an increased cost, SAWS shall be responsible for the increased cost and COUNTY shall have no obligation to request a coverage modification until SAWS submits payment to cover the increased cost. COUNTY will not allow any modifications to the insurance coverage through which SAWS may incur increased risks.

(b) COUNTY shall require all contractors and service providers to maintain statutory worker’s compensation insurance for all of their employees with a waiver of subrogation in favor of COUNTY and SAWS.

(c) COUNTY will require the consultants, contractors, and any subcontractors to provide all statutorily-required payment and performance bonds at no additional cost to the Parties. On services for which performance bonds are not statutorily required, COUNTY shall determine whether to require performance bonds.
13.01 In accordance with Section 791.011(d)(3) of the Texas Government Code, the party paying for the performance of governmental functions or services, if any, must make those payments from current revenues available to the paying party.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH WILL HAVE FULL FORCE AND EFFECT ON THIS _______ DAY OF ______________________, 2018.

BEXAR COUNTY, TEXAS

By: _______________________
    Nelson W. Wolff
    County Judge

SAN ANTONIO WATER SYSTEM

By: _______________________
    Robert R. Puente
    President/Chief Executive Officer

ATTEST:
By: _______________________
    Gerard C. Rickhoff
    County Clerk
APPROVED AS TO LEGAL FORM:

Nicholas “Nico” LaHood  
Criminal District Attorney  
Bexar County, Texas

By:  

Larry L. Roberson  
Assistant Criminal District Attorney  
-Civil Section

APPROVED AS TO FINANCIAL FORM:

By:  

Susan Yeatts  
County Auditor

By:  

David Smith  
County Manager

APPROVED:

By:  

Renee D. Green, PE  
Director of Public Works/County Engineer
Exhibit “A”
Bid Amount and Funds Committed by SAWS

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Main Relocation</td>
<td>$1,547,170.80</td>
</tr>
<tr>
<td>Contingency (2% of Construction)</td>
<td>$30,943.42</td>
</tr>
<tr>
<td><strong>Total SAWS Contribution =</strong></td>
<td><strong>$1,578,114.22</strong></td>
</tr>
</tbody>
</table>

1. Approx. 25 LF of 6-inch, 71 LF of 8-inch DI Water Pipe, 73 LF of 12-inch, 1,792 LF of 16-inch DI Water Pipe, & 496 LF of 24-inch DI Water Pipe
TO: San Antonio Water System Board of Trustees

FROM: Gail A. Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVING AN ADVANCE FUNDING AGREEMENT AND AUTHORIZING EXPENDITURES TO THE TEXAS DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE FM 1976: WOODLAKE PARKWAY TO LOOP 1604 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes the President/Chief Executive Officer to execute an Advance Funding Agreement with the Texas Department of Transportation (TxDOT) and authorizes expenditures to TxDOT in an amount not to exceed $322,007.71 for the joint construction of the water facility adjustments in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project.

- TxDOT intends to reconstruct street and drainage improvements, along FM 1976 from Woodlake Parkway to Loop 1604 as illustrated on the attached maps. The construction cost estimate for the TxDOT roadway and drainage work is $16,526,788.00.

- Due to the proposed TxDOT’s improvements within the FM 1976: Woodlake Parkway to Loop 1604 project, existing water mains constructed between 1971 and 1985 require adjustment to avoid conflicts with proposed TxDOT improvements.

- There are no sewer facilities within the project limits that require adjustment or replacement; therefore, there is no sewer work on this project.

- The water adjustment work will consist of approximately 1,078 feet of 8-inch through 12-inch water main.

- Funds authorized for this project will be transferred to TxDOT following the San Antonio Water System’s Board of Trustees approval and execution of the Advance Funding Agreement in an amount not to exceed $322,007.71.

- The bid opening is scheduled for October 2018.

Staff recommends that the Board approve this resolution.
Approval of an Advance Funding Agreement and Expenditure of Funds to the Texas Department of Transportation for the FM 1976: Woodlake Parkway to Loop 1604 Project

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Delivery Core Business, Governmental – Water Category, and Governmental Water Replacements budget line item. The amount is $322,007.71 for water work. The job number is 17-5039.

[Signatures]

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE THE ADVANCE FUNDING AGREEMENT FOR THE ADJUSTMENT OF THE WATER FACILITIES BY THE TEXAS DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE FM 1976: WOODLAKE PARKWAY TO LOOP 1604 PROJECT; AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED $322,007.71 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Texas Department of Transportation (TxDOT) intends to reconstruct and widen the narrow roadway and add shoulders on the FM 1976: Woodlake Parkway to Loop 1604 project; and

WHEREAS, the FM 1976: Woodlake Parkway to Loop 1604 project will require the adjustment of certain water facilities (the “project work”) of the San Antonio Water System (the “System”); and

WHEREAS, TxDOT has requested that the System execute an Advance Funding Agreement and advance funds for the project work costs; and

WHEREAS, System funds in an amount not to exceed $322,007.71 are required for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve an Advance Funding Agreement with TxDOT for the adjustment of water facilities in connection with the FM 1976: Woodlake Parkway to Loop 1604 project and to authorize the President/Chief Executive Officer or his duly appointed designee to execute the Advance Funding Agreement; and (ii) to authorize the expenditure of funds in an amount not to exceed $322,007.71, for the project work; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That an Advance Funding Agreement with TxDOT is hereby approved and the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute the Advance Funding Agreement with TxDOT in connection with the FM 1976: Woodlake Parkway to Loop 1604 project.

2. That the expenditure of funds in an amount not to exceed $322,007.71 for the adjustment of water facilities by TxDOT in connection with the FM 1976: Woodlake Parkway to Loop 1604 project is hereby authorized.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

______________________________
Berto Guerra, Jr., Chairman

ATTEST:

______________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail A. Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVING AN ADVANCE FUNDING AGREEMENT AND AUTHORIZING EXPENDITURES FOR THE REMOVAL OF ASBESTOS PIPE TO THE TEXAS DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE FM 1976: WOODLAKE PARKWAY TO LOOP 1604 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes the President/Chief Executive Officer to execute an Advance Funding Agreement with the Texas Department of Transportation (TxDOT) and authorizes expenditures to TxDOT in an amount not to exceed $12,347.67 for the removal, handling and disposal of the San Antonio Water System’s (the “System”) abandoned asbestos cement pipe in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project.

- TxDOT intends to reconstruct FM 1976 from Woodlake Parkway to Loop 1604 as illustrated on the attached maps.

- The System’s joint bid work includes the adjustment of water mains. The water work requires that some of the existing water mains that are composed of asbestos cement materials be abandoned in place. This pipe can be managed in place if it is not in conflict with proposed construction. However, if it must be removed, special handling and disposal procedures are required.

- TxDOT revised its policy for the handling of certain materials on construction projects for joint bid utilities. The new policy requires all utilities to obtain a separate environmental contractor to remove, handle and dispose of the certain materials within TxDOT’s right-of-way.

- In order not to delay the current projected construction schedule, TxDOT has obtained the services of SWS Environmental Services to remove, handle and dispose of approximately 52 feet of asbestos cement pipe. The System agreed to provide advance funding to cover the costs of this additional work.

- The water work will consist of the removal, handling and disposal of approximately 52 feet of abandoned asbestos cement water main.
Approval of an Advance Funding Agreement and Authorize the Expenditure of Funds to the Texas Department of Transportation FM 1976: Woodlake Parkway to Loop 1604 Project.

- TxDOT requires that an Advance Funding Agreement be executed for the removal of asbestos cement pipe. Funds authorized for this project will be transferred to TxDOT following Board approval and execution of the Advance Funding Agreement.

- TxDOT received a proposal on May 11, 2018, from SWS Environmental Services. Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Delivery Core Business, Governmental – Water Category, and Governmental Water Replacements budget line item. The amount is $12,347.67 for water work. The job number is 17-5039.

---

Gail A. Hamrick-Pigg, P.E.
Director Pipelines

Andrea L. Beymer, P.E.
Vice President
Engineering and Construction

---

Robert R. Puente
President/Chief Executive Officer

---

Attachments:
1. Project Area Map
2. Project Site Map
FM 1976:
WOODLAKE PARKWAY TO LOOP 1604
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE THE ADVANCE FUNDING AGREEMENT FOR THE REMOVAL, HANDLING AND DISPOSAL OF ABANDONED ASBESTOS CEMENT PIPE BY THE TEXAS DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE FM 1976: WOODLAKE PARKWAY TO LOOP 1604 PROJECT; AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED $12,347.67 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Texas Department of Transportation (TxDOT) proposes to reconstruct the FM 1976: Woodlake Parkway to Loop 1604 project; and

WHEREAS, the FM 1976 Woodlake Parkway to Loop 1604 Project will require the removal, handling and disposal of abandoned asbestos cement pipe of the San Antonio Water System (the “System”); and

WHEREAS, it is anticipated that during construction, approximately 52 feet of abandoned asbestos cement pipe will need to be removed due to conflict with TxDOT’s construction work (the “project work”); and

WHEREAS, the removal, handling and disposal of asbestos cement pipe requires a qualified environmental contractor to perform the project work; and

WHEREAS, TxDOT has obtained the services of SWS Environmental Services; and

WHEREAS, TxDOT has requested that the System execute an Advance Funding Agreement and advance funds for the project work costs; and

WHEREAS, System funds in an amount not to exceed $12,347.67 are required for the project work; and

WHEREAS, the total amount of $12,347.67 is available from the System’s Project Fund for the project work; and
WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve an Advance Funding Agreement with TxDOT for the removal, handling and disposal of abandoned asbestos cement pipe by TxDOT in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project and to authorize the President/Chief Executive Officer or his duly appointed designee to execute the Advance Funding Agreement, and (ii) to authorize the expenditure of funds in an amount not to exceed $12,347.67 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That an Advance Funding Agreement with TxDOT is hereby approved and the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute the Advance Funding Agreement with TxDOT in connection with the FM 1976: Woodlake Parkway to Loop 1604 Project.

2. That the expenditure of funds in an amount not to exceed $12,347.67 for the removal, handling and disposal of abandoned asbestos cement pipe by TxDOT in connection with the FM 1976: Woodlake Pkwy to Loop 1604 Project is hereby authorized.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551 Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall, nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Gail A. Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVING AN INTERLOCAL AGREEMENT AND AUTHORIZING EXPENDITURES TO THE ALAMO REGIONAL MOBILITY AUTHORITY IN CONNECTION WITH THE EVANS ROAD PHASE I: BULVERDE TO TPC PARKWAY PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes the President/Chief Executive Officer to execute an Interlocal Agreement with the Alamo Regional Mobility Authority (the “Authority”) and authorizes expenditures to the Authority in an amount not to exceed $1,413,184.29 for the joint construction of water and sewer facility adjustments in connection with the Evans Road Phase I: Bulverde to TPC Parkway Project.

- The Authority proposes to construct street and drainage improvements in the area illustrated on the attached maps. The Authority’s improvement work is estimated to cost $8,616,347.32.

- Due to the reconstruction and improvements with the Evans Road Phase I: Bulverde to TPC Parkway Project, the existing water mains installed from 1999 through 2003 require adjustment to avoid conflicts with the Authority’s street and drainage improvements.

- The existing sewer mains installed in 2003 require adjustment to avoid conflicts with the Authority’s street and drainage improvements.

- The water work will consist of the adjustment of approximately 1,609 feet of 16-inch and 20-inch water main.

- The sewer work will consist of the adjustment of approximately 1,358 feet of 12-inch sewer force main, 5 manhole replacements, and 1 manhole adjustment.

- The Authority approved the bid of Capital Excavation Company for construction of this project on August, 2018. As part of joint bidding, advanced approval for funding and for the execution of an Interlocal Agreement is required by the Authority prior to issuing a notice to proceed on construction.
Approval of an Interlocal Agreement and Authorization for Expenditure of Funds to Alamo Regional Mobility Authority for the Evans Road Phase I: Bulverde to TPC Parkway Project

- Funds as determined by the amount bid will be transferred to the Authority following the execution of the Interlocal Agreement.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. The water work is included in the Water Delivery Core Business, Governmental – Water Category, and Governmental Water Replacements budget line item. The amount is $775,872.33 for water work. The job number is 16-5044.

The sewer work is included in the Wastewater Core Business, Governmental – Wastewater Category, and Governmental Wastewater Replacements budget line item. The amount is $637,311.96 for sewer work. The job number is 16-5544.

Gail A. Hamrick-Pigg, P.E.
Director
Pipelines

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
SAN ANTONIO WATER SYSTEM
PROJECT AREA MAP
ATTACHMENT I

EVANS ROAD PHASE I
(BULVERDE TO TPC PARKWAY)

LEGEND

⭐ PROJECT SITE

EDWARDS AQUIFER RECHARGE ZONE
SAN ANTONIO WATER SYSTEM
PROJECT SITE MAP
ATTACHMENT II

LEGEND
PROJECT LIMITS

EVANS ROAD PHASE I
(BULVERDE TO TPC PARKWAY)
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AN INTERLOCAL AGREEMENT WITH THE ALAMO REGIONAL MOBILITY AUTHORITY AND AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE THE INTERLOCAL AGREEMENT FOR THE ADJUSTMENT OF WATER AND SEWER FACILITIES BY THE ALAMO REGIONAL MOBILITY AUTHORITY IN CONNECTION WITH THE EVANS ROAD PHASE I: BULVERDE TO TPC PARKWAY PROJECT; AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED $1,413,184.29 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Alamo Regional Mobility Authority (the “Authority”) proposes to construct the Evans Road Phase I: Bulverde to TPC Parkway Project; and

WHEREAS, the Evans Road Phase I: Bulverde to TPC Parkway Project will require the adjustment of certain water and sewer facilities (the “project work”) of the San Antonio Water System (the “System”); and

WHEREAS, the Authority has requested that the System execute an Interlocal Agreement and pay for the System’s share of the project work costs; and

WHEREAS, System funds in the amount of $1,413,184.29 are required for the project work; and

WHEREAS, the total amount of $1,413,184.29 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve an Interlocal Agreement with the Authority for the adjustment of water and sewer facilities by the Authority in connection with the Evans Road Phase I: Bulverde to TPC Parkway Project and to authorize the President/Chief Executive Officer or his duly appointed designee to execute an Interlocal Agreement, and (ii) to authorize the expenditure of funds in an amount not to exceed $1,413,184.29 for the System’s share of the project work; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF
TRUSTEES:

1. That an Interlocal Agreement with the Authority substantially in the form of the agreement
attached hereto is hereby approved and the President/Chief Executive Officer or his duly appointed
designee is hereby authorized to execute the Interlocal Agreement with the Authority in connection
with the Evans Road Phase I: Bulverde to TPC Parkway Project.

2. That the expenditure of funds in an amount not to exceed $1,413,184.29 for the adjustment
of water and sewer facilities by the Authority in connection with the Evans Road Phase I: Bulverde
to TPC Parkway Project is hereby approved.

3. It is officially found, determined and declared that the meeting at which this resolution is
adopted was open to the public, and that public notice of the time, place, and subject matter of the
public business to be conducted at such meeting, including this resolution, was given to all as
required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason
held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon
any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective,
the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted
without the portion held to be unconstitutional, illegal, invalid, or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_________________________________
Patricia E. Merritt, Assistant Secretary
This Interlocal Agreement (the “Agreement”) is made and entered into this __________ day of __________, 2018, by and between the ALAMO REGIONAL MOBILITY AUTHORITY, a political subdivision of the State of Texas (“AUTHORITY”), and the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES, a political subdivision of the State of Texas (“SAWS”) (also, individually, a “Party” or, collectively, the “Parties), pursuant to the Interlocal Cooperation Act, Chapter 791 of the Government Code.

PURPOSE

1.01 The purpose of this Agreement is to facilitate the AUTHORITY’s improvement of the Evans Road Phase I: Bulverde to TPC Parkway (the “Project”) by including certain necessary SAWS adjustments in the AUTHORITY’s Specifications for the Project, thus assuring the coordination of the AUTHORITY’s road and drainage improvements with SAWS’s adjustments.

1.02 As part of its Project development activities, the Authority will include in its procurement of construction services the development and construction of the SAWS Work (as defined below).

SERVICES

2.01 The AUTHORITY agrees to include in the AUTHORITY Specifications for the Project the plans and specifications for SAWS Water Job No. 16-5044 and SAWS Sewer Job No. 16-5544 (the “SAWS Work”), which SAWS has prepared and delivered to the AUTHORITY and is incorporated by reference herein, and to contract for the performance of SAWS Work.

2.02 Immediately after tabulating all of the bids received for the Project, the AUTHORITY will notify SAWS in writing of the name of the contractor selected by the AUTHORITY for the Project (the “Contractor”) and the bid amount for the SAWS Work (the “Original Bid”). SAWS acknowledges that the Contractor selected by the AUTHORITY for the Project may not be the proposer which offered the lowest bid on the SAWS Work.

2.03 The AUTHORITY agrees to use its best efforts to enforce all of its rights and remedies against the Contractor for the SAWS Work.

2.04 The AUTHORITY agrees to allow SAWS access to the Project site to (i) inspect and witness testing of the SAWS Work and to determine if the SAWS Work is in conformity with the plans, specifications and special provisions applicable thereto and is in good working order, and (ii) verify all quantities used in connection with the SAWS Work, the AUTHORITY does not guarantee the performance of the Contractor in the performance of the SAWS Work, and SAWS will be responsible for inspecting and accepting the SAWS Work.
3.01 Not later than the fifteen (15) days after the execution of the Agreement by SAWS, SAWS shall deliver to the AUTHORITY good and sufficient funds (the “Funds”) for the Original Bid and a two percent (2%) contingency (the “Contingency”). The Funds to be provided by SAWS are further described in Exhibit A attached hereto.

3.02 For materials and construction used in the SAWS Work, SAWS agrees to pay to the AUTHORITY the amount of One Million, Four Hundred Thirteen Thousand, One Hundred Eighty-Four Dollars and Twenty-Nine Cents ($1,413,184.29), which includes the Original Bid amount and the Contingency.

3.03 If the cost of performing the SAWS Work exceeds the Original Bid, the following provisions shall apply:

(a) **Contractor-Initiated Change Orders. Use of the Contingency.** In the event the AUTHORITY receives a proposed change order from the Contractor indicating that additional funds exceeding the Original Bid will be needed for SAWS Work, the AUTHORITY will notify SAWS in writing of the proposed change order. Unless SAWS objects within ten (10) business days of receipt of the written notification of the proposed change order, the AUTHORITY will proceed with SAWS Work and utilize the Contingency for payment to the Contractor. In the event the amount of the proposed change order exceeds the Contingency amount, the AUTHORITY will authorize work up to the amount of the available Contingency, and will authorize the remaining work once a commitment, in writing, is received from an authorized representative of SAWS that the required additional funding (in excess of the available Contingency amount) will be remitted to the AUTHORITY prior to such time that payment for the work is due to the Contractor.

(b) **SAWS-Initiated Change Orders.** If change orders are requested by SAWS under this Agreement, SAWS will submit a change order request to the AUTHORITY, including all necessary documentation to prepare the change order.

(c) **Authority-Initiated Change Orders.** If the AUTHORITY requires a change order that affects the SAWS Work, the change order will be submitted to SAWS staff for approval. Notwithstanding the time period to reject a proposed change order under subsection (a), SAWS staff agrees to use good faith efforts to respond to change orders within ten (10) business days after SAWS staff’s receipt of request, or such additional period of time as may be reasonably necessary under the circumstances based on the complexity of the change order. SAWS staff is under no obligation to approve any change orders, and in no event shall SAWS be responsible for costs or expenses under Authority-Initiated Change Orders that are not approved by SAWS staff.

(d) If a SAWS Initiated Change Order or an Authority-Initiated Change Order results in total costs exceeding the amount stated in §3.02, the AUTHORITY will send copies of invoices covering the additional amounts authorized by a change order approved by
SAWS staff, and SAWS shall pay the AUTHORITY the additional amounts in the approved change order within fifteen (15) days after the approval of the Board of Trustees, unless further time is required for Board action to appropriate funds. In the event Board action is needed, SAWS agrees to present the request at the next regular or special Board meeting.

3.05. Not later than fifteen (15) days after the AUTHORITY’s final recapitulation with the Contractor, the AUTHORITY will refund SAWS for any surplus Funds.

3.06 The Parties acknowledge that the financial commitments stated in this Agreement are independent of the necessary operating and maintenance expenses that are SAWS’s responsibilities.

**SAWS’S RESPONSIBILITY**

4.01 SAWS agrees to accept full responsibility for inspection and acceptance of work performed as the SAWS Work, and acknowledges that the AUTHORITY is not responsible for the quality or performance of the SAWS Work by the Contractor.

4.02 Following Substantial Completion of SAWS Work, SAWS shall be responsible for all costs associated with operating and maintaining SAWS Work. Substantial Completion is the date, certified by the AUTHORITY, the AUTHORITY’s design professional and SAWS (including SAWS design professional) that the Contractor has reached that stage of completion when SAWS and the AUTHORITY accept use of SAWS Work for its intended purposes, recognizing that certain punch-list and/or clean-up items that do not preclude use of the SAWS Work for its intended purpose may be required.

**ENTIRE AGREEMENT**

5.01 This Agreement, along with the specifications for the SAWS Work, supersedes any and all other agreements, either oral or in writing, and no other agreement, statement, or promise relating to the subject matter of this Agreement that is not contained herein shall be valid or binding.

**ATTORNEY’S FEES**

6.01 If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, to the extent allowed by law, the prevailing Party shall be entitled to reasonable attorney’s fees in addition to any other relief to which the prevailing Party may be entitled.

**TEXAS LAW TO APPLY**

7.01 This Agreement is performable in Bexar County, Texas and the validity of any of its terms or provisions, as well as the rights and duties of the Parties, shall be governed by the laws of the State of Texas.
SEVERABILITY

8.01 If any one or more of the provisions contained in the Agreement is for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provision and this Agreement will be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

AMENDMENT

9.01 No amendment, supplementation, modification, or alteration of the terms hereof will be binding unless it is in writing, dated subsequent to the date hereof and duly executed by the Parties.

THIRD PARTY BENEFICIARY

10.01 SAWS shall be considered a third party beneficiary under the AUTHORITY’s contract for the Project; provided, however, that prior to final completion of the work under the contract for the Project, SAWS shall not enforce any remedies against the Contractor without the prior written consent of the AUTHORITY, which consent may be withheld if the AUTHORITY reasonably believes that enforcement would have an adverse effect on final completion of the Project. Prior to final completion of the work under the contract for the Project, the AUTHORITY shall cooperate in the prosecution of any action against the Contractor, to the extent consistent with the terms of the Project Contract Documents, which SAWS may reasonably determine to be necessary to undertake in connection with the SAWS Work done by the Contractor or its subcontractors.

INDEMNIFICATION

11.01 The AUTHORITY agrees to include SAWS in the list of parties being indemnified by the Contractor, so that SAWS receives the benefit of all indemnities under the contract documents with respect to the SAWS Work. Neither party to this Agreement waives, or intends to waive, their governmental immunity in connection with this Agreement, the Project, or the SAWS Work.

INSURANCE

12.01 In all contracts entered into by the AUTHORITY for SAWS Work, the AUTHORITY shall include provisions reflecting:

(a) With regard to insurance coverage during the construction phase of the Project, the AUTHORITY shall require all consultants, contractors, subcontractors and suppliers to maintain insurance coverage limits that are sufficient to compensate the AUTHORITY and SAWS for their respective interests in the Project with regard to any liability a third party may have due to the services, equipment, or materials provided for construction of the Project. SAWS shall be named as an additional insured on all policies naming the AUTHORITY as an additional insured. The AUTHORITY shall provide SAWS with copies of the completed Certificates of Insurance which Certificates shall be completed by an agent authorized to bind the named underwriters and their companies to the coverage limits and termination provisions shown thereon. SAWS reserves the right to
review the insurance requirements during the effective period of this Agreement, and any extension or renewal hereof, and to modify insurance coverage and limits when deemed necessary and prudent by SAWS’s Risk Manager based upon changes in statutory law or court decisions. If SAWS requests a coverage modification which results in an increased cost, SAWS shall be responsible for the increased cost and the AUTHORITY shall have no obligation to request a coverage modification until SAWS submits payment to cover the increased cost. The AUTHORITY will not allow any modifications to the insurance coverage through which SAWS may incur increased risks.

(b) The AUTHORITY shall require the Contractor to maintain statutory worker’s compensation insurance for all of their employees with a waiver of subrogation in favor of the AUTHORITY and SAWS.

(c) The AUTHORITY will require the Contractor, and any subcontractors to provide all statutorily-required payment and performance bonds at no additional cost to the Parties. On services for which performance bonds are not statutorily required, the AUTHORITY shall determine whether to require performance bonds.

CURRENT REVENUES

13.01 In accordance with Section 791.011(d)(3) of the Texas Government Code, the party paying for the performance of governmental functions or services, if any, must make those payments from current revenues available to the paying party.

EXECUTED IN DUPLICATE ORIGINALS, EACH OF WHICH WILL HAVE FULL FORCE AND EFFECT ON THIS ________ DAY OF ______________________, 2018.

ALAMO REGIONAL MOBILITY AUTHORITY  SAN ANTONIO WATER SYSTEM

By: ___________________________               By: ___________________________
    David Smith                        Robert R. Puente
    Executive Director                 President/Chief Executive Officer
Exhibit “A”
Bid Amount and Funds Committed by SAWS

<table>
<thead>
<tr>
<th>Cost Category</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Main Adjustments¹</td>
<td>$760,659.15</td>
</tr>
<tr>
<td>Sanitary Sewer Adjustments²</td>
<td>$624,815.65</td>
</tr>
<tr>
<td>Contingency (2% of Construction)</td>
<td>$27,709.49</td>
</tr>
<tr>
<td>Total SAWS Contribution =</td>
<td>$1,413,184.29</td>
</tr>
</tbody>
</table>

1. Approx. 601 LF of 16-inch DI Water Pipe & 1,008 LF of 20-inch DI Water Pipe
2. Approx. 1,358 LF of 12-inch HDPE Sanitary Sewer Force main, 5 manhole replacements, and 1 manhole adjustment
AGENDA ITEM NO. 17

TO: San Antonio Water System Board of Trustees

FROM: Bruce A. Haby, Manager, Corporate Real Estate, and Nancy Belinsky, Vice President and General Counsel

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AUTHORIZING THE PRESIDENT CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO NEGOTIATE AND EXECUTE A RIGHT OF ENTRY AGREEMENT WITH DRURY SOUTHWEST, INC. AND RTSA OPERATIONS, LP

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes the President/Chief Executive Officer or his duly appointed designee to negotiate and execute a right of entry agreement (the “Agreement”) with Drury Southwest, Inc. and RTSA Operations, LP for the Design Request 1091-800 N. Loop 1604 Sewer Main Project (the “Project”). It also authorizes the expenditure of funds in an amount not to exceed $100,000.00 for the Agreement.

- The Project involves construction within the Edwards Aquifer Recharge Zone (EARZ) via open cut, and jack and bore construction methods for approximately 572 feet of pipes ranging from 8-inch to 24-inch in diameter, associated manhole replacement and rehabilitation.

- During construction, the contractor discovered an existing 12-inch transmission CPS Energy gas pipeline and a 4-inch service gas pipeline near the SAWS sewer line.

- Due to safety concerns, the proposed sewer pipeline alignment was modified to move farther away from the gas pipelines. This change required special trench shoring to be installed for an excavation depth of approximately twenty-five feet and is in close proximity to a hotel property (“Property”) owned by the Drury Southwest, Inc. and located at 819 N Loop 1604 E. These activities require access and additional work area on the Property which will affect their tenant, RTSA Operations, LP, who operate a restaurant on the Property.

- SAWS staff intends to negotiate an Agreement, in an amount not to exceed $100,000.00, with Drury Southwest, Inc. and RTSA Operations, LP for an area on the Property to be used for access, staging work and storage of materials to complete the construction of the Project.

Staff recommends that the Board approve this resolution.
FINANCIAL IMPACT:

The Project Fund will incur costs associated with the acquisition of the land rights necessary for this Project. Funding for this Agreement is found in the CY 2018 Capital Improvement Program. The Project is included in the Wastewater Core Business budget line item.

The total amount payable under the Agreement will not exceed $100,000.00.

Bruce A. Haby
Manager
Corporate Real Estate

Nancy Belinsky
Vice President and General Counsel

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM (THE “SYSTEM”) BOARD OF TRUSTEES AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO NEGOTIATE AND EXECUTE A RIGHT OF ENTRY AGREEMENT (THE “AGREEMENT”) WITH DRURY SOUTHWEST, INC. AND RTSA OPERATIONS, LP, FOR THE DESIGN REQUEST 1091 - 800 N. LOOP 1604 SEWER MAIN PROJECT (THE “PROJECT”) IN AN AMOUNT NOT TO EXCEED $100,000.00; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the System has determined that an Agreement is necessary for the Project; and

WHEREAS, an Agreement will be negotiated between the System and Drury Southwest, Inc. (the “Owner”) and RTSA Operations, LP (the “Tenant”) providing for System construction access and staging rights on certain property owned by Owner and leased by Tenant; and

WHEREAS, funds in an amount not to exceed $100,000.00 are available in the Project Fund for the Agreement; and

WHEREAS, the San Antonio Water System Board of Trustees desires to (i) authorize the President/Chief Executive Officer or his duly appointed designee to negotiate and execute an Agreement with the Owner and Tenant for the Project, and (ii) authorize the expenditure of funds in an amount not to exceed $100,000.00 for the Agreement; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to negotiate and execute an Agreement with Owner and Tenant for construction access and staging rights.

2. That the expenditure of funds in an amount not to exceed $100,000.00 for the Agreement is hereby approved, made available and is to be expended from the Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to pay an amount not to exceed $100,000.00 to the Owner and Tenant for the Agreement.
4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

____________________________
Berto Guerra, Jr., Chairman

ATTEST:

____________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Bruce A. Haby, Manager, Corporate Real Estate, and Nancy Belinsky, Vice President and General Counsel

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACTS FOR REAL ESTATE SURVEY SERVICES IN CONNECTION WITH VARIOUS CAPITAL IMPROVEMENT PROJECTS

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards contracts for real estate survey services to Ford Engineering, Inc. and Bain Medina Bain, Inc. on an “as-required basis” in a total aggregate amount not to exceed $300,000.00 for a three-year contract period, with the option of two, one-year renewals.

- San Antonio Water System (SAWS) requires real estate survey services for various projects related to the acquisition and disposition of real property and for various capital improvement projects.

- SAWS issued a Request for Qualifications (RFQ) to provide real estate survey services on June 6, 2018, in which fifteen qualification statements were received. The Technical Evaluation Committee reviewed, evaluated and ranked each of the Statements of Qualifications according to a numerical scoring system and submitted them to the Selection Evaluation Committee for review and final selection.

- The scope of the contracts are for real estate survey services on an “as-required basis” for an aggregate amount not to exceed $300,000.00 over a three-year contract period, with the option of two, one-year renewals.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The funding for the unspecified contracts will only be spent contingent on the requirement for the service. Expenditures related to capital projects are included in the Capital Improvement Program Budgets as line items in the individual project budgets. These expenditures will be paid for from the SAWS Project Fund and charged to the capital project requiring the services. O&M expenditures will be paid from the SAWS System Fund (Company: 1000, Accounting Code 511312, Accounting Unit 5020000).
The amount not to exceed $300,000.00 will be paid over a three-year period, and if exercised, two additional, one-year renewal options. The SAWS Project Fund will finance the amount not to exceed $300,000.00, pursuant to and contingent upon Board approval of each year’s budgets for such expenditures.

**SUPPLEMENTARY COMMENTS:**

The fifteen firms listed below responded to the RFQ:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bain Medina Bain, Inc.*</td>
<td>Local/WBE-Caucasian</td>
</tr>
<tr>
<td>Fernandez Frazer White &amp; Associates, Inc.</td>
<td>Local/MBE-Hispanic</td>
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<tr>
<td><strong>Ford Engineering, Inc.</strong>*</td>
<td><strong>Local/MBE-Caucasian</strong></td>
</tr>
<tr>
<td>Gessner Engineering</td>
<td>Local/MBE-Hispanic</td>
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<tr>
<td>Howland Engineering and Surveying Co. Inc</td>
<td>Local/MBE-Hispanic</td>
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<tr>
<td>KFW</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Moy Tarin Ramirez Engineers, LLC</td>
<td>Local/MBE-Hispanic</td>
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<tr>
<td>Percheron</td>
<td>Non-Local/Non-SMWVB</td>
</tr>
<tr>
<td>Poznecki-Camarillo, Inc.</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Rosin Group, Inc.</td>
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<tr>
<td>Sherwood Surveying &amp; S.U.E.</td>
<td>Local/Non-SMWVB</td>
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<tr>
<td>Snell &amp; Associates Land Surveyor, Inc. dba Maverick Land Surveying Co.</td>
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<td>SurGIS of Texas</td>
<td>Local/WBE-Caucasian</td>
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<td>Unitech Consulting Engineers, Inc.</td>
<td>Local/WBE-Asian</td>
</tr>
<tr>
<td>Vickrey &amp; Associates, Inc.</td>
<td>Local/WBE-Caucasian</td>
</tr>
</tbody>
</table>

*Selected Firms

Additionally, the overall SMWVB analysis is shown in the following tables:

<table>
<thead>
<tr>
<th>Real Estate Survey Services</th>
<th>SMWVB Analysis – Board Award</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ford Engineering, Inc.</strong></td>
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</tr>
<tr>
<td>SBE</td>
<td>1.00%</td>
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<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE - Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE - Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
<td>99.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Real Estate Survey Services</th>
<th>SMWVB Analysis – Board Award</th>
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<tr>
<td><strong>Bain Medina Bain, Inc.</strong></td>
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<tr>
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</tr>
<tr>
<td>WBE - Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
<td><strong>100.00%</strong></td>
</tr>
<tr>
<td>SMWVB Total</td>
<td><strong>100.00%</strong></td>
</tr>
</tbody>
</table>
Award of Contracts
Real Estate Survey Services

Bruce A. Haby
Manager
Corporate Real Estate

APPROVED:

Nancy Belinsky
Vice President and General Counsel

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM (THE “SYSTEM”) BOARD OF TRUSTEES AWARDING CONTRACTS TO FORD ENGINEERING, INC. AND BAIN MEDINA BAIN, INC. (“SURVEY COMPANIES”) IN AN AMOUNT NOT TO EXCEED $300,000.00 TO PROVIDE REAL ESTATE SURVEY SERVICES IN CONNECTION WITH THE ACQUISITION AND DISPOSITION OF REAL PROPERTY AND FOR VARIOUS CAPITAL IMPROVEMENT PROJECTS OVER A THREE-YEAR PERIOD WITH THE OPTION OF TWO, ONE-YEAR RENEWALS; FINDING THIS RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the System requires real estate survey services related to the acquisition and disposition of real property and for various capital improvement projects; and

WHEREAS, the System previously issued a Request for Qualifications on June 6, 2018, to provide real estate survey services in which 15 Statements of Qualifications were received; and

WHEREAS, Ford Engineering, Inc. and Bain Medina Bain, Inc. (“Survey Companies”) submitted Statements of Qualifications to provide real estate survey services; and

WHEREAS, the Survey Companies have been determined to be qualified providers of real estate survey services on the basis of demonstrated competence and qualifications; and

WHEREAS, the amount of $300,000.00 is available from the Project Fund and System Fund for real estate survey services; and

WHEREAS, the San Antonio Water System Board of Trustees desires to (i) award contracts to the Survey Companies in an amount not to exceed $300,000.00 to provide real estate survey services over a three-year period with the option of two, one-year renewals, (ii) authorize total expenditures in an amount not to exceed $300,000.00 from the Project Fund and System Fund over a three-year period, with the two one-year renewals, if exercised with the expenditure of funds in each year pursuant to and contingent upon Board approval of the budgets for those years, and (iii) authorize the President/Chief Executive Officer or his duly appointed designee to execute contracts with the Survey Companies, and to pay the Survey Companies an amount not to exceed $300,000.00 to provide real estate survey services for a three-year period and to exercise the two, one-year renewal options if it is in the best interest of the System; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That contracts in an amount not to exceed $300,000.00 are hereby awarded to the Survey Companies to provide real estate survey services over a three-year period with the option of two, one-year renewals.

2. That total expenditures in an amount not to exceed $300,000.00 from the Project Fund and System Fund for the three-year period and the two, one-year renewals are hereby authorized, if exercised pursuant to and contingent upon the Board’s approval of the budgets for those years.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute contracts with the Survey Companies in substantially the form attached hereto as Attachment I, and to pay the Survey Companies an aggregate amount not to exceed $300,000.00 to provide real estate survey services over a three-year period and to exercise the two, one-year renewal options if it is in the best interest of the System.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary

Attachment:
I Form of Real Estate Land Surveying Services Contract
THIS IS A CONSULTING AGREEMENT (this "Agreement") by and between

INSERT CONSULTANT NAME

ADDRESS 1

ADDRESS 2

(real “Consultant”), and San Antonio Water System, municipally-owned utility of the City of San Antonio in the State of Texas (the “Water System” or “SAWS”), and by which parties to this Agreement, in consideration of the mutual covenants set forth below and other good and valuable consideration (the mutuality, adequacy, and sufficiency of which are hereby acknowledged), hereby agree as follows:

1. Consulting.

(a) Consulting and Advisory Services. During the term of this Agreement, the Consultant will provide consulting and advisory services to the Water System in accordance with the highest professional standards. Consultant shall perform the services described on Exhibit B attached hereto and incorporated herein. The Consultant shall perform such duties in accordance with the time schedule attached hereto as Exhibit D and comply with the Security Procedures attached as Exhibit E (remove if not using Exhibit E). Acceptance of work of the Consultant by the Water System shall not constitute or be deemed a release of the responsibility, obligations or liability of the Consultant under this Agreement for any errors, omissions, defect in the design, drawings, specifications, documents, reports and work performed by the Consultant. Consultant will utilize only qualified personnel to perform the work under this Agreement. All of such work shall be under the direct supervision of properly licensed professionals as appropriate for the Project and work.

(b) Compensation and Expenses. The Water System shall pay Consultant as set forth on the attached Exhibit A. If Consultant’s services do not conform to the specifications
stated on Exhibit B, as determined by Water System, Consultant shall promptly re-perform such services to the satisfaction of Water System at no additional charge to Water System.

(c) **Independent Contractor.** It is acknowledged and agreed that the Consultant is an independent contractor of the Water System and not an employee or agent or fiduciary of Water System, and each of the parties to this Agreement agrees to take actions consistent with the foregoing. Consultant is not being engaged to perform any fiduciary functions of Water System. Further, nothing in this Agreement shall be construed to create a partnership, joint venture, or other association between the parties.

(d) **Water System’s Responsibilities.** Water System will use its reasonable best efforts to provide Consultant with all documentation and information in the possession of the Water System required to enable Consultant to provide the services, and will cause its employees and agents to cooperate with Consultant's reasonable requests in order to assist Consultant in providing the services.

(e) **Work Papers.** All final work product and work papers directly relating thereto delivered to Water System by the Consultant in connection with the performance of services pursuant to this Agreement, including public records obtained by the Consultant, shall be the property of the Water System whether or not in the possession of the Consultant, for use and re-use by the Water System, its agents, employees, contractors and consultants, as needed from time-to-time.

(f) **Nondisclosure.** The Water System has a proprietary interest in this Agreement and in the advisory and consulting services provided by Consultant. Accordingly, this Agreement, the services, and any information obtained by Consultant through Water System in connection with the performance of the services shall not be disclosed by Consultant to any third party. In the event Consultant is subject to the Texas Public Information Act, upon receipt of a request for any information obtained by Consultant in the performance of this Agreement, Consultant shall provide written notice to Water System of the request along with a copy of the request, and give Water System the opportunity to respond to the request prior to its release by Consultant. In no event shall Consultant or any of its sub-consultants provide or participate in any public presentations or prepare or present any papers for public dissemination concerning the Project, or with information obtained in connection with the Project, without receiving the prior written approval from the Water System, which approval may be withheld in the sole and absolute discretion of the Water System.

(g) **Compliance with Law.** In performing this Agreement, the Consultant agrees to comply with applicable laws and regulations, and to secure, pay for and comply with all permits, governmental fees, licenses, inspections, bonds, security or deposits necessary for proper execution and completion of the services. Consultant agrees to not make or permit to be made any improper payments, or to perform any unlawful acts.

(h) **Insurance.** Consultant shall maintain and keep in force for the duration of this Agreement such insurance as set forth on Exhibit C of this Agreement, which is attached hereto and incorporated herein for all purposes as if fully set forth herein. Approval of insurance
by the Water System shall not relieve or decrease the liability of the Consultant hereunder and shall not be construed to be a limitation of liability on the part of the Consultant. Consultant shall be responsible for all premiums, deductibles and self-insured retentions, if any, stated in the policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance. All endorsements naming the Water System and the City of San Antonio (the "City") as additional insureds, waivers, and notices of cancellation endorsements as well as the Certificates of Insurance shall indicate: San Antonio Water System, c/o Ebix BPO, P.O. Box 100085-ZD, Duluth, GA 30096.

Upon request of SAWS, Consultant shall cause its Automobile and/or Commercial General Liability lines of coverage to be endorsed to include an owner of or tenant upon the property being surveyed as an Additional Insured, and providing a certificate of insurance or other documentation satisfactory to SAWS evidencing such compliance.

(i) **Right To Audit.** Consultant agrees to maintain appropriate accounting records of costs, expenses, and payrolls of its employees and agents working on the Project for a period of three years after final payment for completed work has been made and all other pending matters concerning the Agreement have been closed. Consultant agrees that the Water System or its authorized representative shall have access during normal business hours to any and all books, documents, papers, and records of the Consultant which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits and examinations.

The Consultant further agrees to make the above requirement apply to any and all sub-consultant agreements in which the Consultant has a contractual relationship for the services to be performed under the Agreement. All sub-consultants shall agree that the Water System or its authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the sub-consultant which are directly pertinent to the services to be performed under the Agreement for the purposes of making audits and examinations.

(j) **Equal Employment Opportunity/Minority Business Enterprise.** The Consultant agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment; and, will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, disability, genetic information or political belief or affiliation.

(k) **Sub-consultants.** The Consultant acknowledges that the SAWS Board of Trustees has adopted a Small, Minority, Woman, and Veteran-owned Business (SMWVB) Policy to establish and oversee a program that will support the inclusion of local small, minority, woman, and veteran-owned businesses (SMWVB). It is the policy of SAWS that it will ensure that local small, minority, woman, and veteran-owned businesses have an equal opportunity to compete for, receive and participate in SAWS contracts. Consultant agrees to complete and submit a Good Faith Effort Plan as part of its response to the Water System’s request for a proposal. Consultant shall take all reasonable steps to maintain compliance with at least the minimum percentage of participation for SMWBs set out in Consultant’s proposal to the Water System. Consultant shall be required to electronically report the actual payments to all subcontractors, whether SMWVB or
non-SMWVB, using the Subcontractor Payment and Utilization Reporting (S.P.U.R.) System, beginning with the first SAWS payment for services under the contract, and with every payment thereafter (for the duration of the contract). After Consultant receives payment from SAWS, electronic submittals will require data entry of the amount paid to each subcontractor, whether SMWB or non-SMWB, listed on the Contractor’s Good Faith Effort Plan. Data entry is required even if the actual payment amount is zero dollars and zero cents ($0.00). This information will be used for subcontractor utilization tracking purposes. Any unjustified failure to comply with the committed SMWVB levels may be considered breach of contract.

Electronic submittal of subcontractor payment information will be accessed through a link on SAWS’ “Business Center” web page. Consultant and all subcontractors will be provided a unique log-in credential and password to access the SAWS subcontractor payment reporting system. The link may also be accessed through the following internet address: https://saws.smwbe.com.

Respondents and/or their agents may contact the SMWVB Program Manager at 210-233-3420 for assistance or clarification with issues specifically related to the Small, Minority, Woman, and Veteran-owned Business (SMWVB) Program, and S.P.U.R. System reporting.

By entering into this Contract, the Water System approves the use of subcontractors and sub-consultants identified in Exhibit F (attached).

(l) Consultant's Warranty. Consultant warrants that he has not employed or retained any company or person other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, nor that he has not for the purpose of soliciting or securing this Agreement paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach of this warranty, the Water System shall have the right to terminate this Agreement under the provisions of Section 2 below.

(m) Indemnification. Consultant agrees to and does hereby fully indemnify, defend, and hold harmless Water System and the City of San Antonio, and their respective members, agents, employees, officers, directors, trustees and representatives (collectively, “Indemnitees”), individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees (including, without limitation, attorneys’ fees), fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including, without limitation, personal injury or death and property damage, incurred by, asserted against or made upon any of the Indemnitees arising out of, resulting from or related to the acts, commissions or omissions of Consultant, any agent, officer, director, representative, employee, consultant, contractor or sub-consultant or subcontractor of Consultant, and their respective officers, agents, employees, directors, and representatives, while in the exercise or performance of the rights or duties under this Agreement. Consultant shall promptly advise the Water System in writing of any claim or demand against the Consultant or any of the Indemnitees which relates to or arises out of the Consultant’s activities under this Agreement at Consultant's cost. Any of the Indemnitees shall have the right, at their option and at their own expense, to participate in such defense without relieving Consultant of any of its obligations under this paragraph. The terms and
provisions of this Section 1(m) shall survive the expiration of the term or earlier termination of this Agreement. Nothing in this Section 1(m) shall be interpreted to constitute a waiver of any governmental immunity available under Texas law or any available defenses under Texas law.

(n) Default. In the event Consultant fails to perform its duties or obligations under this Agreement, Water System shall be entitled to any and all remedies available at law or in equity (including, without limitation, the recovery from Consultant of all losses and damages, whether actual, direct, consequential, liquidated or otherwise, and all reasonable attorneys’ and other professional fees and costs suffered or incurred by the Water System arising from such default), and, in addition, the Water System shall have the right to terminate this Agreement by written notice as provided in Section 2 below. The Water System shall be entitled to recover reasonable attorneys’ fees and costs of dispute resolution incurred in connection with enforcement of this Agreement. In addition, the Water System shall have the right to (1) take possession of all materials and work completed under this Agreement, (2) accept assignment of any sub-consultant agreements relating to this Agreement on terms and conditions acceptable to the Water System, and (3) recover from the Consultant and/or deduct from any sums then owed to the Consultant, all losses, damages, penalties and fines, whether actual or liquidated, direct, consequential and/or exemplary, and all reasonable attorneys’ and other professional fees and costs suffered or incurred by the Water System by reason of or as a result of Consultant’s default. Such amounts, together with interest on same at the highest rate allowed by law until paid in full, shall be binding on Consultant and are due upon demand. No action by the Water System shall constitute an election of remedies.

2. Term, Termination and Suspension

(a) Term. The term of this Agreement shall be for the period provided in Exhibit D attached hereto and incorporated herein, beginning and ending on the dates provided in Exhibit D. In the event that Consultant has not completed the work specified on Exhibit B prior to the end of the term of this Agreement, in addition to any other remedies to which the Water System may be entitled, at law or in equity, Consultant shall pay to Water System, or the Water System may withhold from sums then due and owing the Consultant.

(b) Termination For Cause. Water System may terminate this Agreement at any time for "Cause" in accordance with the procedures provided below. Termination by Water System of this Agreement for "Cause" shall mean termination upon (i) the neglect, breach or inattention by Consultant of its duties hereunder, and such neglect, breach or inattention has not been cured within five (5) days after written notice thereof given by Water System to Consultant, (ii) the engaging by Consultant in willful or fraudulent conduct that is injurious to Water System, monetarily or otherwise, (iii) the failure by Consultant to otherwise perform its duties hereunder and such failure has not been cured within five (5) days after written notice thereof given by Water System to Consultant. Notice shall be deemed given as provided in Section 3(a) of this Agreement. Upon such termination for cause, the Consultant shall not be entitled to any further compensation under this Agreement, except for the compensation which has been earned for services rendered by Consultant in accordance with this Agreement through the date of notice of such termination, subject to offset for damages as set forth in Section 1(n) above, and which shall be paid only after final completion of the work provided for under this Agreement by the Water System.
In the event termination for cause is not proper under this Section, the termination shall be deemed to constitute a termination for convenience as set forth in Section 2(c) below.

(c) Other Termination. The Water System may terminate this Agreement at any time for any reason upon thirty (30) days written notice to the Consultant. Upon termination of this Agreement, the Consultant will be entitled only to the compensation and expenses which have been earned for services rendered in accordance with this Agreement through the date of such termination. No termination of this Agreement shall impair or defeat those obligations set forth elsewhere in this Agreement which require either party to do or refrain from doing any specified act or acts after termination of this Agreement, or to perform any obligation which by its terms or normal meaning survives termination of this Agreement.

(d) Suspension. The Water System reserves the right to suspend work under this Agreement at any time and from time-to-time work for the convenience of the Water System by issuing a written notice of suspension, which notice outlines the reasons for the suspension and the then estimated duration of the suspension, but in no way will guarantee the total number of days of suspension. Such suspension shall take effect immediately upon the date specified in the notice and if no date is specified, the date of delivery of the notice of suspension to the Consultant. Upon receipt of a notice of suspension in excess of one hundred eighty (180) days, the Consultant shall have the right to terminate this Agreement by written notice to the Water System. Consultant may exercise this right to terminate any time after a suspension has continued for more than one hundred eighty (180) days, but before the Water System gives Consultant written notice to resume the work. Termination (under this paragraph) by Consultant shall be effective immediately upon the Water System’s receipt of said written notice from Consultant.

(e) Winding up. Upon receipt of a written notice of suspension or termination, unless the notice otherwise directs, Consultant shall immediately phase-out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to the Water System under this Agreement.

3. Miscellaneous.

(a) Notices. Any notice, communication or request under this Agreement to any of the parties shall be in writing and shall be effectively delivered if delivered personally or sent by overnight courier service (with all fees prepaid), or by facsimile as follows:

If to Water System: San Antonio Water System
Contract Administration
2800 U.S. Hwy. 281 North
San Antonio, Texas 78212
Attn: Bruce Haby, Manager, Corporate Real Estate
Email: Bruce.Haby@saws.org
Any such notice, request, demand or other communication shall be deemed to be given if delivered in person, on the date delivered, if made by facsimile, on the date transmitted, or, if sent by overnight courier service, on the date sent as evidenced by the date of the bill of lading; and shall be deemed received if delivered in person, on the date of personal delivery, if made by facsimile, upon confirmation of receipt (including electronic confirmation), or, if sent by overnight courier service, on the first business day after the date sent.

(b) **Interest in Water System Agreements Prohibited.** No officer or employee of the City shall have a financial interest, direct or indirect, in any Agreement with the Water System, or shall be financially interested, directly or indirectly, in the sale to the Water System of any land, materials, supplies or service, except on behalf of the City or Water System as an officer or employee. Any violation of this Section, with the knowledge, expressed or implied, of Consultant contracting with Water System shall render this Agreement voidable by the Board of Trustees or the President/Chief Executive Officer of the Water System.

To report suspected ethics violations impacting the San Antonio Water System, please call 1-800-687-1918.

(c) **Gift Policy.** Water System employees are prohibited from soliciting, accepting or agreeing to accept any gifts from outside sources; please see Section M. – Gifts or Benefits of the Water System’s Code of Ethical Standards. Section M of the Water System’s Code of Ethical Standards regarding Gifts or Benefits is available on the SAWS Business Center website.

(d) **Tax Matters.** Consultant shall be solely responsible for payment of all taxes related to Consultant’s provision of the services. A tax exempt certificate is available upon request for the purchase of materials and goods only with regards to the contracted services of this Agreement.

(e) **Assignment; Binding Effect.** No assignment, transfer, or delegation of any rights or obligations under this Agreement by Consultant shall be made without the prior written consent of the Water System, which may be withheld in the sole and absolute discretion of the Water System. This Agreement shall be binding upon the parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other successors and permitted
assigns, and shall inure to the benefit of the parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other permitted successors and permitted assigns.

(f) **Interpretation; Captions.** Whenever the context so requires, the singular number shall include the plural and the plural shall include the singular, and the gender of any pronoun shall include the other genders. Titles and captions of or in this Agreement are inserted only as a matter of convenience and for reference and in no way affect the scope for this Agreement or the intent of its provisions.

(g) **Entire Agreement.** This Agreement constitutes the entire agreement of the parties to this Agreement with respect to its subject matter, supersedes all prior agreements, if any, of the parties to this Agreement with respect to its subject matter, and may not be amended except in writing signed by the party to this Agreement against whom the change is being asserted. This Agreement consists of this document and attached Exhibits A, B, C, D, E, F, and G, all of which are incorporated herein by reference for all purposes. Should any conflict arise between the terms of this document and the attached Exhibits, this document shall be controlling.

(h) **No Waiver.** The failure of any party to this Agreement at any time or times to require the performance of any provisions of this Agreement shall in no manner affect the right to enforce the same; and no waiver by any party to this Agreement of any provision (or of a breach of any provision) of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed either as a further or continuing waiver of any such provision or breach or as a waiver of any other provision (or of a breach of any other provision) of this Agreement.

(i) **Governing Law; Jurisdiction.** This Agreement has been entered in, and shall be governed by and construed in accordance with the laws of the State of Texas, without regard to principles of conflict or choice of law. This Agreement is performable in Bexar County and sole venue shall be in the courts of Bexar County, Texas.

(j) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement or its terms to produce or account for more than one of such counterparts.

(k) **Non-Appropriation.** Consultant agrees that the Water System has projected costs for this Agreement and Water System expects to pay all obligations of this Agreement from projected revenues of the Water System. All obligations of the Water System are subject to annual appropriations by its Board of Trustees. Accordingly, notwithstanding anything in this Agreement to the contrary, in the event that the Water System should fail to appropriate funds to pay any of Water System’s obligations under the terms of this Agreement, then the Water System’s obligations under this Agreement shall terminate, and the Consultant’s sole option and remedy shall be to terminate this Agreement by written notice to Water System, and neither the Water System nor the Consultant shall have any further duties or obligations hereunder, except those which expressly survive.
DULY EXECUTED and delivered by the parties to this Agreement, effective on the date counter signed by the Water System.

THE WATER SYSTEM: San Antonio Water System

By: ________________________________
    Philip C. Campos, Jr., CPA
    Director, Contracting

____________________________________
Date

CONSULTANT:

By: ________________________________
    Signature

____________________________________
Title

____________________________________
Date

LIST OF EXHIBITS:

Exhibit A: Compensation for Consulting Agreement
Exhibit B: Scope of Services
Exhibit C: Standard Insurance Specifications
Exhibit D: Term and Timeframe for Deliverables
Exhibit E: Security Procedures
Exhibit F: List of Sub-Consultants
Exhibit G: No Boycotting Israel Verification
EXHIBIT A
COMPENSATION FOR CONSULTING AGREEMENT

Section 1 - Basis of Compensation

1.1 In consideration of _____________ Dollars ($_____.00) and other good and valuable consideration, including the submittal of the response by the Consultant to the Request for Qualifications, the receipt of which is hereby acknowledged by the parties, the Consultant shall perform those services as provided in Exhibit B, for Survey Services on a lump sum basis for each parcel depending on the complexity of the property being surveyed and upon issuance of a written task order ("Task Order") for the work. Each Task Order, when accepted by the Water System, shall be incorporated into this Agreement and become a part hereof. The fee for a survey (the “Survey Fee”), including all costs and expenses for the services, shall be quoted in writing by the Consultant to SAWS. If SAWS finds the fee acceptable SAWS shall issue a written Task Order for the work prior to commencement of the survey of the parcel. The Survey Fee shall only be earned upon the successful completion of a Task Order(s) assigned under this Agreement and shall be full and complete compensation for the full and timely performance of any services provided under this Agreement. Any provision contained herein notwithstanding, the Consultant expressly understands and agrees that this is a Task Order based Contract, and as such, SAWS makes no representation or warranty and there is no guarantee as to the amount of work to be assigned or Survey Fees to be earned under this agreement through Task Orders issued by SAWS. SAWS shall only be obligated to pay, and Consultant shall only earn, those amounts agreed to pursuant to each Task Order properly assigned and as provided herein.

1.2 For the purpose of establishing costs to the Water System for any Task Order, the following Hourly Billing Rate Table of the fees shall apply for survey services per parcel and expert witness testimony, if required:

<table>
<thead>
<tr>
<th>DISCIPLINE</th>
<th>HOURLY RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Survey Manager</td>
<td>$</td>
</tr>
<tr>
<td>Land Surveyor</td>
<td>$</td>
</tr>
<tr>
<td>Clerical/Secretarial</td>
<td>$</td>
</tr>
</tbody>
</table>

Section 2 – Method of Payments

2.1 Payment may be made to the Consultant based upon the following:

Task Based, Not to Exceed.
Section 3 - Reimbursable Expenses

There are no reimbursable expenses allowed under this contract. All expenses are included in the fee set forth in section 1 above.

No reimbursable expenses will be paid by SAWS for survey work performed within Bexar County. For survey work requested by SAWS outside of Bexar County, reimbursable expenses will be taken under consideration on a project by project basis and included in the Work Order for the project.

Section 4 - Payment for Services

4.1 No initial payment shall be paid to the Consultant prior to rendering services.
4.2 Invoices shall be submitted separately for each individual project assignment on a monthly basis to the Project Manager identified in Section 3.a. Notices.
4.3 Cost of services furnished by subconsultants on Federally Funded projects shall be reimbursed at invoice cost with no markup. Cost of services furnished by subconsultants as proposed from the Consultant's submittal from the request of proposal or request of interest statement shall be reimbursed at invoice cost with no markup.
4.4 For all services rendered, payment by the Water System is due within thirty (30) days after receipt of invoice. If payment of the amounts due, or any portion thereof, is not made as described above, interest on the unpaid balance thereof will accrue at the lesser rate of 6 percent per annum (0.5 percent per month) or the maximum lawful rate under Section 271.005 (c) of the Texas Local Government Code until such payment is made, unless delay in payment is due to improper invoicing procedures followed by the Consultant.
4.5 For all services rendered, Consultant's payment to sub-consultant is due within ten calendar days after receipt of payment from the Water System.
4.6 For services that are to be compensated on an hourly rate basis, the Consultant's invoice shall show the name of all Consultant, employees, titles, charging time to the project, the amount of time billed, the hourly rates, and the activity or activities performed by all Consultants and employees. Payroll time sheets shall be provided on request of the Water System.
4.7 For services that are to be compensated on a lump sum basis, the Consultant’s invoice shall include a detailed summary of the progress and completion of tasks to substantiate the percentage of completion of services as rendered during the previous month.

Section 5 - Payment for Additional Services

Payments for Consultant’s additional services shall show the same information required in subparagraphs 4.2 through 4.9 dependent upon the type of compensation and other evidence of expenses.
Section 6 - Payments Withheld

The Water System may withhold, amend, or reject any request for payment by the Consultant under conditions that include those described below:

6.1 Consultant's failure to provide adequate documentation for reimbursable expenses.
6.2 Consultant's failure to invoice as required in subparagraphs 4.2 through 4.9.
6.3 Errors or mistakes in the Consultant's invoice and/or defects, errors and omissions in the documents prepared by the Consultant/Contractor or Consultant’s sub-consultants which are the basis for the payment request.
6.4 Water System's receipt of evidence that the Consultant's sub-consultants have not been duly paid for their services in connection with this project subsequent to the Water System having disbursed compensation to the Consultant in consideration of and stemming from the efforts extended by the sub-consultant.
6.5 Failure of the Consultant to render any service as stipulated by this Agreement.

If any of these conditions exist, then interest charges will not be applicable. The Water System shall provide the Consultant with written notice of its intention to withhold, amend, or reject any request for payment by the Consultant. Upon written request by the Consultant to the Water System made within ten (10) days after the date of notice sent by the Water System, representatives of the Water System will meet with representatives of the Consultant at a mutually agreed time to discuss the circumstances surrounding the determination to withhold, amend, or reject any request for payment by the Consultant.
EXHIBIT B
SCOPE OF SERVICE

The scope of services is to provide surveying services which include, but are not limited to preparation of easement and boundary survey and property description documents including all legal research and property identification through the use of document recording information (i.e. volumes and pages of deeds). Right of Entries required to enter property to perform survey work will be obtained by the Consultant.

The schedule will be determined on a project by project basis, with the surveying firm expected to return some jobs on an expedited schedule.

The Consultant shall initiate fieldwork within seven (7) calendar days after receiving a general work order from SAWS.

The Consultant shall initiate fieldwork within twenty-four (24) hours after receiving a work order related to a project SAWS identifies as an emergency.

All aspects of the survey work are required to be done by or under the supervision of a Registered Professional Land Surveyor of the State of Texas. All surveying work shall meet generally accepted surveying practices and may be required to meet specific standards of the Board of Texas Land Surveying, Texas Society of Professional Surveyors and the American Land Title Association.

All survey work shall be done using Horizontal datum NAD (1993), State Plane - Texas South Central, U.S. Survey Feet and Vertical datum NAVD 1988, U.S. Survey Feet, unless directed otherwise by SAWS. At least two (2) corners of the subject property will be identified using the above coordinate system.

All field notes/metes and bounds and survey plats/exhibits shall be signed, dated and sealed by a Registered Professional Land Surveyor.

The Consultant shall utilize SAWS Field Code and Cell library adopted for adequate symbology.

Consultant shall provide all graphic files in Microstation Version “V8 or V8i” (Bentley Systems, Inc.), in GIS format (ESRI format V9 or 10) according to SAWS standards and have survey coordinate files in ASCII format (comma delimited).

Consultant shall include a vicinity map in one of the two upper corners of the survey showing the general location of the project.

If a project has multiple subject properties and it is deemed necessary by SAWS, Consultant shall provide an overall project alignment map depicting all subject properties to give an overview of the project.

Consultant shall include 1) the project’s name, 2) the project number and 3) the parcel number (if applicable) in the upper-right corner of the survey.
Consultant shall show the current name and recording information of the vesting instrument for the subject
property as well as the properties adjoining the subject property.

Consultant shall prepare the survey such that North points toward the top of the page unless requested
otherwise by SAWS.

Consultant shall indicate the location of the floodplain as it affects the subject property as depicted on
the Federal Emergency Management Agency's (FEMA) Federal Insurance Rate Map (FIRM) and certify as
to the zone(s) the subject property is located within (if applicable) as shown below:

“Subject property [insert does or does not] lie within the 100 year floodplain as per FEMA FIRM No.
[insert map number, community number and date]”

Consultant shall show all improvements situated within the subject property and identified on the survey.
Improvements hereinafter being defined as any man-made structures (ex. buildings, structures,
signs/billboards, wells, concrete/asphalt areas, drainage structures, utilities, highways, streets, roads,
railroads, etc.) rivers, creeks or other water ways, fences, and easements and other rights of way affecting
or situated on the subject property. Tree surveys may be needed and will be requested by SAWS on an
“as-needed basis”.

Consultant shall show all improvements located outside of but within two feet of the subject property and
the separation distance delineated to confirm the improvement is outside of the subject property.

Consultant shall show all improvements/encroachments partially situated on the subject property, delineate
the encroaching distance within and outside of the subject property and identify the
improvement/encroachment.

Consultant shall place permanent markers at all property corners, unless otherwise agreed upon by SAWS.

If Consultant is provided with a title commitment listing the easements and/or restrictions affecting the
subject property, the Consultant shall depict the location of the easements and/or restrictions and label the
recording information, as they affect the subject property. If an easement and/or restriction do not affect
the subject property, it shall be indicated as such in the title commitment certification as shown below:

Note:
[insert name of title company]
[insert GF number here]
Volume Page
[insert volume no.] [insert page no.] [insert does/does not apply as
applicable]

Unless otherwise agreed upon by SAWS, all surveys performed with the purpose of transferring or
conveying real property (easements, fee title, leases, etc.) shall be performed to meet the Category 1A,
Condition II - Land Title Survey specifications as defined in the then most current Manual of Practice
issued by the Texas Society of Professional Surveyors.

On all surveys performed with the purpose of transferring or conveying real property (easements, fee title,
leases, etc.) shall have the following certification:
"To: San Antonio Water System
The City of San Antonio
[insert name of title company – insert GF number]"

This survey was made on the ground, under my supervision and complies with the current Texas Society of Professional Surveyor’s Standards and Specifications for a Category 1A, Condition II survey. Except as shown, there are no apparent easements or encroachments affecting this property.

"Registered Professional Land Surveyor Name: ______________________
License #: ______________________
Date: ______________________"

Consultant shall, upon request by SAWS, provide testimony in legal proceedings to defend the legal enforceability and validity of the legal descriptions prepared by Consultant.

Additional Requirements

The firm providing a SOQ to this RFQ must name one individual as coordinator or primary contact to resolve all issues that may arise during the term of the contract and this individual shall be available to attend meetings and make presentations as requested by SAWS.

No reimbursable expenses will be paid by SAWS for survey work performed within Bexar County. For survey work requested by SAWS outside of Bexar County, reimbursable expenses will be taken under consideration on a project by project basis and included in the Work Order for the project.

The Respondent shall provide SAWS with a point of contact (POC), who shall respond to SAWS within two (2) hours of initial contact on any issues related to this contract. Designated person does not have to be the same as the coordinator or primary contact noted in item 1 above.
EXHIBIT D
TIME FRAME FOR DELIVERABLES

I. The Term of this Agreement shall commence on the ___ day of ___________, 20__, and automatically expire on ___ day of __________ , 20__.

Time Frame for Deliverables:
EXHIBIT E
SECURITY PROCEDURES

If work will be conducted on SAWS property, on a SAWS customer’s property, involve any SAWS networks or any SAWS facility the Consultant shall ensure a Prime Contractor Data Form (PCDF) and a Background Screening Letter (provided by SAWS Security) is properly completed for all employees performing work under this Agreement and is on file with SAWS Security prior to work commencement. Any person found to have an unacceptable background check will not be allowed to perform work under this Agreement ( A waiver may be given by SAWS Security for an unacceptable finding but must be signed off by the Director of SAWS Security ). Sub- Consultants performing work must be listed on the PCDF and the Background Screening Letter. Consultant shall be responsible for the accuracy of information on the PCDF and the Background Screening Letter, and for obtaining any and all required items (badges and parking tags) necessary to fulfilling the work under this Agreement. The PCDF and Background Screening Letter must be sent electronically to securitygroup@saws.org . Consultant shall advise the SAWS Project Manager/Inspector of any employee terminations or changes to personnel performing work under this Agreement and the Consultant shall immediately turn in any and all badges and/or parking tags of employees who are terminated or no longer performing work under this Agreement. If there are any changes in the information contained in the PCDF or the Background Screening Letters, Consultant shall immediately notify the SAWS Project Manager/Inspector and provide updated PCDF and Background Screening Letters, with copies to securitygroup@saws.org.

Consultant, its employees, and agents shall obtain a SAWS photo identification badge (Consultant's Badge) and parking tag, prior to any work on SAWS property, which shall be used only for purposes necessary to perform the work under this Agreement. SAWS Badge Office hours are Monday, Wednesday and Friday 8:00am to 12:00pm excluding SAWS holidays (hours are subject to change). Security staff can be contacted at (210) 233-3177 or (210) 233-3338. A replacement fee may be charged for lost or damaged badges or parking tags. As a condition of final payment, Consultant shall return all badges and parking tags to the Security Office. In the event Consultant fails to return all security badges and parking tags, in addition to any other rights or remedies to which SAWS may be entitled at law or in equity, SAWS may withhold from payment to the Consultant the sum of $500.00 dollars per badge or parking tag as liquidated damages. Consultant agrees that the actual amount of damages for failure to return the badges and/or parking tags is difficult to determine, and the liquidated damages herein are not a penalty, but are a reasonable estimate of the costs and expenses that may be incurred by SAWS for failure to return the badges or parking tags.

SAWS facilities require a SAWS employee to physically escort Consultant at all times. SAWS may, in its sole discretion, waive the escort requirement if the PCDF and a “clean” Background Screening Letter, signed by an authorized representative of Consultant are approved by SAWS Security.

Sub-Consultants must always be under escort of the Consultant while performing work on any SAWS property. Sub-Consultants must display either a company photo badge, with name, or a valid driver’s license at all times while working on any SAWS property. Consultant is solely responsible for the actions of its employees, agents, Sub-Consultants and Consultants.

Consultant MUST be prepared for additional security requirements at its expense if violations of SAWS Security procedures are noted. Some examples of additional requirements include hiring of SAWS approved security guards, temporary fencing, mobile Closed Circuit Television Monitoring trailer(s), or extra lighting. Notwithstanding anything herein to the contrary, any provisions in these Security Procedures that may appear to give SAWS the right to direct Consultant as to details of doing any work under this Agreement or to exercise a measure of control over any security measures or such work shall be deemed to mean that Consultant shall follow the desires of SAWS in the results of the work or security measures only.

Advance coordination by Consultant with SAWS Security for these security requirements is necessary to ensure no delays with timely performance of the work. In the event Consultant fails to comply with SAWS Security requirements, SAWS may, with no penalty or claim against SAWS:

- Issue a Work Stoppage Order until the security violation(s) are remedied
- Ask any unidentified or improperly identified person or equipment to leave SAWS site immediately and not return until items are remedied.
EXHIBIT G

NO BOYCOTTING ISRAEL VERIFICATION

Consultant agrees that it does not boycott Israel and will not do so during the term of this Contract. This provision is in compliance with §2270.001 of the Texas Government Code. SAWS agrees to comply with the United States and Texas Constitutions in consideration of whether to enforce this provision.
TO: San Antonio Water System Board of Trustees

FROM: Shawn C. Crawford, Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 5

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, in the amount of $1,194,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 5.

- The San Antonio Water System (SAWS) Board of Trustees approved the Edwards Aquifer Habitat Conservation Plan (EAHCP) and other documents associated with the Edwards Aquifer Recovery Implementation Program on November 1, 2011, by Resolution No. 11-313.

- One of the requirements to receive United States Fish and Wildlife Service’s (the “Service”) approval of the EAHCP was that the conservation measures outlined in the EAHCP must be “reasonably certain to occur.” In order to assure the program would be deemed “reasonably certain to occur” by the Service, SAWS and other EAHCP permittees loaned Edwards Water Rights to the EAA Groundwater Trust for a term of ten years through Initial Commitment Contract No. 13-649-HCP, which was approved by the SAWS Board of Trustees on October 1, 2013 by Resolution No. 13-302, conveying to the EAA Groundwater Trust the amount of 8,000 acre-feet.

- SAWS Board of Trustees approved an Interlocal Contract with the Edwards Aquifer Authority (EAA) to implement the springflow protection measures included in the EAHCP known as the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028.

- SAWS can use the funds received from the Program to hire contractors to repair leaks in the water distribution system so as to reduce water loss. The contractors will work in tandem with SAWS Distribution and Collection Operations crews to reduce the overall turnaround time on repairs.
In 2017, SAWS had 25 leaks per 100 miles of water distribution system piping over the approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, SAWS has workload challenges due to the aging infrastructure.

Beyond the water leaks reported to SAWS by water-conscious public citizens, many leaks are discovered by in-house leak detection crews, leak detection and valve assessment contractors, and through SAWS’ proactive conservation programs.

This contract will allow for SAWS staff to identify, prioritize, and manage the leak repair work orders to be issued to the contractor to maximize efficiency.

The standard construction bidding process was used for this contract.

Facilities Rehabilitation, Inc. submitted the lowest responsive bid of $1,194,140.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

Under the Program and Interlocal Contract with the EAA, SAWS is entitled to be paid $18,631,400.00 by the EAA over the first five years of the contract. SAWS would be obligated to transfer 2,372.5 acre-feet of Edwards Water Rights into the EAA Groundwater Trust annually in the years of 2016-2019, and 316.0 acre-feet in 2020. SAWS has already received the 2018 funding from the EAA in the amount of $4,507,750.00. Any applicable water leak repair charges incurred under this contract, and similar contracts, will be paid from these funds.

The construction cost will be paid from the System Fund in the 2018 Distribution and Collection Operations budget (Company: 1000, Accounting Unit: 5047600, Account: 511220) in the total amount of $1,194,140.00. The SAWS job number for the replacement of any water service lines, valves or fire hydrants is 18-1401 (CIP). The SAWS job number for all other types of work is 18-0119 (O&M).

SUPPLEMENTARY COMMENTS:

SAWS staff prepared the contract documents for this project. The bid opening was held on July 9, 2018 at 10:00 a.m. The following bids were submitted:
## Award of Construction Contract

**2018 Annual Water Distribution Leak Repairs Contract - Package 5**

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities Rehabilitation, Inc.*</td>
<td>$1,194,140.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Pronto Sandblasting &amp; Coating &amp; Oil-Field Services Co., Inc.</td>
<td>$1,198,185.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>D. Guerra Construction, LLC</td>
<td>$1,289,665.00</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>T Construction LLC</td>
<td>$1,461,884.00</td>
<td>Non-Local/Non-SMWVB</td>
</tr>
<tr>
<td>* Lowest Responsible Bidder</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Lowest Responsible Bidder</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The bid amount represents a 20.4 percent decrease from the estimated construction cost. This contract provides for 365 calendar days for completion of this contract or until funds have been exhausted.

Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Facilities Rehabilitation, Inc.</th>
<th><strong>SMWVB Analysis – Board Award</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>SBE</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE - Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE - Hispanic</td>
<td>98.33%</td>
</tr>
<tr>
<td>MBE - Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE - Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Non-Minorite</td>
<td>0.00%</td>
</tr>
<tr>
<td><strong>SMWVB Total</strong></td>
<td><strong>98.33%</strong></td>
</tr>
</tbody>
</table>

Shawn C. Crawford, P.E.  
Manager  
Construction Inspections

Michael S. Brinkmann  
Vice President  
Distribution and Collection Operations
Award of Construction Contract
2018 Annual Water Distribution Leak Repairs Contract - Package 5

APPROVED:

[Signature]
Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO FACILITIES REHABILITATION, INC. IN THE AMOUNT OF $1,194,140.00 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT – PACKAGE 5; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $1,194,140.00 FROM THE SYSTEM FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH FACILITIES REHABILITATION, INC., AND TO PAY FACILITIES REHABILITATION, INC. AN AMOUNT NOT TO EXCEED $1,194,140.00 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the San Antonio Water System’s (the “System”) Board of Trustees approved the Edwards Aquifer Habitat Conservation Plan (EAHCP) and other documents associated with the Edwards Aquifer Recovery Implementation Program on November 1, 2011, by Resolution No. 11-313; and

WHEREAS, one of the requirements to receive United States Fish and Wildlife Service’s (the “Service”) approval of the EAHCP was that the conservation measures outlined in the EAHCP must be “reasonably certain to occur.” In order to assure the Program would be deemed “reasonably certain to occur” by the Service, the System and other EAHCP permittees loaned Edwards Water Rights to the EAA Groundwater Trust for a term of ten years through Initial Commitment Contract No. 13-649-HCP, which was approved by the System’s Board of Trustees on October 1, 2013 by Resolution No. 13-302, conveying to the EAA Groundwater Trust the amount of 8,000 acre-feet; and

WHEREAS, the System’s Board of Trustees approved an Interlocal Contract with the Edwards Aquifer Authority (EAA) to implement the springflow protection measures included in the EAHCP known as the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028; and

WHEREAS, the System can use the funds received from the Program to hire contractors to repair leaks in the water distribution system so as to reduce water loss; the contractors will work in tandem with the System’s Distribution and Collection Operations crews to reduce the overall turnaround time on repairs; and
WHEREAS, in 2017, the System had 25 leaks per 100 miles of water distribution system piping over the approximately 7,000 miles of water distribution mains and appurtenances in the System; in comparison to the industry average of 9 leaks per 100 miles, the System has workload challenges due to the aging infrastructure; and

WHEREAS, the System requires construction services to perform the necessary water distribution system repairs (the "project work"); and

WHEREAS, Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, submitted a bid in the amount of $1,194,140.00 for the project work, and this bid has been determined to be the lowest responsible bid; and

WHEREAS, System funds in the amount of $1,194,140.00 are required for the project work; and

WHEREAS, the total amount of $1,194,140.00 is available from the System Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to Facilities Rehabilitation, Inc. in the amount of $1,194,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 5, (ii) to approve the expenditure of funds and make available an amount not to exceed $1,194,140.00 from the System Fund for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $1,194,140.00 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $1,194,140.00 is hereby awarded to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 5.

2. That the expenditure of funds in an amount not to exceed $1,194,140.00 for the project work is hereby approved and made available from the System Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $1,194,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 5.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the
public business to be conducted at such meeting, including this resolution, was given to all as
required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason
held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon
any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective,
the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted
without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Shawn C. Crawford, Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 6

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, in the amount of $1,169,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 6.

- The San Antonio Water System (SAWS) Board of Trustees approved the Edwards Aquifer Habitat Conservation Plan (EAHCP) and other documents associated with the Edwards Aquifer Recovery Implementation Program on November 1, 2011, by Resolution No. 11-313.

- One of the requirements to receive United States Fish and Wildlife Service’s (the “Service”) approval of the EAHCP was that the conservation measures outlined in the EAHCP must be “reasonably certain to occur.” In order to assure the program would be deemed “reasonably certain to occur” by the Service, SAWS and other EAHCP permittees loaned Edwards Water Rights to the EAA Groundwater Trust for a term of ten years through Initial Commitment Contract No. 13-649-HCP, which was approved by the SAWS Board of Trustees on October 1, 2013 by Resolution No. 13-302, conveying to the EAA Groundwater Trust the amount of 8,000 acre-feet.

- SAWS Board of Trustees approved an Interlocal Contract with the Edwards Aquifer Authority (EAA) to implement the springflow protection measures included in the EAHCP known as the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028.

- SAWS can use the funds received from the Program to hire contractors to repair leaks in the water distribution system so as to reduce water loss. The contractors will work in tandem with SAWS Distribution and Collection Operations crews to reduce the overall turnaround time on repairs.
In 2017, SAWS had 25 leaks per 100 miles of water distribution system piping over the approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, SAWS has workload challenges due to the aging infrastructure. Beyond the water leaks reported to SAWS by water-conscious public citizens, many leaks are discovered by in-house leak detection crews, leak detection and valve assessment contractors, and through SAWS’ proactive conservation programs.

This contract will allow for SAWS staff to identify, prioritize, and manage the leak repair work orders to be issued to the contractor to maximize efficiency.

The standard construction bidding process was used for this contract.

Facilities Rehabilitation, Inc. submitted the lowest responsive bid of $1,169,140.00.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

Under the Program and Interlocal Contract with the EAA, SAWS is entitled to be paid $18,631,400.00 by the EAA over the first five years of the contract. SAWS would be obligated to transfer 2,372.5 acre-feet of Edwards Water Rights into the EAA Groundwater Trust annually in the years of 2016-2019, and 316.0 acre-feet in 2020. SAWS has already received the 2018 funding from the EAA in the amount of $4,507,750.00. Any applicable water leak repair charges incurred under this contract, and similar contracts, will be paid from these funds.

The construction cost will be paid from the System Fund in the 2018 Distribution and Collection Operations budget (Company: 1000, Accounting Unit: 5047600, Account: 511220) in the total amount of $1,169,140.00. The SAWS job number for the replacement of any water service lines, valves or fire hydrants is 18-1401 (CIP). The SAWS job number for all other types of work is 18-0120 (O&M).

**SUPPLEMENTARY COMMENTS:**

SAWS staff prepared the contract documents for this project. The bid opening was held on July 9, 2018 at 1:00 p.m. The following bids were submitted:
The bid amount represents a 22.1 percent decrease from the estimated construction cost. This contract provides for 365 calendar days for completion of this contract or until funds have been exhausted.

Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>2018 Annual Water Distribution Leak Repairs Contract - Package 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facilities Rehabilitation, Inc.</td>
</tr>
<tr>
<td>SMWVB Analysis – Board Award</td>
</tr>
<tr>
<td>SBE</td>
</tr>
<tr>
<td>MBE – African American</td>
</tr>
<tr>
<td>MBE - Asian</td>
</tr>
<tr>
<td>MBE - Hispanic</td>
</tr>
<tr>
<td>MBE - Other</td>
</tr>
<tr>
<td>WBE - Minority</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
</tr>
<tr>
<td>SMWVB Total</td>
</tr>
</tbody>
</table>

Shawn C. Crawford, P.E.
Manager
Construction Inspections

Michael S. Brinkmann
Vice President
Distribution and Collection Operations
Award of Construction Contract
2018 Annual Water Distribution Leak Repairs Contract - Package 6

APPROVED:

[Signature]

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDDING A CONSTRUCTION CONTRACT TO FACILITIES REHABILITATION, INC. IN THE AMOUNT OF $1,169,140.00 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT – PACKAGE 6; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $1,169,140.00 FROM THE SYSTEM FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH FACILITIES REHABILITATION, INC., AND TO PAY FACILITIES REHABILITATION, INC. AN AMOUNT NOT TO EXCEED $1,169,140.00 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the San Antonio Water System’s (the “System”) Board of Trustees approved the Edwards Aquifer Habitat Conservation Plan (EAHCP) and other documents associated with the Edwards Aquifer Recovery Implementation Program on November 1, 2011, by Resolution No. 11-313; and

WHEREAS, one of the requirements to receive United States Fish and Wildlife Service’s (the “Service”) approval of the EAHCP was that the conservation measures outlined in the EAHCP must be “reasonably certain to occur.” In order to assure the Program would be deemed “reasonably certain to occur” by the Service, the System and other EAHCP permittees loaned Edwards Water Rights to the EAA Groundwater Trust for a term of ten years through Initial Commitment Contract No. 13-649-HCP, which was approved by the System’s Board of Trustees on October 1, 2013 by Resolution No. 13-302, conveying to the EAA Groundwater Trust the amount of 8,000 acre-feet; and

WHEREAS, the System’s Board of Trustees approved an Interlocal Contract with the Edwards Aquifer Authority (EAA) to implement the springflow protection measures included in the EAHCP known as the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028; and

WHEREAS, the System can use the funds received from the Program to hire contractors to repair leaks in the water distribution system so as to reduce water loss; the contractors will work in tandem with the System’s Distribution and Collection Operations crews to reduce the overall turnaround time on repairs; and
WHEREAS, in 2017, the System had 25 leaks per 100 miles of water distribution system piping over the approximately 7,000 miles of water distribution mains and appurtenances in the System; in comparison to the industry average of 9 leaks per 100 miles, the System has workload challenges due to the aging infrastructure; and

WHEREAS, the System requires construction services to perform the necessary water distribution system repairs (the "project work"); and

WHEREAS, Facilities Rehabilitation, Inc., a local, MBE-Hispanic firm, submitted a bid in the amount of $1,169,140.00 for the project work, and this bid has been determined to be the lowest responsible bid; and

WHEREAS, System funds in the amount of $1,169,140.00 are required for the project work; and

WHEREAS, the total amount of $1,169,140.00 is available from the System Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to Facilities Rehabilitation, Inc. in the amount of $1,169,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 6, (ii) to approve the expenditure of funds and make available a amount not to exceed $1,169,140.00 from the System Fund for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $1,169,140.00 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $1,169,140.00 is hereby awarded to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 6.

2. That the expenditure of funds in an amount not to exceed $1,169,140.00 for the project work is hereby approved and made available from the System Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with Facilities Rehabilitation, Inc., and to pay Facilities Rehabilitation, Inc. an amount not to exceed $1,169,140.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 6.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the
public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

______________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_______________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Shawn Crawford, P.E., Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF CHANGE ORDER NO. 1 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 3

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves Change Order No. 1 in the amount of $257,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3.

- On April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-101 authorized a construction contract with Facilities Rehabilitation, Inc. (the “Contractor”) in the total amount of $1,287,680.00 for the project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3.

- The 2018 Annual Water Distribution Leak Repairs Contract - Package 3 involves construction services to perform the necessary water distribution system leak repairs (the “project work”).

- The System is requesting that the contractor complete additional water leak repair work orders, at bid prices of the original contract award, to assist with a backlog of work orders due to main break season.

- Change Order No. 1 establishes additional funds required to complete the additional water leak work orders in a total amount not to exceed $257,600.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this additional expenditure via the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028 and CY 2018 Capital Improvement Program (CIP) & Operation & Maintenance (O&M) funds.
The authorization and contract amounts for this project are as follows:

<table>
<thead>
<tr>
<th>Contract:</th>
<th>Amount Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Amount (Resolution No. 18-101)</td>
<td>$1,287,680.00</td>
</tr>
<tr>
<td>Proposed Change Order No. 1</td>
<td>257,600.00</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$1,545,280.00</td>
</tr>
</tbody>
</table>

The revised contract amount for the System's work as a result of this change order is $1,545,280.00, which represents an increase of 20 percent from the original contract amount.

**SUPPLEMENTARY COMMENTS:**

The original completion date for this contract is May 2, 2019. A contract extension is not required.

Shawn C. Crawford, P.E.  
Manager  
Construction Inspections  

Michael S. Brinkmann  
Vice President  
Distribution and Collection Operations  

APPROVED:

Robert R. Puente  
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING CHANGE ORDER NO. 1 IN THE AMOUNT OF $257,600.00 FOR THE ADDITIONAL PROJECT WORK IN CONNECTION WITH 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 3; AMENDING RESOLUTION NO. 18-101 BY APPROVING AN ADDITIONAL AMOUNT NOT TO EXCEED $257,600.00 BE MADE AVAILABLE AND EXPENDED FROM THE SYSTEM'S PROJECT FUND FOR THE ADDITIONAL PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE CHANGE ORDER NO. 1, AND TO PAY FACILITIES REHABILITATION, INC. AN ADDITIONAL AMOUNT NOT TO EXCEED $257,600.00 FOR ADDITIONAL PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-101, authorized a construction contract with Facilities Rehabilitation, Inc. in the amount of $1,287,680.00 in connection with the project work; and

WHEREAS, the 2018 Annual Water Distribution Leak Repairs Contract - Package 3 (the “Project”) was executed to address the 25 leaks per 100 miles over approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, the System is challenged with reducing this workload due to aging infrastructure and main break season; and

WHEREAS, the System requires additional construction services to assist with a backlog of water distribution system leak repairs due to main break season (the “project work”); and

WHEREAS, additional System funds in an amount not to exceed $257,600.00 are required in connection with the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve Change Order No. 1 in an amount not to exceed $257,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3, (ii) to amend Resolution No. 18-101 by approving an additional amount not to exceed...
$257,600.00 be made available and expended from the System’s Project Fund for the additional project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute Change Order No. 1, and to pay Facilities Rehabilitation, Inc. an additional amount not to exceed $257,600.00 for additional project work; now, therefore:

**BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:**

1. That Change Order No. 1 in an amount not to exceed $257,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3 is hereby approved.

2. That Resolution No. 18-101 is hereby amended by authorizing an additional amount not to exceed $257,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3.

3. That an additional amount not to exceed $257,600.00 is hereby made available and is to be expended from the System’s Project Fund.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute Change Order No. 1, and to pay Facilities Rehabilitation, Inc. an additional amount not to exceed $257,600.00 for additional project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 3.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

7. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

____________________________
Berto Guerra, Jr., Chairman

ATTEST:

____________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Shawn Crawford, P.E., Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF CHANGE ORDER NO. 1 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 4

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves Change Order No. 1 in the amount of $267,870.00 payable to Bartek Construction, Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4.

- On April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-102 authorized a construction contract with Bartek Construction, Co. (the “Contractor”) in the total amount of $1,339,345.00 for the project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4.

- The 2018 Annual Water Distribution Leak Repairs Contract - Package 4 involves construction services to perform the necessary water distribution system leak repairs (the “project work”).

- The System is requesting that the contractor complete additional water leak repair work orders, at bid prices of the original contract award, to assist with a backlog of work orders due to main break season.

- Change Order No. 1 establishes additional funds required to complete the additional water leak work orders in a total amount not to exceed $267,870.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this additional expenditure via the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028 and CY 2018 Capital Improvement Program (CIP) & Operation & Maintenance (O&M) funds.
The authorization and contract amounts for this project are as follows:

<table>
<thead>
<tr>
<th>Contract:</th>
<th>Amount Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Amount (Resolution No. 18-102)</td>
<td>$1,339,345.00</td>
</tr>
<tr>
<td>Proposed Change Order No. 1</td>
<td>267,870.00</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$1,607,215.00</td>
</tr>
</tbody>
</table>

The revised contract amount for the System’s work as a result of this change order is $1,607,215.00, which represents an increase of 20 percent from the original contract amount.

**SUPPLEMENTARY COMMENTS:**

The original completion date for this contract is May 2, 2019. A contract extension is not required.

Shawn C. Crawford, P.E.  
Manager  
Construction Inspections

Michael S. Brinkmann  
Vice President  
Distribution and Collection Operations

APPROVED:

Robert R. Puente  
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF
TRUSTEES APPROVING CHANGE ORDER NO. 1 IN THE
AMOUNT OF $267,870.00 FOR THE ADDITIONAL
PROJECT WORK IN CONNECTION WITH 2018 ANNUAL
WATER DISTRIBUTION LEAK REPAIRS CONTRACT -
PACKAGE 4; AMENDING RESOLUTION NO. 18-102 BY
APPROVING AN ADDITIONAL AMOUNT NOT TO
EXCEED $267,870.00 BE MADE AVAILABLE AND
EXPENDED FROM THE SYSTEM’S PROJECT FUND FOR
THE ADDITIONAL PROJECT WORK; AUTHORIZING
THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS
D ULY APPOINTED DESIGNEE TO EXECUTE CHANGE
ORDER NO. 1, AND TO PAY BARTEK CONSTRUCTION
CO. AN ADDITIONAL AMOUNT NOT TO EXCEED
$267,870.00 FOR ADDITIONAL PROJECT WORK;
FINDING THE RESOLUTION TO HAVE BEEN
CONSIDERED PURSUANT TO THE LAWS GOVERNING
OPEN MEETINGS; PROVIDING A SEVERABILITY
CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-102, authorized a construction contract with Bartek Construction, Co., in the amount of $1,339,345.00 in connection with the project work; and

WHEREAS, the 2018 Annual Water Distribution Leak Repairs Contract - Package 4 (the “Project”) was executed to address the 25 leaks per 100 miles over approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, the System is challenged with reducing this workload due to aging infrastructure and main break season; and

WHEREAS, the System requires additional construction services to assist with a backlog of water distribution system leak repairs due to main-break season (the “project work”); and

WHEREAS, additional System funds in an amount not to exceed $267,870.00 are required in connection with the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve Change Order No. 1 in an amount not to exceed $267,870.00 payable to Bartek Construction Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4, (ii) to amend Resolution No. 18-102 by approving an additional amount not to exceed $267,870.00 be made available and expended from the System’s Project Fund for the additional project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute Change Order No. 1, and to pay Bartek Construction, Co. an additional amount
not to exceed $267,870.00 for additional project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That Change Order No. 1 in an amount not to exceed $267,870.00 payable to Bartek Construction, Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4 is hereby approved.

2. That Resolution No. 18-102 is hereby amended by authorizing an additional amount not to exceed $267,870.00 payable to Bartek Construction, Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4.

3. That an additional amount not to exceed $267,870.00 is hereby made available and is to be expended from the System’s Project Fund.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute Change Order No. 1, and to pay Bartek Construction, Co. an additional amount not to exceed $267,870.00 for additional project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 4.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

7. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

____________________________
Berto Guerra, Jr., Chairman

ATTEST:

____________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Shawn Crawford, P.E., Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: RATIFICATION OF CHANGE ORDER NO. 1 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 1

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution ratifies the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in the amount of $261,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1.

- On April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-099 authorized a construction contract with Facilities Rehabilitation, Inc. (the “Contractor”) in the total amount of $1,307,680.00 for the project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1.

- The 2018 Annual Water Distribution Leak Repairs Contract - Package 1 involves construction services to perform the necessary water distribution system leak repairs (the “project work”).

- SAWS is requesting that the contractor complete additional water leak repair work orders, at bid prices of the original contract award, to assist with a backlog of work orders due to main break season, as well as ensure water leak repairs are performed as quickly as possible.

- Change Order No. 1 establishes additional funds required to complete the additional water leak work orders in a total amount not to exceed $261,600.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this additional expenditure via the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028 and CY 2018 Capital Improvement Program (CIP) & Operation &
Ratification of Change Order No. 1
2018 Annual Water Distribution Leak Repairs Contract - Package 1

Maintenance (O&M) funds.

The authorizations for this project are as follows:

<table>
<thead>
<tr>
<th>Contract:</th>
<th>Amount Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Amount (Resolution No. 18-099)</td>
<td>$1,307,680.00</td>
</tr>
<tr>
<td>Proposed Change Order No. 1</td>
<td>261,600.00</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$1,569,280.00</td>
</tr>
</tbody>
</table>

The revised contract amount for the System’s work as a result of this change order is $1,569,280.00 which represents an increase of 20 percent from the original contract amount.

SUPPLEMENTARY COMMENTS:

The original completion date for this contract is May 2, 2019. A contract extension is not required.

Shawn C. Crawford, P.E.
Manager
Construction Inspections

Michael S. Brinkmann
Vice President
Distribution and Collection Operations

APPROVED:

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES RATIFYING THE ACTIONS OF THE VICE PRESIDENT OF DISTRIBUTION AND COLLECTION OPERATIONS IN APPROVING CHANGE ORDER NO. 1 IN THE AMOUNT OF $261,600.00 IN CONNECTION WITH 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 1; AMENDING RESOLUTION NO. 18-099 BY APPROVING AN ADDITIONAL AMOUNT NOT TO EXCEED $261,600.00 BE MADE AVAILABLE AND EXPENDED FROM THE SYSTEM'S PROJECT FUND FOR THE ADDITIONAL PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE CHANGE ORDER NO. 1 AND TO PAY FACILITIES REHABILITATION, INC. AN ADDITIONAL AMOUNT NOT TO EXCEED $261,600.00 FOR ADDITIONAL PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on April 3, 2018, the Board of Trustees, by Resolution No. 18-099, authorized a construction contract with Facilities Rehabilitation, Inc., in the amount of $1,307,680.00 in connection with the project work; and

WHEREAS, the 2018 Annual Water Distribution Leak Repairs Contract - Package 1 (the “Project”) was executed to address the 25 leaks per 100 miles over approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, the System is challenged with reducing this workload due to aging infrastructure and main break season; and

WHEREAS, the System requires additional construction services to assist with a backlog of water distribution system leak repairs due to main break season (the “project work”); and

WHEREAS, additional System funds in an amount not to exceed $261,600.00 are required in connection with the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to ratify the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $261,600.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1, (ii) to amend Resolution No. 18-099 by approving an additional amount not to exceed $261,600.00 be made available and expended from the
System’s Project Fund, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute Change Order No. 1, and to pay Facilities Rehabilitation, Inc. an additional amount not to exceed $261,600.00 for additional project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $261,600.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1 are hereby ratified.

2. That Resolution No. 18-099 is hereby amended by authorizing an additional amount not to exceed $261,600.00 payable to Facilities Rehabilitation, Inc. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1.

3. That an additional amount not to exceed $261,600.00 is hereby made available and is to be expended from the System’s Project Fund.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute Change Order No. 1 and to pay Facilities Rehabilitation, Inc. an additional amount not to exceed $261,600.00 for additional project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 1.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Code Annotated, as amended, Title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

7. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Shawn Crawford, P.E., Manager, Construction Inspections, and Michael S. Brinkmann, Vice President, Distribution and Collection Operations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: RATIFICATION OF CHANGE ORDER NO. 1 IN CONNECTION WITH THE 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 2

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution ratifies the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in the amount of $260,378.00 payable to Bartek Construction, Co., in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2.

- On April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-100 authorized a construction contract with Bartek Construction, Co. (the “Contractor”) in the total amount of $1,301,390.00 for the project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2.

- The 2018 Annual Water Distribution Leak Repairs Contract - Package 2 involves construction services to perform the necessary water distribution system leak repairs (the “project work”).

- SAWS is requesting that the contractor complete additional water leak repair work orders, at bid prices of the original contract award, to assist with a backlog of work orders due to main break season, as well as ensure water leak repairs are performed as quickly as possible.

- Change Order No. 1 establishes additional funds required to complete the additional water leak work orders in a total amount not to exceed $260,378.00.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this additional expenditure via the Regional Water Conservation Program (the “Program”) effective January 1, 2016 through March 31, 2028 on January 5, 2016, by Resolution No. 16-028 and CY 2018 Capital Improvement Program (CIP) & Operation &
Ratification of Change Order No. 1
2018 Annual Water Distribution Leak Repairs Contract - Package 2

Maintenance (O&M) funds.

The authorizations for this project are as follows:

<table>
<thead>
<tr>
<th>Contract:</th>
<th>Amount Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Contract Amount (Resolution No. 18-100)</td>
<td>$1,301,390.00</td>
</tr>
<tr>
<td>Proposed Change Order No. 1</td>
<td>260,378.00</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>$1,561,768.00</td>
</tr>
</tbody>
</table>

The revised contract amount for the System’s work as a result of this change order is $1,561,768.00 which represents an increase of 20 percent from the original contract amount.

**SUPPLEMENTARY COMMENTS:**

The original completion date for this contract is May 2, 2019. A contract extension is not required.

Shawn C. Crawford, P.E.
Manager
Construction Inspections

Michael S. Brinkmann
Vice President
Distribution and Collection Operations

APPROVED:

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES RATIFYING THE ACTIONS OF THE VICE PRESIDENT OF DISTRIBUTION AND COLLECTION OPERATIONS IN APPROVING CHANGE ORDER NO. 1 IN THE AMOUNT OF $260,378.00 FOR THE ADDITIONAL PROJECT WORK IN CONNECTION WITH 2018 ANNUAL WATER DISTRIBUTION LEAK REPAIRS CONTRACT - PACKAGE 2; AMENDING RESOLUTION NO. 18-100 BY APPROVING AN ADDITIONAL AMOUNT NOT TO EXCEED $260,378.00 BE MADE AVAILABLE AND EXPENDED FROM THE SYSTEM'S PROJECT FUND FOR THE ADDITIONAL PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DUTY APPOINTED DESIGNEE TO EXECUTE CHANGE ORDER NO. 1, AND TO PAY BARTEK CONSTRUCTION, CO. AN ADDITIONAL AMOUNT NOT TO EXCEED $260,378.00 FOR ADDITIONAL PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on April 3, 2018, the San Antonio Water System’s (the “System”) Board of Trustees, by Resolution No. 18-100, authorized a construction contract with Bartek Construction, Co., in the amount of $1,301,390.00 in connection with the project work; and

WHEREAS, the 2018 Annual Water Distribution Leak Repairs Contract - Package 2 (the “Project”) was executed to address the 25 leaks per 100 miles over approximately 7,000 miles of water distribution mains and appurtenances in the System. In comparison to the industry average of 9 leaks per 100 miles, the System is challenged with reducing this workload due to aging infrastructure and main-break-season; and

WHEREAS, the System requires additional construction services to assist with a backlog of water distribution system leak repairs due to main break season (the “project work”); and

WHEREAS, additional System funds in an amount not to exceed $260,378.00 are required in connection with the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to ratify the actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $260,378.00 payable to Bartek Construction, Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2, (ii) to
amend Resolution No. 18-100 by approving an additional amount not to exceed $260,378.00 be made available and expended from the System’s Project Fund, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute Change Order No. 1, and to pay Bartek Construction, Co. an additional amount not to exceed $260,378.00 for additional project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That actions of the Vice President of Distribution and Collection Operations in approving Change Order No. 1 in an amount not to exceed $260,378.00 in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2 are hereby ratified.

2. That Resolution No. 18-100 is hereby amended by authorizing an additional amount not to exceed $260,378.00 payable to Bartek Construction, Co. in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2.

3. That an additional amount not to exceed $260,378.00 is hereby made available and is to be expended from the System’s Project Fund.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute Change Order No. 1 and to pay Bartek Construction, Co., an additional amount not to exceed $260,378.00 for additional project work in connection with the 2018 Annual Water Distribution Leak Repairs Contract - Package 2.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

7. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

____________________________
Berto Guerra, Jr., Chairman

ATTEST:

_______________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Tracey B. Lehmann, P.E., Director, Development, and Andrea L.H. Beymer, P.E., Vice President, Engineering & Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF PROFESSIONAL SERVICES CONTRACT IN CONNECTION WITH WASTEWATER FLOW METERING SERVICES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a professional services contract to ADS, LLC dba ADS Environmental Services, a local, non-SMWVB firm, and authorizes funds in an amount not to exceed $392,458.00 for the period of October 1, 2018 through October 1, 2021, with the option of two one-year extensions in connection with Wastewater Flow Metering Services.

- The San Antonio Water System’s (the “System”) Master Planning (MP) and Resource Protection and Compliance (RPC) Departments desire to continue its current flow metering efforts at several previously identified Edwards Aquifer Recharge Zone (EARZ) sensitive features. By installing flow monitors in these areas, the System’s wastewater collection system can be closely monitored with the capability to alert the System’s Emergency Operations Center for immediate responsive action. Additionally, the meter installations at some locations may help monitor the success of capital improvement efforts in the collection system designed to reduce inflow and infiltration and improve capacity.

- MP is requesting that the contactor to install 22 flow meters, throughout the EARZ in order to monitor the depth, velocity, and flow in sanitary sewer pipes within our system.

- This contract is to provide wet and dry weather wastewater levels and flows at 22 locations within the existing System’s wastewater collection system. Flows will be used to determine existing flow conditions. The flow data collected will also be used for Inflow and Infiltration analyses and will be used as an indicator for existing main surcharging and sanitary sewer overflows (SSO’s).

- Through this contract, ADS, LLC dba ADS Environmental Services will perform preliminary site evaluations to ensure proper installation locations, install 22 flow meters, perform regular maintenance and calibration, provide recorded data (flow, depth, velocity, and rainfall amount), analyze locations/data to ensure data quality, and remove the meters/gauges at the end of the contract. The contract will also take into account relocation and temporary removal fees associated with long term flow monitor activities. The meters...
will also be used as an alarming tool, in order to notify System staff of current conditions in the system, including early warning signs of surcharge and SSO’s. Multiple reports will be required on a scheduled basis to ensure quality data from each installed meter/gauge.

- In addition, the contract requires the vendor to provide a sewer profile analysis tool that would enable staff to view all data channels from meters/gauges in real time. This will also aid staff in performing various types of rainfall and Rainfall Dependent Inflow and Infiltration (RDII) analysis that will aid in verifying the calibration of the hydraulic model.

- Previous System metering efforts: The System does not currently own any permanent flow meters. However, the current temporary flow monitoring services have been beneficial to the System. Previous flow monitoring vendor contracts have been responsible for maintaining and calibrating meters as well as providing easy access to data and analysis tools. These tools have been crucial in the development of the current wastewater hydraulic model, a task which was undertaken in 2013 by MP and has led to the development of the capacity constraint areas being further analyzed by the System’s SSORP group and Basin Planning Committee (BPC) contracts.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

The System Fund will finance this expenditure totaling $392,458.00.

The services will be paid from the System Fund budgeted in the 2018 budget (Company: 1000, Accounting Unit: 5044600, Account: 511312, total 2018 amount $66,968.00).

The services will be paid from the System Fund budgeted in the 2019 budget pursuant to and contingent upon Board approval of the 2019 budget with a line item for such expenditures (Company: 1000, Accounting Unit: 5044600, Account: 511312, total 2019 amount $106,920.00).

The services will be paid from the System Fund budgeted in the 2020 budget pursuant to and contingent upon Board approval of the 2020 budget with a line item for such expenditures (Company: 1000, Accounting Unit: 5044600, Account: 511312, total 2020 amount $106,920.00).

The services will be paid from the System Fund budgeted in the 2021 budget pursuant to and contingent upon Board approval of the 2021 budget with a line item for such expenditures (Company: 1000, Accounting Unit: 5044600, Account: 511312, total 2021 amount $111,650.00).

Expenditures for future fiscal years are hereby authorized to be made available pursuant to and contingent on Board approval of future budgets with a line item for such expenditures.
SUPPLEMENTARY COMMENTS:

There are only a few firms qualified to provide the specialized wastewater flow metering services required by the RFQ. The System’s staff prepared a bid invitation using an RFQ approach in order to ensure these services would meet the System’s highest standards. Previously, a Best Value Bid approach was used. However, this contract’s type was changed to Request for Qualifications in order to focus on the quality of the analysis/review provided by the vendor.

This contract will be valid for three years from the date of execution with the option for two one-year extensions. Two firms responded to the Request for Qualifications. ADS, LLC dba ADS Environmental Services was selected through the System’s selection procedure as a qualified firm.

The submitting firms are as follows:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADS, LLC dba ADS Environmental Services*</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Hach</td>
<td>Non–Local/Non–SMWVB</td>
</tr>
</tbody>
</table>

*Selected Firm

The bids and qualifications were submitted on July 9, 2018, with negotiations taking place throughout the months of July and August.

ADS, LLC dba ADS Environmental Services proposed to use the following subconsultants for services on this contract:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Percent of Fee</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renhill Staffing Services of Texas</td>
<td>30.00%</td>
<td>Local/WBE–Hispanic</td>
</tr>
<tr>
<td>Vickery &amp; Associates, Inc.</td>
<td>10.00%</td>
<td>Local/MBE</td>
</tr>
</tbody>
</table>
Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Wastewater Flow Metering Services</th>
<th>ADS, LLC dba ADS Environmental Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>SMWVB Analysis – Board Award</td>
<td></td>
</tr>
<tr>
<td>SBE</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>30.00%</td>
</tr>
<tr>
<td>MBE – Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Minority</td>
<td>10.00%</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>40.00%</td>
</tr>
</tbody>
</table>

Tracey B. Lehmann, P.E.  
Director  
Development

Andrea L.H. Beymer, P.E.  
Vice President  
Engineering and Construction

Robert R. Puente  
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A PROFESSIONAL SERVICES CONTRACT TO ADS, LLC DBA ADS ENVIRONMENTAL SERVICES IN AN AMOUNT NOT TO EXCEED $392,458.00 FOR THE PERIOD OF OCTOBER 1, 2018 THROUGH OCTOBER 1, 2021, WITH THE OPTION OF TWO ONE-YEAR EXTENSIONS IN CONNECTION WITH WASTEWATER FLOW METERING SERVICES; AUTHORIZING EXPENDITURES IN AN AMOUNT NOT TO EXCEED $392,458.00 FOR THE INITIAL TERM FROM THE SYSTEM FUND FOR THE PROJECT WORK AND THAT EXPENDITURES FOR SUBSEQUENT YEARS BE PURSUANT TO AND CONTINGENT UPON BOARD APPROVAL OF SUBSEQUENT YEAR'S BUDGET WITH A LINE ITEM FOR SUCH EXPENDITURES; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A PROFESSIONAL SERVICES CONTRACT AND CONTRACT EXTENSIONS FOR TWO ONE-YEAR EXTENSION OPTIONS WITH ADS, LLC DBA ADS ENVIRONMENTAL SERVICES, AND TO PAY ADS, LLC DBA ADS ENVIRONMENTAL SERVICES AN AMOUNT NOT TO EXCEED $392,458.00 FOR THE INITIAL TERM IN CONNECTION WITH WASTEWATER FLOW METERING SERVICES; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the San Antonio Water System (the “System”) endeavors to optimize the planning, engineering, operation, and maintenance of its wastewater system; and

WHEREAS, through this contract, ADS, LLC dba ADS Environmental Services will perform preliminary site evaluations to ensure proper installation locations, install 22 flow meters, perform regular maintenance and calibration, provide recorded data (flow, depth, velocity, and rainfall amount), analyze locations/data to ensure data quality, and remove the meters/gauges at the end of the contract; and

WHEREAS, the contract will also take into account relocation and temporary removal fees associated with long term flow monitor activities. The meters will also be used as an alarming tool, in order to notify System staff of current conditions in the system, including early warning signs of surcharge and SSO’s. Multiple reports will be required on a scheduled basis to ensure quality data from each installed meter/gauge; and
WHEREAS, the ADS, LLC dba ADS Environmental Services will conduct services for the Sanitary Sewer Overflow Capacity Validation and Assessment Project; and

WHEREAS, the System authorizes the expenditure of funds for services to ADS, LLC dba ADS Environmental Services, in an amount not to exceed $392,458.00 for Wastewater Flow Metering Services; and

WHEREAS, the amount not to exceed $392,458.00 is available from the System Fund; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a professional services contract to ADS, LLC dba ADS Environmental Services in an amount not to exceed $392,458.00 for the period of October 1, 2018 through October 1, 2021, with the option of two one-year extensions in connection with Wastewater Flow Metering Services, (ii) to authorize expenditures in an amount not to exceed $392,458.00 for the initial term from the System Fund for the project work and that expenditures for subsequent years be pursuant to and contingent upon Board approval of subsequent year’s budget with a line item for such expenditures, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a professional services contract and contract extensions for two one-year extension options with ADS, LLC dba ADS Environmental Services, and to pay ADS, LLC dba ADS Environmental Services an amount not to exceed $392,458.00 for the initial term in connection with Wastewater Flow Metering Services; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a professional services contract in an amount not to exceed $392,458.00 period of October 1, 2018 through October 1, 2021, with the option of two one-year extensions is hereby awarded to ADS, LLC dba ADS Environmental Services in connection with the Wastewater Flow Metering Services.

2. That the expenditure of funds in an amount not to exceed $392,458.00 for the initial term for the project work is hereby approved and made available from the System’s Fund and that expenditures for subsequent years be pursuant to and contingent upon Board approval of subsequent year’s budget with a line item for such expenditures.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a professional services contract and contract extensions for two one-year extension options with ADS, LLC dba ADS Environmental Services, and to pay ADS, LLC dba ADS Environmental Services an amount not to exceed $392,458.00 for the initial term in connection with the Wastewater Flow Metering Services.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.
5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

____________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Scott R. Halt, Director, Resource Protection and Compliance, and Donovan S. Burton, Vice President, Water Resources and Governmental Relations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF PROPOSED AMENDMENTS TO ARTICLE II, DIVISION 6; AND THE PRETREATMENT ORDINANCE FOUND IN CHAPTER 34, ARTICLE V, DIVISIONS 3 AND 5 OF THE CITY CODE; AND ARTICLE VI, DIVISION 5 OF THE CITY CODE TO COMPLY WITH AMENDMENTS TO 40 C.F.R. PART 403 AND TPDES PERMIT NUMBER WQ0004284000, AND RECOMMENDING THE AMENDMENT IN CHAPTER 34, ARTICLE VI, DIVISION 8

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves amendments to Chapter 34, Article II, Division 6, Article V, Division 3; Chapter 34 and Article VI, Divisions 5 and 8 of the City Code and recommends that the City Council pass an ordinance adopting the recommended amendments.

- The San Antonio Water System (the "System") has requirements for fire hydrant meter periodic calibration and meter readings. A customer authorized by the System to use a fire hydrant meter must meet the requirements set forth in Article II, Division 6, Section 131.

- Chapter 34, Article II, Division 6 of the City Code must be amended to adopt the updated requirement for the hydrant meter to be returned to the System for inspection and re-calibration every twelve months from the original date of the customer's fire hydrant meter contract.

- The System is required by the Federal Clean Water Act (33 U.S.C.A 1251, et seq.) and regulations administered by the United States Environmental Protection Agency (EPA) (40 C.F.R. Part 403 and 122) to implement both a pretreatment and a storm water program to reduce or eliminate the discharge of harmful pollutants into both the sanitary sewer system and the Municipal Separate Storm Sewer System (MS4) by permitted dischargers. The Texas Commission on Environmental Quality (TCEQ) is the approval authority for the pretreatment and storm water programs pursuant to a delegation of authority from the EPA.

- The System has implemented a pretreatment program that is described in and authorized by Chapter 34, Article V, Division 3 of the City Code.
• The System has implemented a Fats, Oils and Grease Program that is described in and authorized by Chapter 34, Article V, Division 5 of the City Code.

• The System has implemented a storm water program that is described in and authorized by Chapter 34, Article VI, Division 5 of the City Code.

• The System has implemented a backflow prevention program that is described in and authorized by Chapter 34, Article VI, Division 8 of the City Code.

• The federal regulations that govern the pretreatment program have been amended. The System is required to amend its pretreatment program to comply with these regulatory amendments and as a requirement for renewal of the permits that govern the operation of the System’s wastewater treatment plants.

• Chapter 34, Article V, Division 3 of the City Code must be amended to adopt updated definitions and verbiage within the Code to meet state and federal regulations.

• Chapter 34, Article V, Division 3 of the City Code must be amended to adopt a program for Dental Industrial Users (DIU) including a registration process for DIUs and implementation of a Best Management Plan.

• Chapter 34, Article V, Division 3 of the City Code must be amended to adopt requirements for DIUs to meet state and federal regulations in regards to pretreatment and amalgam separators.

• Chapter 34, Article V, Division 5 Section 518 of the City Code must be amended to clarify the meaning of control authority within this paragraph in accordance this division.

• Chapter 34, Article VI, Division 5 of the City Code must be amended to adopt the updated prohibited discharge listing to protect the MS4 to meet the requirements of storm water program.

• Chapter 34, Article VI, Division 5 of the City Code must be amended to adopt the clarification of references for registered/certified professionals for the Construction Storm Water Program.

• Chapter 34, Article VI, Division 8 of the City Code must be amended to correct the reference to Chapter 10 of the plumbing code concerning installation of backflow assemblies and update the wording of device to assembly.
• Chapter 34, Article VI, Division 8 of the City Code must be amended to allow the property owner to have a property owner's representative submit test reports and set a yearly deadline of June 30 to have all test reports submitted to the System.

• Chapter 34, Article VI, Division 8 of the City Code must be amended to promote the use of an electronic submittal program by waiving the fee for test reports if the test reports are submitted online through the System's backflow web application.

• Chapter 34, Article VI, Division 8 of the City Code must be amended to require testers to submit backflow assembly test reports within 10 days of completing the test. Only System or approved TCEQ Backflow Prevention Assembly Test and Maintenance forms will be accepted. All test and maintenance reports shall be retained by the owner of the property where the backflow prevention assembly is located for at least three years after the date of any such test.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

There is no financial impact to the System or by City Council approval of the proposed ordinance amendments that are requested in the resolution.

Scott R. Halty  
Director  
Resource Protection and Compliance

Donovan S. Burton  
Vice President  
Water Resources and Governmental Relations

APPROVED:

Robert R. Puente  
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AN ORDINANCE AMENDING CHAPTER 34, ARTICLE II, DIVISION 6; AND ARTICLE V, DIVISIONS 3 AND 5; ARTICLE VI, DIVISION 5 OF THE CITY CODE TO COMPLY WITH AMENDMENTS TO 40 C.F.R. PART 403 AND TPDES PERMIT NUMBER WQ0004284000; AND AMENDING ARTICLE VI, DIVISION 8 OF THE CITY CODE; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO RECOMMEND THE ORDINANCE AMENDMENTS TO THE CITY COUNCIL AND REQUESTING THAT THE CITY COUNCIL PASS AN ORDINANCE AMENDING CHAPTER 34, ARTICLE II, DIVISION 6; AND ARTICLE V, DIVISIONS 3 AND 5; REQUESTING THAT THE CITY COUNCIL PASS AN ORDINANCE AMENDING CHAPTER 34, ARTICLE VI, DIVISION 5 AND ARTICLE VI, DIVISION 8 OF THE CITY CODE; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The San Antonio Water System (the "System") has requirements for fire hydrant meter periodic calibration and meter readings. A customer authorized by the System to use a fire hydrant meter must meet the requirements set forth in Article II, Division 6, Section 131; and

WHEREAS, Chapter 34, Article II, Division 6 of the City Code must be amended to adopt the updated requirement for the hydrant meter to be returned to the System for inspection and re-calibration every twelve months from the original date of the customer's fire hydrant meter contract; and

WHEREAS, the System is required by the Federal Clean Water Act (33 U.S.C.A 1251, et seq.) and regulations administered by the United States Environmental Protection Agency (EPA) (40 C.F.R. Part 403 and 122) to implement both a pretreatment and a storm water program to reduce or eliminate the discharge of harmful pollutants into both the sanitary sewer system and the Municipal Separate Storm Sewer System (MS4) by permitted dischargers; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) is the approval authority for the pretreatment and storm water programs pursuant to a delegation of authority from the EPA; and

WHEREAS, the System has implemented a pretreatment program that is described
WHEREAS, Chapter 34, Article V, Division 3 of the City Code must be amended to adopt the modifications to the pretreatment program that are required by the amended federal regulations; and

WHEREAS, the System has implemented a Fats, Oils and Grease Program that is described in and authorized by Chapter 34, Article V, Division 5 of the City Code; and

WHEREAS, the System has implemented a storm water program that is described in and authorized by Chapter 34, Article VI, Division 5 of the City Code; and

WHEREAS, the System has implemented a backflow prevention program that is described in and authorized by Chapter 34, Article VI, Division 8 of the City Code; and

WHEREAS, the federal regulations found at 40 C.F.R. Part 403 and 441 that govern the pretreatment program have been amended and the System is required to amend its pretreatment program to comply with these regulatory amendments and as a requirement for renewal by the TCEQ of the permits that govern the operation of the System’s wastewater treatment plants; and

WHEREAS, Chapter 34, Article V, Division 3 of the City Code must be amended to adopt updated definitions and verbiage within the code to meet state and federal regulations; and

WHEREAS, Chapter 34, Article V, Division 3 of the City Code must be amended to adopt a program for Dental Industrial Users (DIU) including a registration process for DIUs and implementation of a Best Management Plan; and

WHEREAS, Chapter 34, Article V, Division 3 of the City Code must be amended to adopt requirements for DIUs to meet state and federal regulations in regards to pretreatment and amalgam separators; and

WHEREAS, Chapter 34, Article V, Division 5 of the City Code must be amended to adopt verbiage updates to Section 518 to clarify the meaning of control authority within this paragraph for the Fats, Oils and Grease Program; and

WHEREAS, Chapter 34, Article VI, Division 5 of the City Code must be amended to adopt the updated prohibited discharge listing to protect the MS4 to meet the requirements of Storm Water Program; and

WHEREAS, Chapter 34, Article VI, Division 5 of the City Code must be amended to adopt a clarification of references for registered/certified professionals for the Construction Storm Water Program; and
WHEREAS, Chapter 34, Article VI, Division 8 of the City Code must be amended to adopt the modifications to the Backflow Prevention Program that are required to meet state and federal regulations; and

WHEREAS, Chapter 34, Article VI, Division 8 of the City Code must be amended to correct the reference to Chapter 10 of the plumbing code concerning installation of backflow assemblies and replace the wording of a device to reflect as an assembly; and

WHEREAS, Chapter 34, Article VI, Division 8 of the City Code must be amended to allow the property owner to have a property owner’s representative submit test reports and set a yearly deadline of June 30 to have all test reports submitted to the System; and

WHEREAS, Chapter 34, Article VI, Division 8 of the City Code must be amended to promote the use of an electronic submittal program by waiving the fee for test reports if the test reports are submitted online through the System’s backflow web application; and

WHEREAS, Chapter 34, Article VI, Division 8 of the City Code must be amended to require testers to submit backflow assembly test reports within 10 days of completing the test. Only System or approved TCEQ Backflow Preventive Assembly Test and Maintenance forms will be accepted. All test and maintenance reports shall be retained by the owner of the property where the backflow prevention assembly is located for at least three years after the date of any such test; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve an ordinance amending Chapter 34, Article V, Divisions 3 and 5 and Article VI, Division 5 and 8 of the City Code, (ii) to recommend that the City Council pass and approve an ordinance amending Chapter 34, Article V, Divisions 3 and 5, and Article VI, Divisions 5 and 8 of the City Code, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to request that the City Council pass and approve such an ordinance; now therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That an ordinance amending Chapter 34, Article II, Division 6, Article V, Division 3 and 5, Article VI, Divisions 5 and 8 of the City Code as set forth in Attachment 1 that is incorporated herein by reference is hereby approved.

2. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to recommend that City Council pass and approve an ordinance that amends Chapter 34, Article II, Division 6, Article V, Division 3 and 5, Article VI, Divisions 5 and 8 in form similar to the proposed ordinance that is attached hereto and incorporated herein by reference as Attachment 1.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the
public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

5. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

______________________________
Berto Guerra, Jr., Chairman.

ATTEST:

______________________________
Patricia E. Merritt, Assistant Secretary.

Attachment:
1. Proposed ordinance amendments.
DIVISION 3. - INDUSTRIAL WASTE

Footnotes:
--- (12) ---


Sec. 34-471. - General provisions.
(1) Purpose. This division sets forth uniform requirements to be met by all industrial waste dischargers utilizing the San Antonio Regional Wastewater Transportation and Treatment System (hereinafter termed "regional system"). This division is written to enable the regional system to comply with and enforce all applicable local, state, and federal laws pertaining to water quality control, including the Clean Water Act (33 U.S.C. 1251 et. seq.), and the general pretreatment regulations (40 CFR 403).
Any word, phrase, clause, paragraph, section, part or provision of this division which, upon the promulgation of more stringent local, state or federal law or duly implemented regulatory requirement, is in conflict with or less stringent than such local, state and federal law or regulation promulgated after enactment of this division, shall be invalidated and repealed to the extent of such conflict or supersession upon the effective date of such local, state and federal law or regulation, and the language and provisions of such local, state and federal law or regulation shall be incorporated herein by reference and shall become a part of those sections, parts, paragraphs, clauses, or phrases affected to the extent that the existing division language is invalidated and repealed.

(2) Administration.
(a) Pursuant to the grant of authority to the San Antonio Water System in City Ordinance No. 75686, dated April 30, 1992 and in the Ordinance No. 80574 dated August 4, 1994, the SAWS board of trustees shall have full responsibility for the administration and implementation of the pretreatment program established by this division.
(b) Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this division. The pretreatment program shall be modified as needed to meet local, state and federal requirements. Any powers granted to or duties imposed upon the director may be delegated by the director to other SAWS personnel.

(3) Objectives. The objectives of this division are:
(a) To prevent the introduction of pollutants into the regional system in such quantities or qualities that would interfere with the operation of the regional system;
(b) To prevent the introduction of pollutants or substances into the regional system that may typically pass through either unaffected by the treatment process or may be inadequately compatible with such treatment, that could result in potential violations of POTW effluent standards, air quality standards, NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws, or otherwise considered incompatible with the POTW;
(c) To preserve and improve the opportunity for reusing, reclaiming and recycling wastewater and sludge generated by the regional system, and to ensure quality of sludge to allow its use and disposal in compliance with statutes and regulations;
(d) To ensure that there is an equitable distribution of the operation, maintenance and capital-related costs of the regional system across user classes;
(e) To create a permit system to regulate industrial users of the regional system;
(f) To enforce the provisions of this division by requiring self-monitoring and self-reporting from industrial users to supplement periodic investigations made by regional system inspection personnel;
(g) To provide penalties for violations of the regulations established herein;
Updates to 2018 Code – Industrial Waste Section

(h) To protect the health and welfare of the public and of employees who maintain and operate the regional system;

(i) To establish a regulatory environment that encourages identification and utilization of pretreatment opportunities to reduce or eliminate the volume and toxicity of any industrial waste discharged to the regional system, in fulfillment of the intent of objectives (a), (b), (c), and (h) above.

(4) Service area. This division shall be given full force and effect inside the corporate limits of San Antonio and within those unincorporated areas located outside the corporate limits of San Antonio, but within the regional system’s sewer service area. Additionally, this division shall apply to those entities (as defined hereinafter) served by the regional system that have entered into sewer service contracts with the city or the San Antonio Water System. By operation of law, permit conditions, contract, or intermunicipal agreement, industrial users within the sewer service area are obligated to abide by the provisions of this division and/or similarly stringent regulations adopted by an entity other than SAWS, which govern the discharge of industrial wastewater into any sewage collection system which ultimately connects to the regional system. Industrial users within the sewer service area are obligated to financially support the regional system by paying all applicable sewer user charges and fees to the appropriate collection agent for costs associated with the transportation, treatment, operation, maintenance, monitoring, administration, and enforcement services provided to the user of the regional system.

(5) Abbreviations. The following abbreviations shall have the designated meanings:

- **BOD** — Biochemical Oxygen Demand (five day).
- **BMP** – Best Management Practices
- **C** — Centigrade.
- **CERCLA** — Comprehensive Environmental Response, Compensation, and Liability Act.
- **CAA** — Clean Air Act.
- **CWA** — Clean Water Act, 33 U.S.C. 1251 et seq.
- **COD** — Chemical Oxygen Demand.
- **DIU** – Dental Industrial User
- **EPA** — Environmental Protection Agency.
- **F** — Fahrenheit.
- **FOG** — Fats, Oils and Grease.
- **GPD** — Gallons per day.
- **L** — Liter.
- **LEL** — Lower Explosive Limit.
- **mg** — Milligrams.
- **MGD** — Million gallons per day.
- **mg/L** — Milligrams per Liter (weight to volume).
(6) Definitions. Unless a provision expressly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated.

Act or the Act: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

Administrator: The Administrator of the U.S. Environmental Protection Agency.

Amalgam process wastewater: Wastewater discharged from a DIU containing dental amalgam.

Amalgam Separator: A collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility with a removal efficiency of at least 95% and meeting the ANSI/ADA criteria as outlined in §40 CFR §441.

Approval authority: The administrator of the EPA or the director in a National Pollutant Discharge Elimination System (NPDES) delegated state with an approved state pretreatment program or his designated representative.

Authorized representative of industrial user: An authorized representative of an industrial user may be:

(1) An executive officer of at least the level of vice president if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of a user that is a political subdivision or other entity as defined at section 34-471(6) of this division;
Updates to 2018 Code – Industrial Waste Section

(4) The individuals described in paragraphs (1) through (3) above, may designate an alternate authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Control Authority.

Best management practices (BMPs): A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the requirements listed in subsections 34-472(1) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand (BOD): The quantity of oxygen utilized in five (5) days at twenty (20) degrees centigrade for biochemical oxidation of the organic matter present in wastewater, expressed in mg/l and measured by the method set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, or such other method as approved by EPA and published in 40 CFR 136.

Categorical standards: National categorical pretreatment standards or pretreatment standards as set forth in any regulation containing pollutant discharge limits promulgated by the EPA in accordance with the Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users, and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Chemical oxygen demand (COD): A measure of the oxygen required in mg/l for the oxidation of organic matter to CO₂ and water while under acidic conditions using a strong chemical oxidizing agent. See Standard Methods for the Examination of Water and Wastewater, current edition.

City: The City of San Antonio in Bexar County, Texas, being a home rule municipality duly authorized and existing, pursuant to its charter, the Texas Constitution, and the laws of the State of Texas as represented by the official acts of the city council and council-designated representative public officials.

Compatible pollutant: A pollutant such as biochemical oxygen demand, total suspended solids, or any additional pollutants identified in the publicly-owned treatment works NPDES permit, where the POTW is designed to treat such pollutants to the degree required by the POTW's NPDES or state wastewater discharge permit.

Composite sample: A representative sample (flow or time proportional) resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time. Normally these samples are based on a twenty-four-hour period and should be representative of daily operations, as is further defined in Appendix E of 40 CFR 403.

Control Authority: The term "Control Authority or CA" shall refer to SAWS or the POTW defined hereinafter, the resource compliance division, or the designated representative or agent, in accordance with the provisions of 40 CFR 403.12 insofar as the pretreatment program was originally approved and effective as of February 15, 1985.

Daily discharge: The wastewater discharge from a facility during a normal 24-hour period to the sanitary sewer.

Daily maximum limit: The maximum allowable discharge limit of a pollutant during a calendar day. Where a daily maximum limit is expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where a daily maximum limits is expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Dental amalgam: An alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

Dental Industrial User: A general dentistry practice or large dental facility described under the NAICS as 621210 that either uses or removes dental amalgam as part of the practice including but not limited to institutions, permanent or temporary offices, clinics, home offices, and facilities operated by Federal, state or local governments that discharge wastewater to the Control Authority. This does not include mobile dental units, dental dischargers that do not place dental amalgam and do not remove amalgam except in...
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**Limited emergency or unplanned, unanticipated circumstances** and that certify as such to the Control Authority. Offices that exclusively practice one or more of the following specialties are also not included: oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics.

**Department:** The San Antonio Water System Resource Protection and Compliance Department.

**Direct discharge:** The discharge of treated or untreated wastewater directly to the waters of the United States or the state.

**Division:** The San Antonio Water System Resource Compliance Division.

**Entity:** Shall refer to those cities, towns, political or commercial subdivisions, municipal utility districts, industrial districts, public utility districts, water improvement districts, military installations or state government facilities that establish, operate, and maintain a sanitary sewer collection system within their jurisdictional boundary and contract with the Control Authority to provide for the transportation and treatment of sewage generated by the entity.

**Environmental Protection Agency, or EPA:** The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

**Existing source:** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**Explosion hazard meter:** An explosion-proof electronic, mechanical device designed to collect and analyze ambient air samples to determine the presence and measure the concentration of volatile, flammable, organic vapors capable of causing a fire or explosion in the presence of a source of ignition.

**Flow-proportional composite sample:** Shall mean the composite of two (2) or more discharge samples taken on a flow-proportional basis, to be representative of daily operations.

**Fats, oils and grease (FOG):** Shall mean any animal, vegetable or mineral fats, oils and/or greases, including but not limited to the following types: floatable grease of any origin; and free or emulsified grease of petroleum or mineral origin, or both, such as cooling or quenching oil, lubricating oil, nonbiodegradable cutting oil and non-saponifiable oil.

**Grab sample:** A sample taken over a short period of time, not usually exceeding fifteen (15) minutes, and representative of a wastewater flow on a one-time basis. This sample is taken without regard to the flow volume or consideration of the time at which the sample is taken, as is further defined in Appendix E of 40 CFR 403.

**Grease trap:** Any structure or mechanical device intended to cause or facilitate the interception and separation of free and emulsified oils and grease from wastewater prior to its discharge to the regional system. All structure or devices installed for the purpose of pretreatment shall conform to the design requirements contained in the city plumbing code. Plans for such structures or devices shall be submitted to the Control Authority for review prior to construction or installation.

**Grit trap:** A receptacle utilized by commercial or industrial generators of liquid waste to intercept, collect and restrict the passage of petroleum-based oil and grease wastes and inorganic or other solids into both private and public sanitary sewers to which the receptacle is directly or indirectly connected.

**Ground water:** The supply of fresh water found beneath the earth’s surface, usually in aquifers, which supply wells and springs.

**Holding tank waste:** Any wastes from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks, or any other waste hold/hauling mechanisms.

**Incompatible pollutant:** All pollutants other than compatible pollutants as defined in section 34-471(6), such as, but not limited to, metals, volatile organics, and hazardous substances, etc.
**Indirect discharge:** The discharge or the introduction into the POTW of any pollutant from any non-domestic source, including but not limited to those sources regulated under Section 307 (b) and (c) or (d) of the Act (33 U.S.C. 1317) (including holding tank waste discharged into the regional system).

**Industrial user or user (IU):** Any user who contributes, causes, or allows an indirect discharge (as defined in subparagraph 34- 471(6) of this section) of non-domestic pollutants or other wastewater which does not constitute a "direct discharge" to a receiving stream under regulations issued pursuant to Section 402, of the Act, (33 U.S.C. 1342).

**Industrial wastewater:** The liquid and waterborne pollutants resulting from processes or operations employed in business, commerce or industry as defined in the "Standard Industrial Classification Manual, 1987" office of management and budget of the federal government, as amended and supplemented from time to time, inclusive of the mixtures of any industrial wastewater pollutants with water or domestic sewage as distinct from normal domestic sewage.

**Industrial wastewater advisory board:** An advisory board consisting of eleven (11) members whose function is to provide information and recommendations to the Control Authority's board of trustees, president/CEO, and the director regarding Industrial Wastewater. The general provisions of the Federal Register, Volume 44, No. 34, Friday, February 16, 1979, Sec. 25.7 "Advisory Groups," shall serve as a guideline for the activities and structure of the board.

**Industrial wastewater discharge permit:** A control mechanism providing for the regulation of discharge by certain users pursuant to 40 CFR 403.8 (f)(1)(iii), the Act, the Control Authority pretreatment program, and this division.

**Inhibition:** A discharge which has a negative impact upon the biological activity of the POTW either alone or in conjunction with other discharges.

**Instantaneous maximum allowable discharge limit:** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

**Interference:** A discharge which alone or in conjunction with a discharge from other sources tends to:

1. Inhibit or disrupt the treatment processes, operations, sludge processes, sludge use or disposal of the POTW, and
2. Therefore is a cause of violation of POTW's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder (or any more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and Marine Protection, Research, and Sanctuaries Act.

**Mobile Dental Unit:** A specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations. The discharge from a mobile dental unit to the Control Authority must include provisions to remove dental amalgam prior to discharge to the collection system.

**Monthly average limit:** The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**NAICS:** North American Industrial Classification System, an industrial classification system that groups establishments into industries based on the similarity in the processes used to produce the principal goods or services and the economic activities in which they are primarily engaged.

**Narrative standard:** Narrative criteria are statements that describe the desired water quality goal that is used when pollutants cannot be precisely measured to express the limit on a parameter in a quantitative form. This criteria is used for pollutants for which numeric criteria are difficult to specify, such as those that offend the senses (e.g., color and odor) or for requirements as might be specified in a compliance agreement (e.g., employee training or visual postings).
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National pollution discharge elimination system (NPDES) permit: A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

New source:

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that action, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or product equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of existing sources at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program:

(i) Any placement, assembly, or installation of facilities or equipment; or

(ii) Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Normal domestic wastewater: The water-borne wastes normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm water, ground water and industrial waste, with a BOD normally less than two hundred fifty (250) mg/L and total suspended solids normally less than two hundred fifty (250) mg/L.

Pass through: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority’s NPDES permit, including an increase in the magnitude or duration of a violation.

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH: A measure of the acidity or alkalinity of an aqueous solution, defined as the logarithm (base 10) of the reciprocal of the hydrogen ion concentration of a solution, expressed in standard units.
Pollutant: A substance that alters the physical, thermal, chemical, radiological, or biological quality or properties of water; or that contaminates water to the extent that the water is rendered harmful to humans, animal life, vegetation, property, or to public health, safety, or welfare; or that impairs the usefulness of public enjoyment of the water for any lawful purpose. Pollutants include, but are not limited to, dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution prevention plan: A plan designed for the reduction of generation of hazardous waste and toxic chemicals as outlined in the Waste Reduction Policy Act of 1991 (under 30 Texas Administrative Code (TAC) 335 Subchapter Q) by avoiding the disposal or release of harmful substances into the environment by means of source reduction, waste minimization, reuse, recycling, and detoxifying treatments.

Pretreatment or treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means, except by diluting the concentration of the pollutants, and as prohibited by 40 CFR 403.6(d).

Pretreatment requirements: Any substantive or procedural requirement of the Control Authority related to industrial wastewater pretreatment that may supplement national pretreatment standard requirements imposed upon an industrial user.

Pretreatment standards: Any regulation containing prohibitive discharge standards and/or categorical pretreatment standards promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347). This term also includes local limits.

Process wastewater: Any water which, during manufacturing or processing, comes into contact with or results from the production of use of any raw material, intermediate product, finished product, byproduct, or waste product.

Prohibitive discharge standards: Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 44-4720(d) of this division.

Publicly owned treatment works (POTW): A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Control Authority. This definition includes any devices or systems used in the recycling or reclamation, collection and treatment of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a water recycling center.

San Antonio Water System (the Control Authority): Regional water, wastewater and reuse utility system created by Ordinance No. 75686 of the City of San Antonio, passed on April 30, 1992.

Septic tank waste: Any sewage or wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage: Wastewater containing human excrement and gray water (household showers, dishwashing operations, etc.).

Shall: “Shall” is mandatory; “May” is permissive.

Sharps: Sharps means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. Sharps includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.

Significant industrial user (SIU): Any user meeting the following criteria:

1. Industrial users subject to categorical pretreatment standards; and/or
2. Any other industrial user that:
   a. Discharges an average of 25,000 gpd or more of process wastewater;
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(b)  Contributes a process wastestream which makes up five (5) percent or more the average dry weather hydraulic or organic capacity of the treatment plant or;

(c)  Is designated as significant by the director on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

Significant noncompliance: For the purpose of this provision, an industrial user is significantly noncompliant (SNC), if its violation meets one or more of the following criteria:

(a)  Chronic violations of numeric wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including instantaneous maximum allowable discharge limits as defined in subsection 34-471; or

(b)  Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the numeric measurements for the same pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH.); or

(c)  Any other violation of a pretreatment effluent limit (daily maximum or longer term average, instantaneous maximum allowable discharge limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public); or

(d)  Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Control Authority’s exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge; or

(e)  Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(f)  Failure to provide, within thirty-five (35) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules; or

(g)  Failure to accurately report noncompliance; or

(h)  Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Slug discharge/slug load: Any single discharge episode at a flow rate or strength which could cause a violation of the prohibited discharge standards in subsection 34-472(1) of this division, and any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The discharge episode is not required to cause or have the potential to cause pass-through or interference with the POTW processes to be considered a slug load. In addition a slug discharge shall not violate the POTW’s regulations, local limits, or individual permit conditions.

Standard industrial classification (SIC): A four-digit code created by the U.S. Office of Management & Budget (1987) for statistical classification purposes that describes an industrial activity that takes place at a facility or site. It is possible for a facility or site to have multiple SIC codes depending on the varying activities that take place.


State: State of Texas.
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State waters: Water of the ordinary flow, underflow, and tides of every flowing river, natural stream or lake, and of every bay of the Gulf of Mexico, of every river, natural stream, canyon, ravine, depression, and other watershed in the state which are the property of the state.

Storm water: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt runoff, rainfall runoff and surface runoff and drainage.

Technically based local limits (TBLL): Those enforceable technically based local pollutant discharge standards developed by POTWs to address federal standards as well as state and local regulations.

Texas Commission on Environmental Quality (TCEQ): The TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, or an agent thereof.

Texas pollutant discharge elimination system (TPDES): A discharge permit issued pursuant to the authority of the Texas Commission on Environmental Quality.

Time-proportional composite sample: The composite of two (2) or more wastewater samples of equal volume taken at regular time intervals during any period of operational discharge.

Total suspended solids (TSS): The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtration.

Total toxic organic (TTO): The summation of all quantifiable values greater than 0.01 milligrams per liter for the toxic pollutants located in 40 CFR 122, Appendix D, Table II.

Toxic organic management plan (TOMP): A plan which specifies the toxic organic compounds used, the method of disposal used, and procedures for assuring that toxic organics do not routinely spill or leak into wastewater discharged to the POTW.

Toxic pollutant: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provisions of Section 307(a) of the Act.

Treatment, Storage and Disposal Facility: A facility that treats, stores and disposes of materials (including hazardous materials) and may provide transportation as defined in 40 CFR Parts 264/265, subpart A-E.

Upset: An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Waste Amalgam: Is dental amalgam that is no longer suitable for use in making dental repairs such as excess mix leftover at the end of a dental procedure and amalgam removed as part of a dental repair or replacement. Removed teeth with fillings can contain amalgam and is included as waste in the definition.

Wastewater: The liquid and water-borne industrial or domestic wastes from commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are discharged into the POTW.

Water pollution: The manmade or man induced alteration of the chemical, physical, biological, or radiological characteristics of water below certain minimum desirable quality standards.

Water recycling center: That portion of the POTW which is designed to provide treatment of municipal sewage (formerly referred to as a wastewater treatment plant).

Waters of the United States: All navigable waters of the United States as defined at 33 USC 1362(7) and at 40 CFR § 122.2.

Zero discharger: An industrial user subject to categorical pretreatment standards that does not discharge any categorical waste to the sanitary sewer collection system. This IU may not discharge waste that has categorical standards to the sanitary sewer collection system as outlined under their SIU permit requirements or local limits whichever is more stringent.
Sec. 34-472. - Regulations.

(1) General discharge prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(2) Specific discharge prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) There shall be no discharge of pollutants in amounts which would cause the discharge from a facility to have a closed cup flashpoint of less than 60° centigrade or 140° Fahrenheit using the test methods specified in 40 CFR 261.21;

(b) Any wastewater having a pH less than 5.5 or greater than 10.5 standard units, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW. (Any wastewater having a pH less than or equal to 2.0 or greater than or equal to 12.5 standard units is considered hazardous under 40 CFR 261.22);

(c) Solid or viscous substances in such quantities and/or qualities which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, solids or solids accumulation greater than one-half (½) inch in any dimension, animal guts or tissues, flesh, manure, bones, hair, hides or fleshings, entails, whole blood, asbestos, feathers, ashes,inder, corn, and spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, grass, spent grains, spent hops, waste paper, wood, plastics, paint or chemical residues, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes, fatty acids or esters of fatty acids, or food and vegetable wastes, sharps, regulated medical waste or used health care product (as defined in 49 CFR 173.134 Class 6, Division 6.2 cleaning wipes, articles of clothing, or bedding), or any material which can be disposed of as trash;

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which contributes, either singly or by interaction with other pollutants, to interference to the POTW. In no case shall a slug load have a flow rate or contain concentrations or quantities of pollutants that exceed, for any time period longer than fifteen (15) minutes, more than five (5) times the average daily concentration, quantities, or flow produced during normal operations;

(e) Any wastewater having a temperature which will inhibit biological activity in the POTW plant contributing to interference, but in no case wastewater with a temperature at the introduction into the POTW treatment plant which exceeds 40° centigrade (104° Fahrenheit) unless the POTW treatment plant is designed to accommodate such temperature. Wastewater entering the regional collection system cannot exceed 65.5° centigrade (150° Fahrenheit) unless the quantity of heated discharge is of such volume that the total wastewater temperature at the nearest downstream manhole does not exceed 40° centigrade (104° Fahrenheit);

(f) There shall be no discharge of any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that may contribute, either singly or by interaction with other products, to interference or pass through;

(g) In accordance with 40 CFR 403.5(b)(7) there shall be no discharge of any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes,
peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, asbestos, and any other substances which the Control Authority, the state or EPA has notified the user is a fire or explosion hazard to the system, or presents an imminent threat to the health and safety of persons operating the system;

(h) Any trucked or hauled pollutants, except at discharge points designated by the Control Authority, and in accordance with the Liquid Waste Transportation and Disposal Regulations (article V, division 4 of this chapter), as amended or replaced, and section 34-476 of this division;

(i) Any noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to physically prevent reasonably safe entry of humans and/or equipment into the sewers for inspection, maintenance and repair purposes;

(j) Any wastewater with any objectionable color not removed in the treatment process, such as, but not limited to, dye wastes, ink or printer waste, and vegetable tanning solutions;

(k) Any storm waters, surface water, groundwater, or subsurface drainage, except as specifically authorized by the Control Authority;

(l) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(m) Any substance which will cause the Control Authority to violate its NPDES/TPDES and/or state disposal system permit or the receiving water effluent quality standards, or fail a toxicity test;

(n) Any agent, including but not limited to emulsifiers, surface active agents, detergents, etc. added to sand traps, grease traps, or the like, capable of passing the solid or semi-solid contents of the trap to the sewer system or any substance that may cause excessive foaming in the POTW;

(o) Fats, oils, or greases of animal, mineral or vegetable origin in concentrations greater than two hundred (200) mg/L;

(p) Any liquids, solids or gases, which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system, or at any other point in the system, be more than five (5) percent, nor any single reading be over ten (10) percent of the lower explosive limit (LEL) of the meter. In accordance with 40 CFR 403.5(b)(1);

(q) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, which may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters at the effluent end of the POTW which exceeds the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to spent antifreeze or any pollutant identified pursuant to Section 307(a) of the Act;

(r) Wastewaters or leachates generated from the remediation of hazardous or non-hazardous waste sites, except as specifically authorized by the Control Authority;

(s) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for normal landfill disposal, land application, reclamation or reuse, or which may interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 or 503 of the Clean Water Act, or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, Clean Air Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, or state criteria applicable to sludge management and/or disposal methods being used;
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(t) Hazardous waste other than that allowed under the domestic sewage exemption, as provided for under 40 CFR 261.4(a)(1)(ii). Notwithstanding that exemption, there shall be no discharge of what would otherwise be considered hazardous waste unless a user can certify the following:

(i) The volume and toxicity of such waste has been minimized to the fullest extent possible by utilizing the best available technology and pretreatment practices.

(ii) The discharge of such waste is not a substitute for disposal and reporting thereof otherwise necessary under RCRA, CERCLA, SARA, TSCA, CAA, EPA, or TCEQ regulations.

(u) Any wastewater containing antibiotics or any organism including viruses, considered pathogenic and/or detrimental to process organisms.

(v) Wastewater containing any radioactive waste or isotopes except in compliance with applicable state or federal regulations. Greater than or in allowable concentrations by TDH regulations or other agencies.

(w) Pesticides.

(x) Bulk food processing wastes.

(y) Discharge of slugs or flows which exceed the carrying capacity of the part of the collection system through which it is discharged.

(z) Waste amalgam including, but not limited to, dental amalgam from chair-side traps, screens, vacuum pump filter, dental tools, cuspidors, or other collection devices, must not discharge to the POTW except as described in 40 CFR §441.

The above pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. This division may be amended to regulate specific types and sources of such discharges in order to minimize or eliminate hazardous waste loadings into the POTW. When the Control Authority determines that a user is indirectly discharging to the POTW any of the above mentioned substances in quantities or concentrations which may interfere with the operation or performance of the POTW, the Control Authority shall advise the user of the impact of the indirect discharge on the POTW and impose upon the user a schedule for termination of the discharge causing the interference.

(3) National categorical pretreatment standards. The National Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby fully incorporated into this division.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(e). The more stringent national categorical pretreatment standards shall supersede the limitations imposed under section 34-472(5) of this division for that particular category.

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(4) Technically based local limits.

(a) Significant industrial users regulated by permit for identified specific pollutants and non-permitted users not regulated under BMPs yet identified as potential contributors of certain pollutants shall not discharge or allow the discharge to the regional system, wastewaters containing individually identified specific pollutants in concentrations, in solution or suspension, in excess of the limits below. Compliance with these limits shall be determined based on the analysis of a grab sample or a combination of grab samples, time composite samples, or flow composite samples.

(b) All samples shall be collected and analyzed in a manner consistent with the requirements of 40 CFR 136. No user as prescribed above shall discharge or allow the discharge of wastewater to the regional system having a pH less than 5.5 or greater than 10.5 standard units, and all concentrations and/or quality criteria shall apply where the effluent is discharged to the POTW.
Wastewater entering the regional collection system shall not exceed 65.5 degrees Centigrade (150 degrees Fahrenheit). The following pollutant limits are established to protect against pass through and interference at the POTW. No person shall discharge wastewater containing in excess of the following:

**Industrial user local limits:**

(a) 0.7 Arsenic  
(b) 0.7 Cadmium  
(c) 5.0 Chromium  
(d) 1.50 Copper  
(e) 0.17 Total Cyanide  
(f) 0.7 Lead  
(g) 0.05 Mercury  
(h) 5.5 Nickel  
(i) 0.02 Selenium  
(j) 0.50 Silver  
(k) 2.50 Zinc  
(l) 200 Fats Oil & Grease  
(m) 5.5—10.5 pH  
(n) 150 degrees Fahrenheit  

Note that the above mentioned limits are reflected in units of mg/L, with the exception of pH and temperature. All limits with the exception of TSS represent the total concentration of the substance, both suspended and dissolved.

(c) **Best Management Practices (BMPs)/Pollution Prevention (P2).** Users not regulated under local limits shall be regulated under the following guidelines relating to Best Management Practices and pollution prevention. Narrative BMPs may also be incorporated into individual permits.

The methodology involved in the application of Best Management Practices/Pollution Prevention may include but not be limited to the following:

(i) **Source reduction**  
   - Operating practices  
   - Inventory control  
   - Employee training  
   - Spill control  
   - Input Material Substitutions  
   - Product Changes  
   - Technology Changes  
   - Process changes  
   - Equipment changes
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(ii) Recycling
Reusing
Closed loop recycling
Other recycling

Reclamation

There are existing non-permitted and/or unregistered industrial dischargers who typically have reasonable potential for violating a pretreatment standard or requirement. Therefore, the implementation of Best Management Practices, as stipulated by the Control Authority, is required to control and reduce specific pollutants. The reduction of these specific pollutants at many facilities may have a significant impact on the total contribution based on the number of facilities involved. Upon determination by the Control Authority that it is necessary to regulate an individual user or group of industrial users based on potential for pollutants of concern, the following minimum requirements will be established to accomplish this goal:

- Industrial users within the identified grouping must either be regulated by the BMP guidelines and/or pretreatment standards (local limits).

- Users may be required to submit letters of authorization indicating the facility's intent to comply with the BMP guidelines.

- Users may register with the Control Authority using an online format when provided.

- The Control Authority may require periodic reporting by these users demonstrating compliance with the BMP guidelines such as copies of equipment maintenance records or manifest records for waste disposal, or records demonstrating employee training.

- The Control Authority may conduct random inspections to determine compliance independent of the information supplied by an industrial user.

(d) Best Management Practices for DIU. Implementation of BMP for DIU are required by 40 CFR §441. These include, but are not limited to the following controls for waste amalgam:
- Dental unit water lines, chair side traps, and vacuum lines must not be cleaned with oxidizing or acidic cleaners, including but not limited to, bleach, chlorine, iodine and peroxide that have a pH lower than 6.0 or greater than 8.0.

(5) State requirements. Specific pollutant requirements and limitations which have or may be enacted by the state on indirect discharges shall immediately supersede and replace the requirements and limitations imposed by this division when the state requirements are more stringent than either the federal or the Control Authority's standards or requirements.

(6) Control Authority's right of revision. The Control Authority reserves the right to amend this division at any time to establish more stringent specific pollutant limitations or requirements on indirect discharges to the regional system if deemed necessary to protect the POTW processes or to correct or prevent an effluent quality problem in treated wastewater and/or resulting sludges. The Control Authority also reserves the right to amend this division to comply with the general objectives and purposes presented in section 34-471 of this division.

(7) Prohibition of dilution. No user shall ever increase the use of process water, unpolluted water, surface water or storm water or in any other way attempt to dilute either a direct or indirect discharge as a partial or complete substitute for adequate treatment to achieve compliance with the specific pollutant limitations contained in the national categorical pretreatment standards, or in any other specific pollutant limitations promulgated by the Control Authority and/or state and incorporated in this division.
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The Control Authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(8) Reserved.

(9) Bypass.

(a) A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.

(b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.

(b) (1) If a user knows in advance of the need for a bypass it shall submit prior notice to the Control Authority, at least ten (10) calendar days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) calendar days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.

(c) (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required in this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the conditions listed in this section.

(10) Act of God.

If a person can establish that an event that would otherwise be a violation of a statute within the commission's jurisdiction or a rule adopted or an order or a permit issued under such a statute was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of that statute, rule, order, or permit.

Sec. 34-473. - Wastewater pretreatment.

(1) **Pretreatment facilities.** Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 34-472(1) of this division within the time limitations specified by EPA, the state, or the Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the department for review, and shall be acceptable to the division before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Control Authority under the provisions of this division.

(2) **Additional pretreatment measures.**

(a) Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.

(b) The Control Authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Types of traps, sumps, interceptors and/or filters such as, but not limited to, lint, grease, oil, grit and sand shall be provided by the user when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing grease and oil, or grit; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be installed, inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Refer to the liquid waste transportation regulations, section 34-518(1)(c) for specific guidelines pertaining to the maintenance of such interceptors and/or sumps.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

As specified in the user's permit or this division, the industrial user shall effectively monitor the operation and efficiency of all pretreatment facilities, and the quantity and quality of the treated discharge emanating from the user's facility. Samples and measurements taken shall be representative of the monitored activity. Monitoring for the parameters indicated in an industrial user's permit or in this division must be conducted according to test procedures approved under 40 CFR 136 and 40 CFR 403.

(e) **Dental Industrial Users must install, operate, and maintain an amalgam separator that meets the following requirements:**

(i) Compliant with either the American National Standards Institute (ANSI) American National Standard/American Dental Association (ADA) Specification 108 for Amalgam Separators (2009) including Technical Addendum (2011), or the International Organization for Standardization (ISO) 11143 Standard (2008), or subsequent versions so long as that version requires amalgam separators to achieve at least a 95% removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108-2009 or ISO 11143.

(ii) The amalgam separator(s) must be sized to accommodate the maximum discharge rate of amalgam process wastewater.
(iii) A DIU subject to this ordinance that operates an amalgam separator that was installed at a dental facility prior to June 14, 2017, satisfies the requirements of paragraphs (e)(i) and (ii) of this section until the existing separator is replaced as described in paragraph (e)(v) of this section or until the effective date of this ordinance, whichever date is sooner.

(iv) The amalgam separator(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator(s) and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the amalgam separator(s).

(v) In the event that an amalgam separator is not functioning properly, the amalgam separator must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of paragraphs (e)(i) and (ii) of this section as soon as possible, but no later than 10 business days after the malfunction is discovered by the dental discharger, or an agent or representative of the dental discharger.

(vi) The amalgam retaining units must be replaced in accordance with the manufacturer's schedule as specified in the manufacturer's operating manual or when the amalgam retaining unit has reached the maximum level, as specified by the manufacturer in the operating manual, at which the amalgam separator can perform to the specified efficiency, whichever comes first.

(vii) For multiple offices located in a single building or complex sharing plumbing and vacuum systems (such as a school or dental complex) the DIUs may be able to install a larger separator rather than each office individually. Individual compliance reports are still required.

(3) Slug control plan. Within one (1) year of the effective date of the IU permit issuance date the Control Authority shall evaluate whether each significant industrial user needs a plan to control slug discharges. The Control Authority may require any user to develop, submit for review, and implement such a plan. In the event of a slug discharge by the IU, the facility will be required to revise, update the slug control plan and perform necessary upgrades to prevent reoccurrence. A plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;
(b) Description of stored chemicals;
(c) Procedures for immediately notifying the Control Authority of any accidental or slug discharge, as required by sections 34-473(4) and 34-473(5) of this division, including any discharge that would result in a violation under 40 CFR 403.5(b) with procedures for follow-up written notification within five (5) calendar days, and
(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Reporting of slug/accidental discharges. In the case of a slug discharge, including any accidental spill or noncustomary batch discharges, the user shall notify the department and the appropriate water recycling center immediately by telephone and provide the following information:

(a) Time of discharge.
(b) Location of the discharge.
(c) Type of waste.
(d) Concentration and volume discharged.
(e) Corrective actions taken.
(f) Water recycling center receiving the waste.

Within five (5) calendar days following an accidental or slug discharge, the user shall submit to the Control Authority, or to the designated representative, a written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The results of the report
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will be documented and available to the Control Authority upon request. Such notification shall not relieve the user of any responsibility for, expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, the environment or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this division or other applicable law. Failure to notify the director of a slug or accidental discharge may result in legal action or discontinuation of service; and may be deemed a separate violation of this division.

(5) Toxic organic management plan. All industrial users in the electroplating, metal finishing, copper forming, aluminum forming, coil coating and electrical and electronic components categories may submit a toxic organic management plan (TOMP) in lieu of annual monitoring for total toxic organics (TTO) as referenced in 40 CFR 413.03(b), 40 CFR 433.12(b) and 40 CFR 469.13(b) respectively. Specifically after initial monitoring in year one the TTO monitoring in years two (2), three (3), four (4) and five (5) of the permit cycle may be waived by the CA upon approval and proper implementation of the TOMP. After approval the TOMP will be incorporated by reference as a Narrative BMP into the discharge permit. The plan must specify at a minimum the following:

(a) A complete inventory of all toxic organic chemicals, defined in this division as TTO, with corresponding MSDS sheets in use or identified through sampling and analysis of the wastewater from regulated process operations detected above 0.01 mg/l. Organic constituents of trade-name products should be obtained from the appropriate suppliers as necessary. All analyses must conform with 40 CFR Part 136 Methods.

(b) Descriptions of the methods of disposal other than dumping used for the inventoried compounds, such as reclamation, contract hauling, or incineration;

(c) The procedures for ensuring that the regulated toxic organic pollutants do not spill or routinely leak into process wastewaters, floor drains, non-contact cooling water, groundwater, surface waters; i.e., spill prevention, control and countermeasures (SPCC) plan; or any other location which allows discharge of the compounds; and

(d) Determinations or best estimates of the identities and approximate quantities of toxic organic pollutants used in as well as discharged from the regulated manufacturing processes. Compounds present in wastestreams that are discharged to sanitary sewers may be a result of regulated processes or disposal, spills, leaks, rinse water carryover, air pollution control, and other sources. The Control Authority reserves the right to verify compliance with the TTO requirement through its own sampling program.

(6) Notice to employees. All industrial users shall take necessary and reasonable measures to insure that all appropriate employees are advised of the notification procedure to be used in the event of an accidental or slug discharge.


Sec. 34-474. - Wastewater discharge permit application.

(1) Wastewater discharges.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Control Authority. Those potential SIUs already discharging may continue to do so provided a permit application is submitted to the Control Authority in a timely manner for review and final determination.

(b) The Control Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to the sanctions set out in sections 34-481, 34-482, and 34-483 of this division. Obtaining a wastewater discharge permit
(2) **Wastewater discharge permit application.**

(a) Significant industrial users shall, pursuant to the Control Authority’s approved pretreatment program, obtain an industrial wastewater discharge permit, and shall complete and file an application on a form prepared by the Control Authority. (Refer to section 34-480 concerning confidential or proprietary information). The information requested shall at a minimum include the following items:

(1) Name(s), address(es) including the legal description, location(s);
(2) Name(s), official title(s), and address(es) of the owners and/or operators;
(3) The identity of the authorized representative including his or her name, official title, address, and date of birth;
(4) SIC number(s) according to the current edition of the Standard Industrial Classification Manual, 1987, bureau of the budget, as amended;
(5) A list of all environmental control permits held by or for the facility;
(6) The nature and concentration of any pollutants in the discharge which are limited by a city, state or federal pretreatment standard (sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136, as amended);
(7) Time and duration of contribution;
(8) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
(9) Site plans, floor plans, mechanical and plumbing plans, and details showing all sewers, sewer connections, and appurtenances by size, location and elevation;
(10) Number of employees, hours of operation of plant and, if required in accordance with other provisions herein, the proposed or actual hours of operation of pretreatment system;
(11) Description of activities, facilities and plant processes on the premises, including all materials which are, or could be, discharged;
(12) Each product by type, amount, process(es), and rate of production, if applicable;
(13) Type and amount of raw materials processed (average and maximum per day), if applicable;
(14) Current slug/spill plan as identified in 40 CFR 403.8(f)(2)(v);
(15) Description of on-site storage and off/on-site disposal of waste not disposed of to the sanitary sewer.

(b) It shall be the permittee’s continued duty to provide, when requested by the Control Authority, information necessary to ensure current information and data required as part of the permit.
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application. Such requests by the Control Authority may be presented to the permittee in writing, or by a representative of the Control Authority at the time of an inspection. Failure to provide such information will be considered a violation of this division.

(c) Incomplete or inaccurate permit applications will not be processed and will be returned to the user for revision.

(3) Wastewater discharge registration

(a) (Non-significant industrial users)

The Control Authority may require other users to obtain a wastewater discharge registration application as necessary to carry out the purposes of this division.

When the Control Authority requires a user to register its wastewater discharge that user shall obtain a wastewater discharge registration application, and shall complete and file an application on a form prepared by the Control Authority. (Refer to section 34-480 concerning confidential or proprietary information). The information requested may include the following items:

(1) Name(s), address(es) including the legal description, location(s);
(2) Name(s), official title(s), and address(es) of the owners and/or operators;
(3) The identity of the authorized representative including his or her name, official title, address, and date of birth;
(4) NAICS number(s) according to the current edition of the North American industrial classification system, 1997 office of management & budget, as amended;
(5) A list of all environmental control permits held by or for the facility;
(6) The nature and concentration of any pollutants in the discharge which are limited by a city, state or federal pretreatment standard; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR 136, as amended;
(7) Site plans, floor plans, mechanical and plumbing plans, and details showing all sewers, sewer connections, and appurtenances by size, location and elevation;
(8) Number of employees, hours of operation of facility
(9) Description of activities, facilities and plant processes on the premises, including all materials (material safety data sheets) which are, or could be, discharged;
(10) Pretreatment device details;
(11) Daily discharge / flow information
(12) Any other relevant information as may be deemed by the Control Authority to be necessary to evaluate the registration application, or as required under sections 34-474(2b) and 34-475 of this division.

(b) Dental Industrial User Registration

As required by 40 CFR §441 the DIU is required to submit a One-time Compliance Report to the Control Authority. The deadline for existing facilities is to submit the report no later than October 12, 2020, or 90 days after a transfer of ownership. For new sources, the report must be submitted no later than 90 days following the introduction of wastewater into the POTW. The report may be submitted in writing or by an online registration. The report shall include the following information:

(1) Signed and certified by a responsible corporate officer, a general partner or proprietor, or a duly authorized representative in accordance with the requirements of 40 CFR §403.12(i).
(2) Facility name, physical address, mailing address, contact information, name of the operator(s) and owner(s):
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(3) A description of the operation of the dental facility including: The total number of chairs, the total number of chairs at which dental amalgam may be present in the resulting wastewater, and a description of any existing amalgam separator(s) or equivalent device(s) currently operated to include, at a minimum, the make, the model and year of installation.

(4) Certification that the amalgam separator or equivalent device is designed and will be operated and maintained to meet the requirements specified in 40 CFR § 441.30 or 40 CFR § 441.40.

(5) Certification that the dental discharge is implementing BMPs specified in 40 CFR § 441.30(b) or 40 CFR § 441.40(b) and will continue to do so.

(6) The name of the third-party service provider that maintains the amalgam separator or equivalent devices operated at the dental office, if applicable. Otherwise a brief description of the practices employed by the facility to ensure proper operation and maintenance in accordance with 40 CFR § 441.30 or 40 CFR § 441.40.

The Control Authority will evaluate the data furnished by the user and may require additional information. A wastewater discharge registration shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. The Control Authority may require periodic self-monitoring analysis of the user's wastestream for compliance and/or surcharge assessment. The Control Authority may require periodic cleaning and maintenance of any pretreatment device in accordance with section 34-518 of this article.

(4) Certification: data accuracy, truthfulness and completeness. All wastewater discharge permit applications, required documents, and other specified documents submitted to the Control Authority must contain the following certification statement, and must be signed by the authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(5) Wastewater discharge permit issuance. The Control Authority will evaluate the data furnished by the user and may require additional information. Within sixty (60) calendar days of receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit. The Control Authority may deny any application for a wastewater discharge permit.


Sec. 34-475. - Wastewater discharge permit issuance process.

Within sixty (60) calendar days from the date the permit application is approved (section 34-474(4)), the Control Authority shall issue the wastewater discharge permit to the user.

(1) Permit duration. Permits issued to significant industrial users shall be issued for a period of five (5) years or for a period of less than (5) years if established by the Control Authority. The terms and conditions of the permit are subject to modification by the department during the term of the permit as limitations or requirements as identified in this division are modified, or other just cause exists that warrants modification.

(2) Permit contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the
quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Permits shall, at a minimum, address the following:

(a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
(b) A statement that the wastewater discharge permit is non-transferrable without prior notification to and authorization from the department in accordance with section 34-475(4) of this division;
(c) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a regional system sewer, and/or for the monitoring, sampling, testing, and analysis thereof;
(d) Limits on the average and maximum wastewater constituents and characteristics;
(e) Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
(f) Requirements for installation and maintenance of inspection and sampling facilities, including technical data relative to location, slope, and capacity of piping used in the sampling facility or discharge point;
(g) Specifications for monitoring programs which may include the number of sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
(h) Compliance schedules for the installation of technology needed to meet applicable pretreatment standards and requirements, including specific dates and increments of progress. Compliance schedules shall be filed according to sections 34-478(1)(c)(7) and 34-478(2) of this division;
(i) Requirements for submission of technical reports or discharge reports;
(j) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Control Authority and affording the Control Authority access thereto as specified in 40 CFR 403.12(o);
(k) Requirements for reporting the introduction of any new wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the regional system;
(l) Requirements for reporting accidental and/or slug discharges as per the provisions of this division;
(m) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
(n) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
(o) A statement of applicable civil and criminal penalties for violation of the permit and/or this division;
(p) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this division, including but not limited to, self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type;
(q) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.

(3) Wastewater discharge permit modification. The Control Authority may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the POTW, the Control Authority personnel, the receiving waters, its sludge or recycled water quality, and/or upset to the wastewater treatment plant;

(e) Violation of any terms or conditions of the wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of a categorical pretreatment standard pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator, or to reflect a change in the authorized representative including date of birth;

(j) The director reserves the right and shall have the authority to deny any increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

(k) To change from a discharge to zero discharge permittee, or vice versa, the Control Authority may require all unsettled violations be resolved through the Control Authority legal department.

(4) Wastewater discharge permit transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Control Authority and the Control Authority approves the wastewater discharge permit transfer. The notice to the Control Authority must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur;

(c) Acknowledges full responsibility for complying with the existing wastewater discharge permit; and

(d) States whether liabilities for past or present permit violations will become the responsibility of the new owner/operator.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer, and shall constitute a violation of this division.

(5) Wastewater discharge permit revocation. The Control Authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the Control Authority of changed conditions pursuant to section 34-478(5) of this division;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports;

(e) Tampering with monitoring or surveillance equipment;

(f) Refusing to allow the Control Authority timely access to the facility premises and records;
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(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility;

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this division; or

(n) Failure to provide, operate and maintain, at all times, wastewater pretreatment equipment as is necessary to comply with this division.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user, however, liability for violations of previous permits will not be extinguished by the issuance of a new permit.

(6) Wastewater discharge permit renewal. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit renewal by submitting a complete permit application, in accordance with section 34-474(2) of this division, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. Failure to reapply for a permit may result in an enforcement action.

Sec. 34-477. - Compliance monitoring.

(1) Monitoring facilities.

(a) Industrial users shall install and maintain monitoring facilities that allow inspection, surveillance and sampling at the discharge point and/or internal drainage systems located on private property. Permanent flow measurement, metering and/or totalizing devices for surcharge calculations and/or determination of the mass of pollutants discharged shall be required when deemed appropriate by the Control Authority. These facilities shall be provided by the industrial user and operated at the user's expense. All devices installed by an industrial user used to measure water and/or wastewater flow and quality shall be calibrated at a minimum of one time per calendar year to ensure accuracy. The monitoring facility should normally be situated on the user's premises, but the Control Authority may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed on the sidewalk area and located so that it will not create a public safety hazard nor be obstructed by structures, landscaping, or parked vehicles. To establish water consumption of users on water wells, metering devices shall be installed, operated and maintained by the user.

(b) Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) For multiple use buildings (i.e. shopping centers, medical service buildings, office buildings, etc.) having only one master water meter, or multiple meters paid by one person or company, and/or where the building is served by a common sewer lateral, one permit may be issued to the water bill addressee. In this case, the addressee shall be responsible for:

(1) The installation, operation, and maintenance of any required pretreatment device or monitoring station;
(2) Compliance with all provisions of this division and/or applicable pretreatment standards or requirements; and

(3) The payment of all sampling and analysis fees, surcharges, and any fines or penalties imposed. If in the judgment of the director, the quality of wastewaters from the separate users is such that separate pretreatment or monitoring facilities is appropriate, the director may require separate facilities. In this case, all of the aforementioned requirements shall apply to the individual users.

(d) There shall be adequate lighting of and ample room in or near such sampling manhole or facility to safely allow inspection personnel to position sampling, monitoring or surveillance equipment and prepare field samples for analysis. Whether construction on public or private property, the sampling and monitoring facilities shall be provided in accordance with the regional system requirements and all applicable local construction standards and specifications, including applicable requirements contained in the plumbing code, chapter 10 of the City Code, as amended or as may be amended.

(2) Inspection and sampling.

(a) The Control Authority and EPA and/or TCEQ representatives shall have the right to inspect the facilities of any industrial user to ascertain whether the purposes of this division are being met and all applicable requirements are being fulfilled. Industrial users and their employees shall allow authorized regulatory representatives displaying proper identification ready access to the premises at all reasonable times for the purpose of inspecting wastewater generating operations and processes; wastewater flow monitoring and sampling; examination and reproduction of business records pertinent to water and wastewater volume and quality; including hazardous and non-hazardous waste manifests; inspection of potential slug-related discharges; and where applicable, making photographic documentation and obtaining other information necessary to ascertain and ensure that the correct data and information submitted in the facility's permit application, and assure and assess compliance of users with pretreatment standards and requirements. Inspection frequency is at a minimum conducted once per year, and the frequency will depend on the nature and type of industrial processes as is specified in the Control Authority's pretreatment program. Failure to allow access, to permit photographic documentation, or to allow copying of pertinent records will be considered a direct violation of this division.

(b) The Control Authority shall have the right to install, or require the installation of monitoring, testing, and surveillance equipment (including adequate lighting) and to take samples (including independent samples) of an indirect discharge at any reasonable time in accordance with the applicable provisions of this division. Where an industrial user has safety and/or security measures in force which require user issuance of special safety equipment and/or proper identification and clearance before allowing entry into their premises, the user shall make the necessary arrangements with their security guards or similar personnel, so that upon presentation of suitable identification, personnel from the Control Authority, the state, or EPA will be permitted to enter any or all areas of the user's facility, without delay, for the purpose of performing responsibilities reasonably associated with those stated above and reasonably required to accomplish the purposes and objectives of this division.

(c) Results of concentration and constituent analysis of wastewater from samples collected from any industrial user may be determined by the Control Authority or its authorized agent, the approval authority, a professional engineer contracted by the discharger, or by any other qualified party approved by the Control Authority.

(d) If the industrial user elects to contract with a professional engineer or other qualified party for sampling and analysis of wastewater, all results of such sampling and analysis shall be submitted to the director, and all reports submitted shall contain a statement certifying that the samples collected and values reported are developed in accordance with the collection and analytical procedures contained in section 34-474 of this division, 40 CFR 403.12, and the appropriate federal categorical pretreatment standards, as applicable. Each significant industrial user will be sampled at least twice each year, or more frequently if required by the local pretreatment program.
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(e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(3) Search warrants. Failure to allow access to a building, structure, or property, or any part thereof, when the Control Authority personnel is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Control Authority designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Control Authority may seek issuance of a search warrant from the municipal magistrate of the city or the County Judge of Bexar, or any judge of appropriate jurisdiction.


Sec. 34-478. - Reporting requirements.

(1) Baseline monitoring reports.

(a) Within either six (6) months after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph (c) below.

(b) At least ninety (90) days prior to the commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Control Authority a report which contains the information listed in paragraph (c) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(c) Users described above shall submit the information set forth below:

(1) Identifying information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of pollutants. Information regarding pretreatment standards sampling include the following:

   (i) The categorical pretreatment standards applicable to each regulated process.

   (ii) The results of sampling and analysis identifying the nature and concentration or mass, where required by the standard or by the Control Authority of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and average concentrations, (or mass where required), shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 34-478(9) of this division.
(iii) Sampling must be performed in accordance with procedures set out in section 34-478(10) of this division.

(iv) The submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance schedule. If additional pretreatment and/or additional operation and maintenance is necessary to meet the pretreatment standards, then the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance will be utilized. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 34-478(2) of this division.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 34-474(3) of this division.

(2) Initial database monitoring. The permittee shall initially document six (6) consecutive months of discharge monitoring to determine compliance with effluent standards established in the permit. If any discharge is found to be in violation of the permit limits, the permittee shall develop corrective measures to achieve and maintain consistent compliance. Techniques specified in 40 CFR 403 and 40 CFR 136 shall be used to collect and analyze any wastewater samples in connection with this database monitoring requirement.

(3) Compliance schedules and progress reports. The following conditions shall apply to the compliance schedule required by section 34-478(1)(c)(7) of this division.

(a) The compliance schedule shall allow the user to voluntarily establish goals and time frames for meeting those goals for installing, modifying, and/or maintaining pretreatment equipment and/or practices to identify and resolve conditions in their operation which have resulted in noncompliance. The user shall notify the Control Authority within five (5) working days from the initial compliance schedule meeting, stating whether or not they will enter into a compliance schedule. Within fifteen (15) working days of the initial compliance schedule meeting, the user shall submit a proposed compliance schedule to the Control Authority for review. No enforcement action will be taken against the user for instances of noncompliance which occur during an approved compliance schedule. Such instances of noncompliance may be the subject of enforcement at a later date should the user commit violations after the expiration of the applicable compliance schedule. Users must remain compliant for a minimum of one calendar year from the expiration date of the schedule. The director may issue one extension to the user, if the user can document progress toward meeting the compliance schedule and the request for additional time is valid and reasonable;

(b) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(c) No increment referred to above shall exceed nine (9) months; however, the duration of the compliance schedule and any individual increment shall be determined at the discretion of the Control Authority;

(d) The user shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum,
whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(e) In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

(4) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in this division. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this division.

(5) Periodic compliance reports.

(a) All significant industrial users shall, at a frequency determined by the Control Authority, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 34-474(3) of this division. In cases where the Pretreatment Standard requires compliance with a BMP or P2 alternative, the User must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) All wastewater samples must be representative of the user's discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in section 34-478(10) of this division, the results of this monitoring shall be included in the report.

(6) Notification of changed conditions. Each user must notify the Control Authority promptly, in writing, of any planned substantial or significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater, including a change in the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p).

(a) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 34-474(2) of this division.

(b) The Control Authority may issue a wastewater discharge permit under section 34-475 of this division or modify an existing wastewater discharge permit under section 34-475(3) of this division in response to changed conditions or anticipated changed conditions.

(c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants.

(7) Notification of potential problems. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, the user shall immediately telephone and notify the Control Authority and the appropriate wastewater treatment plant of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. Within five (5) days following such discharge, the user shall submit a detailed written report describing the items as referenced in sections 34-473(4) and 34-473(5) of this division.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the Control Authority within twenty-four (24) hours of becoming aware
of the violation. The user shall also repeat the sampling and analysis, and submit the results of the repeat analysis to the Control Authority within forty-five (45) days after becoming aware of the violation. The user is not required to resample if the Control Authority monitors at the user's facility at least once a month, or if the Control Authority samples between the user's initial sampling and when the user receives the results of this sampling. All sampling and notification performed by the user under this section shall comply with the requirements of 40 CFR 403.12 (g).

(9) **Notification of the discharge of hazardous waste.** Unless otherwise permitted by this division, the discharge of hazardous waste into the POTW is strictly prohibited and constitutes a violation of this division. Should a user discharge hazardous waste, said user must comply with the following provisions:

(a) Any user who commences the discharge of hazardous waste shall notify the Control Authority, the POTW, the EPA regional waste management division director, and the TCEQ, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). All SIU's who commence discharging after the effective date of this rule shall provide notification no later than one hundred and eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 34-478(1), 34-478(3) and 34-478(4) of this division.

(b) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Control Authority, the EPA regional waste management division director, and the TCEQ of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(c) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(d) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable federal or state law.

(10) **Analytical requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. All analytical results submitted to the Control Authority shall include supporting quality assurance/quality control documentation.

(11) **Sample collection.** All sample collection should be performed pursuant to the applicable requirements of 40 CFR 403.12.

(a) Except as indicated in subparagraph (b), the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not infeasible, the Control Authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for compliance monitoring for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
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(12) **Timing.** Written reports will be deemed to have been submitted on the date postmarked. For reports which are not transmitted through or by a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) **Record keeping.** Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under subsection 34-472(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. Documentation shall include all necessary data and reports necessary to show compliance with the narrative BMP as described in the IU Permit.

For DIUs the maintenance records shall include documentation of the date, person conducting the inspection and results of the inspection of each amalgam separator and a summary of any action or repairs needed. Documentation of the type of amalgam retaining container or equivalent, documentation of dates that amalgam is collected or shipped for proper disposal in accordance with 40 CFR §261.5(g)(3) and the name of the Treatment, Storage and Disposal Facility receiving the containers, and documentation of any repair or replacement of the device including the date, person making the repair or replacement and a description of the repair or replacement to include the make and model. A copy of the manufactures operating manual shall be available onsite for the current device. These records shall remain available for a period of at least three (3) years by both the IU and CA. This period shall be automatically extended for the duration of any litigation concerning the user or the Control Authority, or where the user has been specifically notified of a longer retention period by the Control Authority.

(14) **DIU One-time Compliance Reporting.** Existing DIU established prior to July 14, 2017 must install compliant amalgam separators by July 14, 2020 and complete a One-time Compliance Report as described in 40 CFR §411 by October 12, 2020 or 90 days after transfer of ownership. New DIU established on or after July 14, 2017 must install compliant amalgam separators prior to any discharge to the POTW and complete a One-time Compliance Report as outlined in 40 CFR §411 no later than 90 days following the introduction of wastewater into the POTW. The DIU shall submit a copy of the One-time Compliance Report either online or by mail to the Control Authority as required.


**Sec. 34-484. - Fees.**

It is the purpose of this section to provide for the recovery of costs from users of the Control Authority wastewater disposal system for the implementation and continued operation of the pretreatment program established herein. All industrial users shall pay the following fees, as appropriate, and in accordance with the current fee schedule, within thirty (30) days of billing:

(a) A permit application fee;
(b) A permit fee;
(c) Sampling fee;
(d) Analysis fee;
(e) Environmental assessment;
(f) A permit registration fee;
(g) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein, such as, but not limited to emergency response fees, special sampling fees, monitoring
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...equipment reset fees, etc. These fees relate solely to the matters covered by this division and are separate from all other fees, fines, and penalties chargeable by the Control Authority or any other agency.

The special services charges outlined in Schedule E, industrial waste fee schedule, relating to industrial waste permits and services shall be lawful rates charged by the system effective January 1, 2017. The Schedule E charges shall be adjusted on January 1 of each year thereafter by the percentage difference (greater than zero) between the Consumer Price Index for All Urban Consumers (CPI-U) as it is calculated by the United States Bureau of Labor Statistics at the end of the month of July prior to the next year and as it was calculated at the end of the month of July one year earlier. SAWS will periodically perform a cost of service analysis to ensure that the fees charged do not exceed the cost of providing the services.

Sec. 34-518 (1)(c)
A generator of grease trap waste or grit trap waste shall have traps serviced as frequently as necessary to prevent bypass or overflow, and to ensure proper operation of the trap. Such generators shall, at a minimum, have grease traps and grit traps serviced quarterly or as approved by the director Control Authority in accordance with all other provisions of this division.
Sec. 34-702. - Prohibited discharges into the MS4.

(a) It shall be a violation of this division for any person to deposit, throw, drain, discharge, cause or allow to be deposited, thrown, drained or discharged, or otherwise cause to be injected into the MS4, or any storm sewer manhole, catch basin, private drain, ditch, street, gutter, creek, stream, tributary, or any other drainage device which connects with or drains into the MS4, any of the following described materials or substances within the corporate limits of the City of San Antonio:

1. Any acid waste materials;
2. Any alkaline waste materials;
3. Any water or waste containing free-floating, or insoluble oil;
4. Any gasoline, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid or gas;
5. Any noxious, malodorous, poisonous, or reactive substance which, either singularly or by interaction with other substances, or by its accumulation in the MS4 becomes injurious or potentially injurious to human, plant or animal life, or property;
6. Any domestic wastewater or industrial wastewater as defined in Article V, Division 3 of this chapter.
7. Any soil, soil material, sediment, rock, gravel or other similar materials in such quantities to that reduce the capacity or to cause an obstruction of the MS4.
8. Any paint, paint rinse water, waste from vacuum and carpet cleaning, Sharps, needles or medical waste, automotive fluids (such as motor oil, antifreeze or gear oil), wastewater from food trucks, greasetrap waste or grit trap wastes from carwashes.

(b) It shall be a defense to prosecution under this section that such person was authorized to commit any act under a valid permit from the Texas Natural Resource Conservation Commission Texas Commission on Environmental Quality or the United States Environmental Protection Agency, which would otherwise constitute a violation at the time of commission.

Commentary: It is the intent of this division to prohibit indiscriminate discharging to the MS4; such indiscriminate discharging includes the dumping or releasing of any accumulations of process materials, washing or cleaning materials or other wastes into the MS4. It is also the intent to eliminate improper storage or handling of dangerous, hazardous, or otherwise harmful materials in such a manner as to cause or allow their discharge into the MS4. However, these regulations are not intended to prohibit discharges of non-contaminated and non-polluting water, such as fire hydrant flushing, runoff from firefighting, non-chlorinated swimming pool or hot tub drainage, uncontaminated pumped ground water, discharges from potable water sources, non-contact cooling waters, ventilation and air conditioning condensation water that POTWs require to be discharged to separate storm sewers rather than to sanitary sewers, etc.

(Ord. No. 80574, § 16, 8-4-94)
Chapter 34, Article VI, Division 5, Subdivision B. - Stormwater Compliance for Construction Activity

Sec. 34-801. - Statement of purpose.

The intent of the ordinance from which this subdivision derives, creating subdivision B, is to satisfy conditions imposed by the City's Texas Pollutant Discharge Elimination System (TPDES) Permit issued by the Texas Commission on Environmental Quality (TCEQ).

All construction addressed by the ordinance from which this subdivision derives is intended to conform to best management practices. Applicable best management practices (BMP) are presently outlined in the Texas Commission on Environmental Quality (TCEQ) Technical Guidance on Best Management Practices, June 1999, Document No. RG-348 (Revised July 2005). The TCEQ guidance may be updated by the agency or revised by the city for integration into the city's technical guidance manual for local construction activity. All these sources are merely recommended guidance and examples for responsible parties. Choice of techniques is at the option of the responsible party.

(Ord. No. 94002, § 1, 5-24-01; Ord. No. 2014-06-19-0472, § 1(Exh. A), 6-19-14)

Sec. 34-802. - Definitions.

When used in this subdivision B, the following terms shall have the following meanings:

Best management practices (BMP): A technique or series of structural and non-structural techniques and practices which, when used in an erosion control plan, are considered as part of a construction site's housekeeping efforts, are proven to be effective in controlling construction-related runoff, erosion, sedimentation, and associated pollutants. Applicable BMP's can be found in TCEQ approved BMP Guidance manuals.

Construction activity: Clearing, grading or filling of land, dozing or mechanical removal of trees which dozing or mechanical removal disturbs the soil, excavation for installation of utility lines, streets, drainage facilities, and site preparation for housing and commercial development, as well as ongoing construction activities which produce waste products. Land being modified by either excavation or fill of material upon an existing mantle of soils is considered construction activity and subject to the terms of this Ordinance unless otherwise permitted by a Multi-sector Industrial Storm Water Permit. Prior to any modification to an existing mantle soil grade the owner of the property must meet City requirements for grading and drainage applicable to property modifications.

Director of public works: The director of public works of the City of San Antonio, including his/her designees.

EPA: The United States Environmental Protection Agency.

Erosion: The wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Extraterritorial jurisdiction (ETJ): The un-incorporated area contiguous to corporate boundaries of the city that is located within five (5) miles of those boundaries, defined by the Texas Local Government Code and as such Code may be amended. Applicable limits of the ETJ, for enforcement purposes of this subdivision, are only those areas within the first five thousand (5,000) feet of San Antonio's corporate boundaries within the ETJ.

Final inspection: Occurs after responsible party meets definition of final stabilization and files a Notice of Termination (NOT) form, if required by state or federal law, at which time SAWS will conduct a final inspection to verify both compliance with final stabilization and removal of the temporary BMP's from the site has occurred. Final inspections will be required at both small construction sites and large construction sites. Secondary operators are required to complete site notices and complete a NOT form as required under the TPDES permit.
Final stabilization: Reference to standards in the TCEQ TPDES general permit for storm water discharges for construction activities concerning development acreage that:

1. Where state or federally regulated development acreage is concerned, all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover, with a density of seventy (70) percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures have been employed and

2. Where local, individual lots associated with residential or commercial construction are concerned, by either (a) the responsible party complying with cover requirements guided by federal or state standards recited above, or (b) the responsible party establishing temporary stabilization including perimeter controls and informing the home buyer or commercial purchaser in writing of the need for and benefits of final stabilization.

Grade: The vertical location of the ground surface.

Grading: Any land disturbance or land fill, or combination thereof including land development, fill material sites or demolition sites.

Improved: Altered by man-made conditions.

Land disturbance/land-disturbing activities: Any moving or-removing or filling by manual or mechanical means of the soil mantle or top six (6) inches of soil, whichever is shallower, including but not limited to excavations. Any planned disturbance of an existing land grade (fill or excavation) is considered a land disturbing activity. Prior to any modifications to an existing mantle soil grade, the owner of the property must meet City requirements for grading and drainage on property modifications.

Land fill: Any human activity involving the disposition of soil, earth, or other earthen or aggregate materials.

Municipal separate storm sewer system (MS4): All natural and man-made collection and conduit facilities within the corporate limits of the city and within applicable limits of its extraterritorial jurisdiction, and for which MS4 protection the City of San Antonio has been issued a Texas Pollutant Discharge Elimination System (TPDES) Permit by TCEQ, which collection and conduit facilities constitute a system of conveyances, including but not limited to, streets, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which provide collection or conveyance of storm water, rain water, flood water, or other surface water, and may be located on public property, drainage easements, or other property, and are not designated and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment works (POTW) as defined by federal regulation at 40 CFR 122.2.

NOI: Notice of intent filed by a responsible party with EPA or TCEQ. This NOI is required under state regulation for certain construction activity. The NOI is part of the state general permit process for construction activity concerning projects or runoff deemed to potentially impact waters of the State of Texas and of the United States of America.

NOT: Notice of termination. The notice required by the EPA or TCEQ for permitted projects within the jurisdiction of either agency, which notice verifies “final stabilization” of the site has been achieved, as described above; EPA form 3510-7 terminating coverage under the TPDES general permit or corresponding TCEQ form for the TPDES Texas Pollutant Discharge Elimination System general permit.

NPDES: National Pollutant Discharge Elimination System.

Ordinance: This ordinance in its entirety, pertaining to new subdivision B, under article VI, Division 5, chapter 34, Code of Ordinances of the City of San Antonio.

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.
Pollutant: Any substance introduced into the environment that adversely affects a resource. Pollutant includes, but is not limited to, soil, soil material, sediment, human waste, other wastes and debris generated at construction sites.

Qualified Inspector: Person with credible certification or training or skills such as Certified Erosion, Sedimentation and Storm Water Inspector (CESSWI) or certified inspector of Sediment and Erosion Control (CISEC) or equal certification program or as may be required by the State of Texas that demonstrates proficiency in evaluating, interpreting and implementing Best Management Practices and elements of a Storm Water Pollution Prevention Plan (SWPPP). Additionally, a Qualified Inspector must receive a certificate of completion to the SAWS TPDES Inspector Training Workshop.

Responsible party: Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

SAWS: The San Antonio Water System, a municipally owned utility, a co-permittee to the city's MS4 Permit and one of the city's enforcement and compliance arms for water quality, pollution control and prevention.

Sediment: Earth material deposited by water or wind.

Site: The location of construction activity, subject of this subdivision B, being within the corporate limits of the city and within the first five thousand (5,000) feet, outside such limits, within the ETJ.

Soil and/or soil material: Naturally occurring superficial deposits of earth mantle overlaying bedrock or clay; any naturally occurring surface deposit of sand, gravel, silt, clay, or any mixture thereof.

Storm water: Storm water runoff, snow melt runoff, and surface runoff and drainage, as per TPDES Permit Construction General Permit No.TXR1500000.

SWPPP: Storm Water Pollution Prevention Plan: The state or federally required plan for identifying and implementing appropriate measures to reduce pollutants in storm water discharges into the city's municipal separate storm water sewer systems (MS4), which pollutants include eroded sediments. Protective measures include, but are not limited to, natural and man-made collection components, good house-keeping for site maintenance, and other common sense actions, all frequently referred to as best management practices (BMP).

TCEQ: Texas Commission on Environmental Quality.

Unimproved: Natural conditions, unaltered.

Water Pollution Abatement Plan (WPAP): The State required plan that is described in 30 Texas Administrative Code, chapter 213 for identifying and implementing appropriate measures to reduce pollutants in Storm Water Discharges into identified sensitive areas of the Edwards Aquifer. The TCEQ TPDES Construction General Permit TXR150000, page 12, Item 5 "Discharge to the Edwards Aquifer Recharge Zone" identifies the requirement of protective measures of the Edwards Aquifer.


Within the corporate limits of the city and within applicable limits of the city's extraterritorial jurisdiction (ETJ), no person shall perform construction activity that violates provisions of this subdivision. Construction activity in violation of this subdivision is hereby declared unlawful.

Violations committed within the corporate limits and within five thousand (5,000) feet outside the city's corporate limits shall also constitute public nuisance, as further provided below at section 34-809. Violations of any provision of this subdivision within the city's corporate limits shall be deemed a criminal Class C misdemeanor. Violations of any provision of this subdivision within the city's corporate limits or
any part of the applicable ETJ shall be further subject to a civil enforcement option, more particularly described in section 34-808 (b) below.

Some of the requirements of this subdivision may be generally characterized as good house-keeping protocols, those expected to be employed by a reasonably prudent contractor, operator, owner, or other person having responsibilities for various activities on a construction site. Where state or federal permits require the site operator, owner, or other responsible party, to make a storm water pollution prevention plan (SWPPP), such plans must be readily available on the site for city inspection.

(Ord. No. 94002, § 1, 5-24-01; Ord. No. 2014-06-19-0472, § 1(Exh. A), 6-19-14)

Sec. 34-804. - General prohibition against construction pollution of the municipal separate storm sewer; measurable volumes for violation; required TCEQ TPDES permit; SWPPP and WPAP (as applicable).

(a) It is unlawful for any person to engage in construction activity which activity results in a measurable volume of sediment, soils, soils material, or pollutants entering the city's municipal separate storm sewer system (MS4).

(b) "Measurable volume" of sediment, soil, soil material, or pollutant, for purposes of determining a violation, shall be such volume as is capable of being truly and correctly depicted in a photograph, motion picture, or video recording of the sediment, soil, soil material, or pollutant in question.

(c) Nothing in this section shall diminish or change the general prohibitions against MS4 pollution found in section 34-702, subdivision A, Division 5, of this chapter 34. prohibited discharges into the municipal separate storm sewer system. SAWS shall continue to exercise all enforcement powers set out in this chapter 34, and to gather such evidence as they may include, but not be limited to, samples and analysis appropriate to enforcement of chapter 34 provisions.

(d) The responsible party shall use best management practices (BMP) to prevent sediment, soils, soils materials, and pollutants from entering the city's MS4.

(e) It is unlawful for any person to engage in construction activity without employing BMP necessary to protect the city's MS4 from run-off or other media capable of transporting sediment, soil, soil material, and pollutants into the MS4.

(f) The responsible party shall post at the main entrance of the site all operator notices including without limitation, such as notice of construction, construction site notice, contact information and WPAP notice of construction (as examples).

(g) Portions of the Edwards Aquifer Recharge Zone and Edwards Aquifer Contributing Zone within the city extraterritorial jurisdiction shall be considered inclusive in this section.

(h) The operator shall have available and maintain on the construction site a copy of the SWPPP and where applicable, the WPAP.

(i) It is unlawful for any person to engage in construction activity without a complete SWPPP (as defined in TCEQ TXR 150000 or WPAP (as applicable) available on the construction site

(Ord. No. 94002, § 1, 5-24-01; Ord. No. 2014-06-19-0472, § 1(Exh. A), 6-19-14)

Sec. 34-805. - Additional federal and state requirements generally applicable to responsible parties associated with TPDES Regulated Projects: proper custody of federal or state storm water pollution prevention plans (SWPPP); applicable to parties required to provide TPDES notice of intent (NOI) or Small Construction Site Notice (CSN) to EPA or TCEQ and San Antonio Water System (SAWS); requirement to post TPDES Notices at site; requirement to make SWPPP available to city inspector; copy
of Notice of Termination (NOT) or small construction site or large construction site secondary operator completed site notices required by TCEQ or SAWS.

(a) Concerning projects for which the EPA or TCEQ or the City have permitting authority, the responsible party shall post at the site, as required by federal or state regulations, a true and correct copy of the NOI, Permit Number, large construction site notice or small construction site notice. A copy of the NOI, Permit number, large construction site notice or small construction site notice and the WPAP Notice of construction shall also be sent to SAWS resource protection and compliance department at the same time it is sent to EPA or TCEQ when applicable.

(b) The responsible party shall have available for city inspection, on site, the storm water pollution prevention plan (SWPPP) imposed by EPA or TCEQ, when the site in question is subject to such plans imposed by federal or state law.

(c) The responsible party shall make the SWPPP available to the city inspector, on reasonable request made during normal working hours.

(d) Failure, refusal, or inability to provide such plan for inspection, when the plan is required under state or federal law, constitutes a violation of this subdivision.

(e) It shall be unlawful for any person to engage in construction activity in violation of the elements of an applicable SWPPP and applicable WPAP.

(f) The responsible party shall provide SAWS a true and correct copy of any notice of termination (NOT), small construction site completed site notice or large construction site secondary operator completed site notice necessary to close out a project regulated by EPA or TCEQ. This copy shall be sent to SAWS, to the attention of SAWS Resource Protection and Compliance Department, at the time it is sent to EPA or TCEQ.

(g) Where permanent improvements have been constructed, the final inspection shall verify whether or not the "final stabilization" criteria have been met.

(h) Where no permanent improvements are planned, temporary BMPs shall continue to be maintained until site has reached final stabilization.

(i) A site shall continue to be regulated and maintain an open, active permit until final stabilization is achieved; and, where applicable to state and federally regulated sites, until a "notice of termination" (NOT) or small construction site completed site notice or large construction site secondary operator completed site notice has been filed. A copy of the NOT, if applicable, will also be filed with the SAWS as described above at subsection (t).

(k) Where the site has met final stabilization requirements, but the controls or measures implemented thereafter fail, each discharge of construction related contamination by the responsible party shall constitute a violation of this subdivision B.

(l) Removal of temporary BMPs shall be required after the site achieves final stabilization.

(m) The responsible party shall have available for City inspection on the construction site, a true copy of an approved master plan of development.

(n) The responsible party shall have available on the construction site the water pollution abatement plan (WPAP) and WPAP approval notice imposed by TCEQ when the site in question is subject to such plans required by TCEQ in 30 Texas Administrative Code, Chapter 213.

(o) The responsible party shall have available for city inspection all records and documents required by the EPA or TCEQ SWPPP and TCEQ WPAP (as applicable).

(p) All SWPPP documents shall be designed and signed by a licensed professional engineer (Texas) with competence in this area as required by Texas Engineering Practice Act, Section 137, or a Certified Professional in Erosion and Sedimentation Control (CPESC), or other registered/certified professional with competence in this area (such as a landscape architect) or as required by the State of Texas TCEQ.
To assure continued effective compliance with best management practice methodology on the construction/development site, the owner and/or an engineer or certified inspector such as CPESC, Certified Erosion, Sediment and Storm Water Inspector (CESSWI) or Certified Inspector of Sediment and Erosion Control (CISEC) or other equal certification as may be required by the State of Texas, (hereafter referred to as owner's representative), shall conduct ongoing inspections of all erosion/sedimentation controls and direct the person or firm responsible for maintenance to make any repairs or modifications necessary within 48 hours of the initial notification.

Sec. 34-806. - Best management practices (BMP) guidelines; compliance with this subdivision should not be relied upon by the regulated community to automatically effect compliance with what may be more stringent federal or state regulations pertaining to EPA/TNRCC TCEQ permitted construction sites; explanation of federal jurisdiction.

(a) BMP applications recommended to responsible parties are those techniques described in TCEQ's "Technical Guidance on Best Management Practices," document no. RG-348, Revised July-2005, as such document may be updated and revised, or when available, the city's technical guidance manual for construction activity.

(b) Responsible parties are advised that the city's recognition of BMP and other good house-keeping protocols are not necessarily synonymous with federal standards directly associated with EPA's construction general permit for other construction sites regulated under federal law or the TCEQ's construction general permit. Some sites will be federally regulated construction sites while most construction sites will be permitted by the State of Texas under guidelines similar to those of EPA. Responsible parties whose projects of scale fall within state or federal parameters are responsible to EPA or TCEQ to fulfill requirements that may differ from or may be more stringent than the provisions of this article applying to local, individual construction sites of a scale not regulated by state or federal authorities.

(c) In contrast, the purpose of this subdivision and its requirements for BMP are to satisfy the city's own state permit which specifically requires the city to adopt a construction site regulation. Consequently, the intent of this subdivision is to protect MS4 from pollutants generated from local construction sites. Federal and state jurisdiction to support this directive is found in the conduit of urban runoff traversing the San Antonio area to rivers, streams, and especially bays regulated as "waters of the United States of America" and "waters of the State of Texas". Hence, storm water generated in the area of San Antonio may enter into and impact state and federal waters.

Sec. 34-807. - Enforcement procedures.

(a) The director of public works may designate additional field enforcement staff to supplement SAWS resource protection and compliance department staff, here designated and referred to above and hereafter as city inspectors (inspectors).

(b) Upon observation of an alleged violation or condition an inspector believes constitutes a violation of this subdivision, the inspector shall issue a field correction notice (FCN) to a responsible party. The field correction notice shall be personally delivered to a responsible party, if such person is available on site; or, in the absence of such person, shall be posted at the construction site and mailed by U.S. Mail or by electronic e-mail. Field correction notices shall afford two (2) 24-hour periods to correct the violation alleged. The first 24-hour period should be used to remediate and remove the offending material, if any, from the city's MS4, or obtain and post permit documents and/or provide a copy of a complete SWPPP and WPAP (as applicable). A second 24-hour grace period shall follow...
immediately to allow the responsible party to appropriately install or repair corrective BMP which was
lacking or failed to protect city property.

(c) If the violation is cured within forty-eight (48) hours, as described above, no further city action is
required.

(d) If correction is not made timely, the inspector may issue a stop work order.

(e) If a stop work order is not honored at the site and/or corrective action is not timely accomplished to
protect the city's MS4, citations may be issued or civil injunctive remedies with appropriate penalties
may be pursued.

(f) Additional or cumulative enforcement action may be taken as the seriousness of the alleged
pollutant encroachment in the MS4 may warrant.

(g) Additional compliance time may be afforded, if within the judgment and discretion of the inspector,
municipal obligations to environmental health and safety and municipal stormwater compliance
obligations to enforcement agencies are not compromised.

(h) Upon observation of an alleged violation or condition an inspector believes constitutes a violation of
a water pollution abatement plan within the Edwards Aquifer Recharge Zone, the inspector shall
have the authority to issue a field correction notice (FCN) to a responsible party. Delivery of the FCN
shall be in accordance with the process as identified in paragraph (b) of this section. The field
correction notice shall require immediate correction of the violation alleged or within 24 hours of
observation of alleged violation as specified and documented by the inspector on the FCN. If
correction is not made timely, the inspector may issue a Stop Work Order.

(Draft)

Sec. 34-808. - Criminal and civil enforcement.

(a) A penalty is hereby established whereby any person who shall violate any provision of this
subdivision shall be deemed to be guilty of a misdemeanor and shall upon conviction be fined a
minimum amount of not less than two hundred dollars ($200.00) per violation and a maximum
amount of not more than two thousand dollars ($2,000.00) per violation. Each day of violation shall
constitute a separate offense for purposes of the enforcement of this subdivision.

(b) The city attorney has authority to pursue all legal, equitable, and criminal remedies appropriate to
enforce all provisions of this subdivision, including, but not limited to, authority under the Texas Local
Government Code, chapter 54, providing for injunctive relief and court imposed civil penalties up to
five thousand dollars ($5,000.00) a day for violation of ordinances relating to discharge of a pollutant
into a storm sewer system controlled by a municipality.

(c) Upon the written direction of the director of public works, advising of an alleged violation of any
section of this subdivision, the city attorney, pursuant to subsection (d) above, is authorized to
petition any court of competent jurisdiction for an injunction to enjoin the continuance of such
violation and to secure any and all civil penalties within the jurisdiction of the appropriate court. This
remedy shall be cumulative of and to all other enforcement remedies available to the city.

(d) The authority set out above shall in no way diminish the authority and responsibility of the city
attorney to diligently prosecute violations of this subdivision through the municipal prosecutor's
office.

(e) The SAWS is a co-permittee, under the federal permit, and a contractual enforcement arm of the
city. In consultation with the city attorney, SAWS legal officers may exercise all or specific
enforcement options enumerated in this subdivision B on behalf of the city.

(Draft)
Sec. 34-809. - Declaration of nuisance within applicable limits of the city's ETJ; city's authority to enforce within five thousand (5,000) feet outside the city limits.

Under authority of the Texas Local Government Code, section 217.042 (a) (b), noncompliance with provisions of this subdivision B, or violation of its provisions, is here declared a nuisance and by authority of the enabling statute such declaration of nuisance extends to and shall be applicable within both the corporate limits of the city and within five thousand (5,000) feet outside the limits. Accordingly, summary abatement authority rests in the city's enforcement officials when imminent threat to the public health, safety, or welfare may arise.

(Ord. No. 94002, § 1, 5-24-01; Ord. No. 2014-06-19-0472, § 1(Exh. A), 6-19-14)

Secs. 34-810—34-849. - Reserved.
DIVISION 8. - BACKFLOW PREVENTION

Sec. 34-1075. - General provisions.

(a) **Purpose.** The purpose of this division is to prevent the contamination of water delivered by public water systems by requiring the maintenance, repair, inspection and testing of backflow prevention devices.

(b) **Application.** This division shall apply within the corporate limits of the city and within the extraterritorial jurisdiction of the city.

(c) **Definitions.** As used anywhere in this division, the following terms are defined to mean:

- **Backflow** means the reversal of the flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a public water system.

- **City** means the City of San Antonio, a Texas home rule municipality.

- **Person** means an individual, partnership, joint venture, firm, company, corporation, association, joint stock company, governmental entity, trust, estate, sole proprietorship, or legal entity of any kind or character.

- **Public water system** means a system for the provision of water to the public as defined in Title 30 of the Texas Administrative Code, Section 290.38.

- **SAWS** means the San Antonio Water System, a public water system and an agency of the city, created by City Ordinance No. 75686, passed April 30, 1992.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1076. - Backflow prevention devices.

(a) Backflow is prohibited. A person shall not maintain a backflow prevention device, plumbing fixture, equipment, or any other device that permits backflow, or fail to install a backflow prevention device as required by the City Code.

(b) Each property owner shall cause backflow prevention devices to be installed in compliance with the provisions of chapter 24-10 of the City Code, and the International Plumbing Code and appendices as amended that are adopted by the city in that chapter.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1077. - Inspection and testing.

(a) Each property owner is responsible for the maintenance and repair of each backflow prevention device that is located on the property owner's property.

(b) Each property owner shall have each backflow prevention device located on a property owner's property inspected and tested annually by a state licensed backflow assembly tester. The licensed tester performing the inspection and testing shall complete a report of each inspection and testing on a form approved by the public water system that provides water to the property where the backflow prevention device is located.

(c) Each property owner shall repair or replace a backflow prevention device that fails a test before returning the backflow prevention device to service.

(d) Each property owner or the property owner's representative shall deliver the annual report of testing and inspection that is required to be performed by this section to the public water system that provides water to the property where the backflow prevention device is located not later than

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)
later than the 30th day of June every year, than thirty (30) days after the date of the inspection and testing.

(f) A Backflow Prevention Assembly Test and Maintenance form must be completed by a certified backflow prevention assembly tester for each assembly tested. The signed and dated form must be submitted to the public water system that provides water to the property where the backflow prevention assembly is located the water purveyor within ten (10) days of after the completed test, for record keeping purposes. Only San Antonio Water System or the TCEQ approved Backflow Prevention Assembly Test and Maintenance forms will be accepted. All test and maintenance reports shall be retained by the owner of the property where the backflow prevention assembly is located for at least three (3) years from the date of any such test.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1078. - Fees.

To recover the costs for the implementation of this division, each property owner shall pay the applicable fee for existing backflow and maintenance report that is provided in section 10-83 of the City Code, for each backflow prevention device, for which an annual inspection is required by this division to the public water system providing water to the location of each backflow prevention device, The fee shall be delivered to the public water system with the report of annual inspection and testing that is required by this division. Subject to city council approval, the governing body of each public water system is authorized to amend the amount of the fee charged to recover the costs reasonably related to the performance of the functions for which the fee is charged. The fee may be waived if the report prepared by the state licensed backflow assembly tester that is required by this division is submitted online through the San Antonio Water System electronic submission program.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1079. - Emergency suspension.

(a) The chief executive officer of a public water system may suspend water service and disconnect service to a person if the chief executive officer determines that contamination or pollution due to backflow presents an imminent threat to the public water system, presents an imminent danger to public health or safety, or threatens to interfere with the operation of the public water system.

(b) A person notified of the suspension of the person's service by a public water system pursuant to this section shall immediately stop the use of the public water system's water. If a person fails to immediately suspend use of the public water system's water, the public water system may take the actions it determines are necessary to prevent contamination or pollution, or to minimize damage to the public water system.

(c) The authority granted in this section is in addition to the authority granted to SAWS in section 34-1081 of this division.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1080. - Access to property.

A public water system, through its employees or authorized agents, may enter property that receives water service from the public water system to inspect backflow prevention devices.
(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Sec. 34-1081. - Enforcement.

(a) The failure to perform any action that is required by this division, or the performance of any action that is prohibited by this division shall constitute a violation of this division.

(b) Criminal penalty. A conviction for a violation of any provision of this division shall constitute a class C misdemeanor. A person convicted of a violation of any provision of this division shall be fined an amount of not less than two hundred dollars ($200.00) per violation and a maximum of not more than two thousand dollars ($2,000.00) per violation. Each violation of this division shall constitute a separate offense, and each day a violation continues shall be considered a new offense. A culpable mental state is not required to prove an offense under this division.

(c) Civil penalty. A civil penalty may be imposed for each violation of any provision of this division in an amount not to exceed five thousand dollars ($5,000.00) per violation. Each violation of any provision of this division shall constitute a separate violation, and each day a violation continues shall be considered a new violation.

(d) Authorization to enforce. SAWS is authorized to take any action authorized by this division against any person committing a violation of this division within SAWS service area. The grant of authority set out in this section does not in any way diminish the authority of the office of the city attorney to take any action necessary to enforce the terms of this division, to prosecute violations of this division, and to defend the legality of this division, if challenged.

(e) Additional enforcement remedies. In addition to any other remedies provided in this division, the city, or SAWS for violations of this division that occur within its service area may, at any time, pursue any other legal and/or equitable remedy to require compliance with this division.

(f) Should SAWS give written notice of a violation of this division to a property owner and the violation is not completely remedied within ninety (90) days after the date of the notice, then in that event SAWS may terminate water and/or sewer service to the location where the violation occurred upon the approval of a resolution by the SAWS board of trustees authorizing such termination.

(Ord. No. 2011-06-23-0575, § 2, 6-23-11)

Secs. 34-1082—34-1100. - Reserved.
TO: San Antonio Water System Board of Trustees

FROM: Darren Thompson, Director, Water Resources, and Donovan S. Burton, Vice President, Water Resources and Governmental Relations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: ACCEPTANCE OF BIDS AND APPROVAL OF EDWARDS AQUIFER AUTHORITY GROUNDWATER LEASE AGREEMENTS BETWEEN SAN ANTONIO WATER SYSTEM AND THE HOLDERS OF EDWARDS AQUIFER AUTHORITY GROUNDWATER RIGHTS LISTED HEREIN

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution accepts certain bids for Edwards Aquifer Authority (EAA) groundwater rights and approves Lease Agreements for EAA groundwater rights (the “Leases”) between such successful bidders listed below (the “Bidders”) and the San Antonio Water System (SAWS). Bidders were invited to submit bids of 20 acre-feet or greater for five-year terms beginning in 2019, at the price-per-acre-foot each Bidder thought was fair compensation for their groundwater rights.

- The resolution seeks approval for the acquisition, through Leases of EAA permitted groundwater withdrawal rights, in the amount of 2,153.018 acre-feet per year, by SAWS from the Bidders through the expenditure of public funds being in the aggregate amount of $1,384,961.70 over the total five-year period in order to meet the demands of SAWS.

- SAWS 2017 Water Management Plan outlines water management strategies for SAWS that includes the acquisition of EAA groundwater rights, via purchase and/or lease.

- Acquisition of the groundwater rights will be used to maintain a certain level of Edwards Aquifer assets, off-set regulatory pumping cut-backs established by the EAA, and compliment the regionally agreed to Edwards Aquifer Habitat Conservation Plan.

- EAA groundwater rights Bidders were selected based on submittals to solicitation number B-18-010-JP, Request for Lease Bids regarding additional Water Supplies in the form of the Lease of Transferable EAA groundwater withdrawal rights.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Leases of the EAA permitted groundwater withdrawal rights will result in payments to Bidders
in an annual amount not to exceed $276,992.34 and not to exceed $1,384,961.70 over the term of the Leases. Additionally, SAWS will also be responsible for paying the associated Aquifer Management Fees (AMF) to the EAA for the term of the Leases. AMF will be invoiced by the EAA on an annual basis. In 2019, the AMF will be $84.00 per acre-foot, future AMF will be determined by the EAA on an annual basis.

Payments for the Leases, AMF’s and all other necessary expenditures (including EAA transfer fees and recording costs) will be paid from budgeted System Funds. Funds for subsequent years are pursuant to and contingent upon Board approval of the annual budget, with a line item for such expenditures.

APPROVED:

Darren Thompson
Director
Water Resources

Donovan S. Burton
Vice President
Water Resources and Governmental Relations

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES ACCEPTING BIDS FOR THE LEASE OF EDWARDS AQUIFER AUTHORITY GROUNDWATER RIGHTS AND APPROVING LEASE AGREEMENTS WITH THE HOLDERS OF EDWARDS AQUIFER AUTHORITY GROUNDWATER RIGHTS LISTED HEREIN FOR A TOTAL OF 2,153.018 ACRE-FEET PER ANNUM OF EDWARDS AQUIFER AUTHORITY GROUNDWATER RIGHTS AT A COST OF $276,992.34 PER YEAR FOR FIVE YEARS BEGINNING IN 2019 FOR A TOTAL OBLIGATION NOT TO EXCEED $1,384,961.70; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to solicitation number B-18-010-JP, Request for Lease Bids regarding additional Water Supplies in the form of the Lease of Transferable Edwards Aquifer Authority (EAA) groundwater withdrawal rights, the San Antonio Water System (the “System”) solicited bids for the lease of EAA groundwater rights and

WHEREAS, the System desires to accept certain bids from the holders of EAA groundwater rights listed herein in Attachment I (the “Bidders”) and to enter into Leases of Groundwater Agreements (the “Lease Agreements”) with said Bidders each for a term of five years beginning in 2019 in an aggregate amount of 2,153.018 acre-feet per annum of EAA groundwater rights, for a total annual cost per annum of $276,992.34 and a total cost of $1,384,961.70 for the duration of the Lease Agreements, and

WHEREAS, the Lease Agreements allow the System to maintain inventory in accordance with the System’s 2017 Water Management Plan adopted by the System’s Board of Trustees, which evaluates and identifies a portfolio of water supply projects that include goals for the acquisition of EAA groundwater rights; and

WHEREAS, the System’s Board believes that it is in the best interest of the ratepayers of the System to obtain necessary amounts of EAA groundwater rights that maintain planned supply; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to accept the bids of the Bidders listed in Attachment I, (ii) to approve the Lease Agreements between the System and Bidders, in substantially the form attached hereto as Attachment II, (iii) to authorize the expenditure of funds for the System’s obligations over the term of the Lease Agreements from the System Fund in an amount not to exceed $1,384,961.70, subject to Board approval of future years’ budgets with a line item for such expenditures, and (iv) to authorize the President/Chief
Executive Officer or his duly appointed designee to execute the Lease Agreements and take such steps necessary to secure the groundwater rights for System use, to make the initial payment together with all applicable EAA Management Fees that are the responsibility of the San Antonio Water System under the Lease Agreements and ancillary costs, including EAA transfer fees and recording costs, and subsequent lease payments not to exceed $1,384,961.70 in accordance with the terms of the Lease Agreements; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the bids from the holders of EAA groundwater rights listed in Attachment I, having consented to entering into Lease Agreements with the System, are hereby accepted.

2. That Lease Agreements between the System and the Bidders for a total of 2,153.018 acre-feet per annum of EAA groundwater rights, at a cost of $276,992.34 per year for the term of five years beginning in 2019 for a total cost not to exceed $1,384,961.70 are hereby approved in substantially the forms attached hereto as Attachment II.

3. That the expenditure of funds in an amount not to exceed $1,384,961.70 for the System’s obligations over the term of the Lease Agreements are hereby approved from the System Fund, subject to Board approval of future years’ budgets with a line item for such expenditures.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute the Lease Agreements, to take all such steps necessary to secure the groundwater rights for the System use, to pay the initial amount of the above-mentioned to the Bidders together with all applicable EAA Aquifer Management Fees that are the responsibility of the System under the Lease Agreements and ancillary costs, including EAA transfer fees and recording costs, and subsequent lease payments and fees in accordance with the terms of the Lease Agreements.

5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notices of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given as required by the Texas Code Annotated, as amended, title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.
7. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

___________________________
Berto Guerra, Jr., Chairman

ATTEST:

___________________________
Patricia E. Merritt, Assistant Secretary

Attachments:
I. Selected EAA Groundwater Rights Bids
II. Lease Agreements
### Attachment I

<table>
<thead>
<tr>
<th>Bidder</th>
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<th>Price Per Acre-foot</th>
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<td><strong>$1,384,961.70</strong></td>
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LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ___ day of ____________, 2018 the ("Effective Date"), by and between Mark A. Nester (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 50 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P104-293 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 5 years commencing on January 1, 2019 (the "Commencement Date") and continuing through December 31, 2023 (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.
6. **Payments.**

   **Rent.**

   For each of the Lease Years, rent for the Water Rights will be **one hundred twenty dollars and xx/100 per acre-foot**, for a total lease payment of **six thousand and XX/100 dollars ($6,000.00)** 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).


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.

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:**

Mark A. Nester  
1157 26th St.  
Hondo, Texas 78861

**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. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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.


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


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.


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*

Mark A. Nester

*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). P104-293, 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). P104-293 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:

______________________________
MARK A. NESTER
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this ______ day of ____________, 2018 by and between Mark A. Nester (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:


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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 50 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

___________________________
Mark A. Nester

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _______ day of _____________, 2018 by Mark A. Nester.

___________________________
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 ______________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this _____ day of ____________, 2018 the ("Effective Date"), by and between Robert Carl Reagan, individually, and Trustee William Cecil Reagan GST Exempt Trust 1, and Trustee Robert Carl Reagan Trust (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 723,083 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P108-741 recorded as Document No. 201800954 in the Official Public Records of Uvalde 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred thirty dollars and \( \frac{xx}{100} \) per acre-foot, for a total lease payment of ninety-four thousand and \( \frac{XX}{100} \) dollars ($94,000.00) 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).


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.

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:

Robert Carl Reagan, individually, and Trustee
William Cecil Reagan GST Exempt Trust 1, and Trustee
Robert Carl Reagan Trust
3946 County Road 301
Knippa, Texas 78870-1004

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. Lessor shall cooperate with
Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the
Water Rights.

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.


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


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.

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

___________________________
Robert Carl Reagan

Lessor

___________________________
William Cecil Reagan

*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). P108-741, 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). P108-741 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:

______________________________

ROBERT CARL REAGAN
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this _______ day of ________, 2018 by and between Robert Carl Reagan, individually, and Trustee William Cecil Reagan GST Exempt Trust 1, and Trustee Robert Carl Reagan Trust (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 723.083 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P108-741 recorded as Document No. 2018000954 in the Official Public Records of Uvalde 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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 723.083 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.
Robert Carl Reagan

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF ________ §

This instrument was acknowledged before me on the ______ day of ____________, 2018 by Robert Carl Reagan

NOTARY PUBLIC, State of Texas

(Seal)

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF ________ §

This instrument was acknowledged before me on the ______ day of ____________, 2018 by William Cecil Reagan, Jr.

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 _____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ____ day of _____________, 2018 the ("Effective Date"), by and between William Cecil Reagan Jr., (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 717.469 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P108-742 recorded as Document No. 2018000955 in the Official Public Records of Uvalde 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred thirty dollars and xx/100 per acre-foot, for a total lease payment of ninety-three thousand two hundred seventy and 97/100 dollars ($93,270.97) 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).


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.

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:

712 N. Ashby Dr.
Uvalde, Texas 78801

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. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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*

___________________________
William Cecil Reagan, Jr.

*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:_____________.

DRAFT
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). P108-742, 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). P108-742 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:

WILLIAM CECIL REAGAN, JR.
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this ______ day of __________, 2018 by and between William Cecil Reagan, Jr., (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 50 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P108-742 recorded as Document No. 2018000955 in the Official Public Records of Uvalde 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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 717,469 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.
ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF________ §

This instrument was acknowledged before me on the _______ day of _____________, 2018 by William Cecil Reagan, Jr.

___________________________
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 ____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ____ day of _____________, 2018 the ("Effective Date"), by and between Raymond Wauters, Jr., (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 24 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P100-271 recorded as Document No. 20080231147 in the Official Public Records of Bexar 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred thirty dollars and xx/100 per acre-foot, for a total lease payment of three thousand one hundred and twenty and XX/100 dollars ($3,120.00) 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).


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.

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:  
Raymond Wauters, Jr.  
359 Donella Dr.  
San Antonio, Texas 78232

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. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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.


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


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 assignees, except as provided in Section 15.


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.


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*

___________________________
Raymond Wauters, Jr.

___________________________
(Wife)

*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). P100-271, 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). P100-271 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:

RAYMOND WAUTERS, JR.
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this _______ day of ________, 2018 by and between Raymond Wauters, Jr., (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 24 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P100-271 recorded as Document No. 20080231147 in the Official Public Records of Bexar 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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 24 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

___________________________
Raymond Wauters, Jr.

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _______ day of _____________, 2018 by Raymond Wauters, Jr.

___________________________
NOTARY PUBLIC, State of Texas
(Seal)

Lessor

Wife

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _______ day of _____________, 2018 by Wife.

___________________________
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 _____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ___ day of __________, 2018 the ("Effective Date"), by and between Richard Verstraeten (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 200 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P104-373 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred eighteen dollars and xx/100 per acre-foot, for a total lease payment of twenty-three thousand six hundred and XX/100 dollars ($23,600.00) 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.

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:**

Richard Verstraeten  
1019 CR 466  
Castroville, Texas 78009

**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. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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.


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


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.


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.


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*

___________________________
Richard Verstraeten

*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). P104-373, 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). P104-373 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:

______________________________

RICHARD VERSTRAETEN
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this _______ day of ____________, 2018 by and between Richard Verstraeten (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 200 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P104-373 recorded as Document No. 2014002771 in the Official Public Records of Bexar 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 5 years, from January 1, 2019 to December 31, 2023.

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 200 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

____________________________________
Richard Verstraeten

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _____ day of _____________, 2018 by Richard Verstraeten

____________________________________
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 _____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ___ day of ____________, 2018 the ("Effective Date"), by and between D. Wesley Gulley and Cameron Gully, Independent Executor of the estate of Jane Gulley (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority ("EAA") to withdraw 122,466 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred thirty dollars and xx/100 per acre-foot, for a total lease payment of fourteen thousand six hundred twenty dollars and 58/100 dollars ($14,620.58) 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.

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:    
D. Wesley Gulley and  
Cameron Gulley, Independent Executor of the Estate of  
Jane Gulley  
114 W. Brandon  
San Antonio, Texas 78209

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. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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.


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


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.

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.


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*

___________________________
D. Wesley Gulley

Lessor*

_____________________________
Cameron Gulley, Independent Executor of the Estate of Jane Gulley

*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:

D. WESLEY GULLEY

________________________________________
CAMER GULLEY, INDEPENDENT EXECUTOR
OF THE ESTATE OF JANE GULLEY
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this _______ day of ________________, 2018 by and between D. Wesley Gulley and Cameron Gully, Independent Executor of the estate of Jane Gulley (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:


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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 112,466 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

___________________________
D. Wesley Gulley

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _____ day of _____________, 2018 by D. Wesley Gulley.

___________________________
NOTARY PUBLIC, State of Texas
(Seal)

Lessor

___________________________
Cameron Gulley, Independent Executor
of the Estate of Jane Gulley

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF__________ §

This instrument was acknowledged before me on the _____ day of _____________, 2018 by Cameron Gulley, Independent Executor of the Estate of Jane Gulley.

___________________________
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 _____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
LEASE OF GROUNDWATER

This Lease of Groundwater ("Lease") is entered into to be effective this ____ day of ____________, 2018 the ("Effective Date"), by and between Ethel Martin (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:


Lessor leases to Lessee the Lessor’s groundwater rights and Lessor’s permit rights from the Edwards Aquifer Authority (“EAA”) to withdraw 326 acre-feet of unrestricted Edwards Aquifer groundwater per annum, under EAA Initial Regular Permit P101-532 recorded as Document No. 2012008471 in Volume 873, Page 51 of the Official Public Records of Medina 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 5 years commencing on January 1, 2019 (the “Commencement Date”) and continuing through December 31, 2023 (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.
6. Payments.

Rent.

For each of the Lease Years, rent for the Water Rights will be one hundred thirty dollars and xx/100 per acre-foot, for a total lease payment of forty-two thousand three hundred and eighty and XX/100 dollars ($42,380.00) 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.

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:**

**Ethel Martin**

**1316 Shady Lane**

**Hondo, Texas 78861**

**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 party may set off such amount against any monies due and owing the defaulting party, including Rent. Lessor shall cooperate with Lessee in obtaining a subordination of any deed of trust or mortgage encumbering the Water Rights.

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.


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


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.


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.


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*

__________________________________

Ethel Martin

*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). P101-532, 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). P101-532 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:

ETHEL MARTIN
EXHIBIT “C”

MEMORANDUM OF LEASE OF GROUNDWATER
MEMORANDUM OF LEASE OF GROUNDWATER

This Memorandum of Lease of Groundwater ("MOL") is executed this ______ day of __________, 2018 by and between Ethel Martin (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:


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 5 years, from January 1, 2019 to December 31, 2023

4. In accordance with the terms of the Lease, the Lessor has agreed to lease a total of 326 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

___________________________
Ethel Martin

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF §

This instrument was acknowledged before me on the _____ day of ____________, 2018 by Ethel Martin.

___________________________
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 ____________, 2018 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: Brandon Payne
San Antonio Water System
P.O. Box 2449
San Antonio, Texas 78298-2449
TO: San Antonio Water System Board of Trustees

FROM: Darren Thompson, Director, Water Resources, Karen Guz, Director, Conservation, Donovan Burton, Vice President, Water Resources and Governmental Relations, Gavino Ramos, Vice President, Communications and External Relations

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF AMENDED BYLAWS OF THE COMMUNITY CONSERVATION COMMITTEE AND CITIZENS ADVISORY PANEL

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves amending the bylaws of the Community Conservation Committee (CCC) and the Citizens Advisory Panel (CAP).

- To facilitate the conservation goals, the San Antonio Water System (SAWS) created the CCC on February 4, 1997, by Resolution No. 97-031 and to facilitate the water resources goals, SAWS created the CAP on June 16, 1998, by Resolution No. 98-141. Both the CCC and the CAP are composed of representatives from community stakeholders in the local area and is intended to act as a vehicle to support the development of long-term water resource plans.

- The purpose of the CCC is to involve the community in water conservation. The CCC works with the Conservation Department in the formulation and/or modification of effective conservation programs; it provides recommendations concerning conservation programs and policies to SAWS staff and to SAWS Board of Trustees (Board); and it serves as a forum for the community to share ideas concerning water conservation. The CCC endeavors to keep the community informed concerning the need to conserve water and it provides support and resources for implementing community-based water conservation programs.

- The purpose of the CAP is to involve the community in water resource projects. The CAP works with the Water Resources Department in the review and benchmarking of water resource projects; it provides recommendations concerning water resource projects, policies, plans and updates to staff and to the Board; and it serves as a forum for the community to share ideas concerning water resources. The CAP endeavors to keep the community informed concerning the need to support the development of long-term
Amendment of Bylaws
Community Conservation Committee and the Citizens Advisory Panel

water resource plans and it provides support for the successful implementation of the water resource projects.

- The membership of the CCC and the CAP reflects and represents the residential, commercial, industrial, and institutional customer base of SAWS. To be eligible for membership on the CAP, an individual must demonstrate an interest in supporting a long-term water resource plan. To be eligible for membership on the CCC, an individual must demonstrate an interest in furthering water conservation. Members of both the CCC and the CAP must demonstrate a willingness to engage in constructive dialogue with fellow committee members, and a commitment to attend the CCC or CAP meetings.

- The CCC’s membership will reflect and represent the diverse stakeholder interests of the SAWS customer base, and the membership will possess the variety of technical skills requisite to the committee’s representing those diverse stakeholder interests. Each year, prior to making recommendations to the Board regarding CCC membership, the President/Chief Executive Officer shall review stakeholder representation on the CCC to ensure balanced representation of business, residential, institutional and environmental interests while reflecting the racial, ethnic, gender, and geographic diversity of the San Antonio community.

- The CAPs membership will reflect and represent the diverse stakeholder interests of the SAWS customer base, and the membership will possess the variety of technical skills requisite to the CAP representing those diverse stakeholder interests. Each year, prior to making recommendations to the Board regarding CAP membership, the President/Chief Executive Officer shall review stakeholder representation on the CAP to ensure balanced representation of business, residential, institutional and environmental interests while reflecting the racial, ethnic, gender, and geographic diversity of the San Antonio community.

- Appointments to the CCC and CAP are for two-year terms, subject to reappointment for additional two, two-year terms by the Board.

- On a yearly basis, up to 25, but no less than 16 individuals will serve as members of the CCC and CAP. Appointment and re-appointment to the CCC and CAP will be on an as needed basis.

- In making decisions regarding projects, policies or plan recommendations, the CCC and CAP will endeavor to act by consensus. However, the committees may make a decision by simple majority vote of the quorum present at the meeting in which the vote takes place. A quorum is necessary for any vote on any project, policy or plan recommendations.
Establishment of the amended bylaws of the CCC and the CAP is proposed by both the CCC and the CAP. The amended bylaws include updating the following provisions:

- Article II Section 6 – require members to notify SAWS staff liaison prior to a meeting if unable to attend and defined excused and unexcused absences
- Article II Section 7 – added a section on resignation from CCC and CAP. Member resignation must be in writing and provided to SAWS staff liaison
- Article III Section 3 – clarified the Vice-Chairperson may serve additional one-year terms
- Article IV Section 1 – revised language that CCC and CAP may hold up to ten general meetings per year rather than requiring ten general meetings per year and that meetings may be cancelled due to inclement weather
- Article IV Section 7 – Added language encouraging members to interact and share information with the community and bring information from the community to SAWS. Clarified members are not to act as a representative of SAWS in official business

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

There will be no financial impact to SAWS as a result of this resolution.

---

Darren Thompson  
Director  
Water Resources

Karen L. Guz  
Director  
Conservation

Donovan S. Burton  
Vice President  
Water Resources and Governmental Relations

Gavino Ramos  
Vice President  
Communications and External Affairs
Amendment of Bylaws
Community Conservation Committee and the Citizens Advisory Panel

APPROVED:

[Signature]

Robert R. Puente
President/Chief Executive Officer

Attachments:
I. CCC Bylaws
II. CAP Bylaws
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING AMENDMENTS OF BYLAWS OF THE COMMUNITY CONSERVATION COMMITTEE AND THE CITIZENS ADVISORY PANEL; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, it is the goal of San Antonio Water System (the "System") to ensure that the community is informed of the importance and need to conserve water and to provide support and resources for implementing water-saving programs and whereas it is the goal of the System to ensure that the community is informed of water resource projects and to provide support and resources for implementing water resource projects; and

WHEREAS, in order to achieve this goal, the System created the Community Conservation Committee (CCC) on February 4, 1997, by Resolution No. 97-031 and the Citizens Advisory Panel (CAP) on June 16, 1998, by Resolution No. 98-141; and

WHEREAS, the purpose of the CCC is to involve the community in water conservation and whereas the purpose of the CAP is to involve the community in water resource issues; and

WHEREAS, the CCC works with the System’s Conservation Department in the formulation and/or modification of effective conservation programs and provides recommendations concerning conservation programs and policies to the System’s staff and to the System’s Board of Trustees (the “Board”) whereas the CAP works with the Water Resources Department in providing clear and early recommendations and/or feedback pertaining to projects, policies, and plans for water resource projects and provides recommendations concerning water resource projects in the form of benchmarking to staff and to the Board; and

WHEREAS, the CCC endeavors to keep the community informed concerning the need to conserve water and it provides support and resources for implementing community-based water conservation programs and whereas the CAP endeavors to keep the community informed concerning the need to support the development of long-term water resource plans, and updates and it provides support for the successful implementation of the water resource projects; and

WHEREAS, the membership of the CCC and CAP reflects and represents the residential, commercial, industrial, and institutional customer base of the System; and

WHEREAS, each year, prior to making recommendations to the Board regarding CCC and CAP membership, the President/Chief Executive Officer shall review stakeholder
representation on the CCC and CAP to ensure balanced representation of business, residential, institutional and environmental interests while reflecting the racial, ethnic, gender and geographic diversity of the San Antonio community; and

WHEREAS, the CCC and CAP input to the staff and the Board on complex issues sometimes requires members with special experiences or skills. The Board Chairman may choose to waive a specific membership provision(s) of the bylaws in response to a request from the President/Chief Executive Officer that outlines special conditions that justify the waiver; and

WHEREAS, the San Antonio Water System Board of Trustees desires to approve the amended bylaws of the CCC and CAP; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the amended bylaws of the CCC and the CAP are hereby approved.

2. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

3. If any part, section, paragraph, sentence, phrase or work of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid, or ineffective.

4. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September 2018.

________________________
Berto Guerra, Jr., Chairman

ATTEST:

________________________
Patricia E. Merritt, Assistant Secretary

Attachment:
I. Proposed amendments to Bylaws of the CCC
II. Proposed amendments to Bylaws of the CAP
BYLAWS OF THE
COMMUNITY CONSERVATION COMMITTEE

ARTICLE I — NAME AND PURPOSE

Section 1 — Name: The name of the committee is the San Antonio Water System (SAWS) Community Conservation Committee (CCC). First created on February 4, 1997 by Resolution No. 97-031 of the San Antonio Water System Board of Trustees, the CCC is an advisory group to the SAWS Conservation Department and the SAWS Board of Trustees.

Section 2 — Purpose: The purpose of the CCC is to involve the community in water conservation. The CCC will work with the SAWS staff in the formulation and/or modification of effective conservation programs; it will provide recommendations concerning conservation programs and policies to SAWS staff and to the SAWS Board of Trustees through memoranda, resolutions, presentations and other types of outreach; and it will serve as a forum for the community to share ideas concerning water conservation.

ARTICLE II — MEMBERSHIP

Section 1 — Eligibility for membership: The CCC is responsible for reviewing, discussing and providing recommendations on projects, plans and policy dealing with the water conservation issues to staff and the Board of Trustees. Membership of the CCC shall be open to any ratepayer, resident, property owner, or business operator within the SAWS service area. Each CCC member represents a constituency and may facilitate the flow of ideas and concerns from the community to SAWS staff and the Board of Trustees, and assure the flow of information from the SAWS staff and Board of Trustees to the community.

Section 2 — Composition: The committee’s membership will reflect and represent the diverse stakeholder interests of the SAWS customer base, and the membership will possess a variety of skills and backgrounds necessary to be effective as an advisory group. Each year, prior to making recommendations to the SAWS Board of Trustees regarding CCC membership, the President/CEO shall review stakeholder representation on the CCC to ensure balanced representation of business, residential, institutional and environmental interests, while reflecting the racial, ethnic, geographic and gender diversity of the greater San Antonio community SAWS service area. CCC membership should reflect a broad range of interests and expertise to include:

- Civic organizations
- Community and neighborhood organizations
- Education
- Economic development
- Environment
- Finance
- Design professions
- Industrial
- Legal
- Military
- Natural sciences
Section 3 — Membership term: CCC members will serve a two-year terms, and will be eligible to serve no more than three consecutive two-year terms (six years). A member who serves a total of three two-year terms may be reconsidered by the SAWS Board of Trustees for an additional two-year term after leaving the CCC for one year.

Section 4 — Membership size: Annually, the CCC may have up to 25 but not less than 16 members.

Section 5 — Nomination procedures: The SAWS President/CEO will be responsible for nominating an official slate of prospective CCC members to the Board for consideration. The Board of Trustees may choose to appoint all, none, or some of the nominees.

Section 6 — Attendance, termination and absences: Members will notify the SAWS staff liaison via phone, email, or text message prior to a meeting if they are unable to attend. A CCC member may be terminated from the CCC due to excessive absences, defined as two consecutive unexcused absences, or three total absences from meetings in a year.

Excused absence: A member will receive an excused absence when there is prior notification.

Unexcused absence: A member will receive an unexcused absence when there is no prior notification in advance of the meeting.

Section 7 — Resignation, termination and absences: Resignation from the CCC must be in writing and provided to the SAWS CCC Staff Liaison Chairperson of the CCC. The staff liaison will then notify the CCC Chairperson in writing.

Section 8 — Vacancies: When a vacancy on the CCC exists mid-term, the President/CEO may nominate a replacement to the Board of Trustees, who may approve the individual to serve out the term of the member who created the vacancy.

ARTICLE III — SELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

Section 1 — Selection and term of Chairperson: The Chairperson shall be nominated by the President/CEO and appointed by the SAWS Board of Trustees. The Chairperson will serve for a term of one year and is eligible to serve for three consecutive terms (three years).

Section 2 — Chairperson duties: Responsibilities include but are not limited to: presiding over all CCC meetings; encouraging members to participate in discussions and to arrive at decisions in a timely and democratic manner; undertaking certain administrative duties, such as approving CCC agendas, draft minutes, proposed meeting venues, and dates. The Chairperson will serve as the principle spokesperson for the CCC, maintain communication with SAWS staff and report on the CCC’s progress to the Board of Trustees.

Section 3 — Selection and term of Vice-Chairperson: The Vice-Chairperson is to be selected...
from the general membership by the membership committee. The term is for one year but the individual may serve additional terms if he or she is asked by the membership committee to continue as Vice-Chairperson. The Vice-Chairperson may also be asked to serve in a different leadership capacity after serving as Vice-Chairperson for one term.

**Section 4 — Vice-Chairperson duties:** The Vice-Chairperson is responsible for assisting the Chairperson on all assigned tasks and will perform the duties of the Chairperson when necessary. The Vice-Chairperson assists in the orienting new members to the committee.

**ARTICLE IV — MEETINGS OF MEMBERS**

- **Section 1 — General meetings:** The CCC will hold no less than up to 10 general meetings per calendar year and the meetings may be held on the third Wednesday of each month. A meeting schedule will be provided to the CCC members for the entire year at the first meeting of the year. There are no scheduled meetings in July or December unless the chairperson deems it necessary. Meetings may be cancelled due to inclement weather.

- **Section 2 — Special meetings:** Special meetings of the CCC may be called at the request of the chairperson or a majority of the CCC.

- **Section 3 — Notice of meetings:** Printed and/or electronic notice of each meeting shall be given to each voting member not less than one week prior to the meeting.

- **Section 4 — Meeting agenda:** Water Conservation Department staff will draft meeting agendas for review and approval by the Chairperson. Any two members can request an item to be added to the meeting agenda.

- **Section 5 — Quorum:** More than half (50% + one member) of the currently appointed membership must be present to constitute a quorum. A quorum is needed for any vote when the CCC is determining whether to make an official policy recommendation to the SAWS Board of Trustees or to Conservation Staff. A meeting may proceed without a quorum; however no action may be taken without a quorum present.

- **Section 6 — Decision making:** There shall be an effort extended to achieve a consensus of members present for all issues that require decision making. It is particularly desirable for recommendations to be completed through consensus. The Chairperson may decide to proceed with completion of recommendations through a formal vote if consensus cannot be reached. If the Chairperson deems that a vote is necessary, issues to be voted on will be decided by a simple majority of the CCC membership present, provided there is a quorum.

- **Section 7 — Conduct:** CCC Members are encouraged to interact and share information with the community and bring back information from the community to share with SAWS. CCC members shall not use their position on any SAWS volunteer committee to act as a representative
in SAWS’ official business. Committee members shall not engage in any act of discrimination with regard to race, color, gender, sexual orientation, age, disability, religion and national origin. Comments and/or conduct calculated to be offensive or degrading to others are strictly prohibited.

ARTICLE V — SUBCOMMITTEES

Section 1 — Subcommittee formation: The CCC or SAWS staff may create Sub-committees, as needed, to further discuss any aspect of a water conservation program, plan or policy. Sub-committees will be comprised of volunteers from the overall membership and community stakeholder groups. Sub-committees may make recommendations to the CCC, which will in turn make decisions regarding the recommendations of the sub-committee. Sub-committees will provide minutes of their meetings to the CCC and will provide reports of their activities to the CCC at regular meetings.

Section 2 — Workgroup formation: The CCC may create a workgroup, as needed, to complete a short-term task that cannot be completed within the hours of a regular CCC meeting. Workgroups will be comprised solely from the CCC membership. Workgroups will provide written minutes and any relevant work products of their activities to the CCC at regular meetings.

ARTICLE VI — AMENDMENTS

Section 1 — Amendments: A change to the bylaws may be recommended to the SAWS President/CEO when necessary by a two-thirds majority vote of the CCC members after reading and consideration of the amendment during a general meeting. Proposed amendments must be submitted to the Water Conservation staff in writing to be sent out with regular CCC announcements.

Section 2 — Provisions: The Provisions of these bylaws notwithstanding, in recognition that a primary goal of the CCC is to provide high quality input to the SAWS Board of Trustees and/or staff, the President/CEO may request that the SAWS Board of Trustees waive one or more bylaw provisions to enhance the CCC’s ability to provide constructive feedback. The request must be justified by identification of special conditions that make it imperative for the success of the system.

CCC CERTIFICATION

After any action by the SAWS Board of Trustees in amending these bylaws, the CCC membership will be provided with updated bylaws.
ATTACHMENT II
BYLAWS OF THE
CITIZENS ADVISORY PANEL
BYLAWS OF THE
CITIZENS’ ADVISORY PANEL

ARTICLE I — NAME AND PURPOSE

Section 1 — Name: The name of the committee is the San Antonio Water System (SAWS) Citizens’ Advisory Panel (CAP). First created June 16, 1998 by Resolution No. 98-141 of the San Antonio Water System Board of Trustees. The CAP is an advisory group to the SAWS Water Resources Department and the SAWS Board of Trustees.

Section 2 — Purpose: The purpose of the CAP is to provide clear and early indications to staff and the Board of Trustees on the acceptability of major water resource related policies, plans and projects. The CAP provides recommendations to SAWS staff and to the SAWS Board of Trustees in the form of the formal benchmarking processes, memoranda, resolutions, presentations and other types of outreach, and other memoranda and resolutions.

ARTICLE II — MEMBERSHIP

Section 1 — Eligibility for membership: The CAP is responsible for reviewing, discussing and providing recommendations on projects, plans and policy dealing with the water resource issues to staff and the Board of Trustees. Membership of the CAP shall be open to any ratepayer, resident, property owner, or business operator within the SAWS service area. Each CAP member represents a constituency and may facilitate the flow of ideas and concerns from the community to SAWS staff and the Board of Trustees, and assure the flow of information from the SAWS staff and Board of Trustees to the community.

Section 2 — Composition: The committee’s membership will reflect and represent the diverse stakeholder interests of the SAWS customer base, and the membership will possess a variety of skills and backgrounds necessary to be effective as an advisory group. Each year, prior to making recommendations to the SAWS Board of Trustees regarding CAP membership the President/CEO shall review stakeholder representation in the CAP to ensure balanced representation of business, residential, institutional and environmental interests, while reflecting the racial, ethnic, geographic and gender diversity of the greater San Antonio community. CAP membership should reflect a broad range of interests and expertise to include:

- Civic organizations
- Community and neighborhood organizations
- Education
- Economic development
- Environment
- Finance
- Design professions
- Industrial
- Legal
- Military
Section 3 — Membership term: CAP members will serve two-year terms, a two-year term and will be eligible to serve no more than three consecutive two-year terms (six years). A member who serves a total of three two-year terms may be reconsidered by the SAWS Board of Trustees for an additional two-year term after leaving the CAP for one year.

Section 4 — Membership size: Annually, the CAP may have up to 25 but not less than 16 members.

Section 5 — Nomination procedures: The SAWS President/CEO will be responsible for nominating an official slate of prospective CAP members to the Board for consideration. The Board of Trustees may choose to appoint all, none, or some of the nominees.

Section 6 — AttendanceResignation, termination and absences: Members will notify the SAWS staff liaison via phone, email, or text message prior to a meeting if they are unable to attend. Resignation from the CAP must be in writing and provided to the Chairperson of the CAP. A CAP member may be terminated from the CAP due to excess absences, defined as two consecutive unexcused absences or three total absences from meetings in a year.

Excused absence: A member will receive an excused absence when there is prior notification in advance of the meeting unless there is a prior emergency where notification is not possible.

Unexcused absence: A member will receive an unexcused absence when there is no prior notification in advance of the meeting unless there is a prior emergency where notification is not possible.

Section 7 — ResignationVacancies: Resignation from the CAP must be in writing and provided to the SAWS CAP staff liaison, Chairperson of the CAP.
When a vacancy on the CAP exists mid-term, the President/CEO may nominate a replacement to the Board of Trustees, who may approve the individual to serve out the term of the member who created the vacancy.

Section 8 — Vacancies: When a vacancy on the CAP exists mid-term, the President/CEO may nominate a replacement to the Board of Trustees, who may approve the individual to serve out the term of the member who created the vacancy.

ARTICLE III — SELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

Section 1 — Selection and term of Chairperson: The Chairperson shall be nominated by the President/CEO and appointed by the SAWS Board of Trustees. The Chairperson will serve for a term of one year and is eligible to serve for three consecutive terms (three years).

Section 2 — Chairperson duties: Responsibilities include but are not limited to: presiding over all CAP meetings; encouraging members to participate in discussions and to arrive at decisions in a timely and
democratic manner; undertaking certain administrative duties, such as approving CAP agendas, draft minutes, proposed meeting venues, and dates. The Chairperson will serve as the principal spokesperson for the CAP, maintain communication with SAWS staff and report on the CAP’s progress to the Board of Trustees.

Section 3 — Selection and term of Vice-Chairperson: The Vice-Chairperson is to be selected from the general membership by the [panel membership]. The term is for one year but the individual may serve consecutive additional terms if he or she is asked by the panel membership to continue as Vice-Chairperson. The Vice-Chairperson may also be asked to serve in a different leadership capacity after serving as Vice-Chairperson for one term.

Section 4 — Vice-Chairperson duties: The Vice-Chairperson is responsible for assisting the Chairperson on all assigned tasks and will perform the duties of the Chairperson when necessary. The Vice-Chairperson assists in orienting new members to the committee.

ARTICLE IV — MEETINGS OF MEMBERS

Section 1 — General meetings: The CAP will hold no less than up to ten general meetings per calendar year, and the meetings may be held on the third Tuesday of each month. A meeting schedule will be provided to the CAP members for the entire year at the first meeting of the year. There are no scheduled meetings in July or December, unless the chair deems it necessary. Meetings may be cancelled due to inclement weather.

Section 2 — Special meetings: Special meetings of the CAP may be called at the request of the chair or a majority of the CAP.

Section 3 — Notice of meetings: Printed and/or electronic notice of each meeting shall be given to each voting member not less than one week prior to the meeting.

Section 4 — Meeting agenda: Water Resources Department staff will draft meeting agendas for review and approval by the Chairperson. Any two members can request an item to be added to the agenda for a meeting agenda.

Section 5 — Quorum: More than half of the currently appointed membership must be present to constitute a quorum. A quorum is needed for any vote when the CAP is determining whether to make an official policy recommendation to the SAWS Board of Trustees or to Water Resource Staff. A meeting may proceed without a quorum; however no action may be taken without a quorum present.

Section 6 — Decision making: There shall be an effort extended to achieve a consensus of members present for all issues that require decision making. It is particularly desirable for a benchmarked document recommendations to be completed through consensus, but if the Chairperson may decide to proceed with completion of recommendations via a formal vote if consensus cannot be reached, the document through a vote. If the Chairperson deems that a vote is necessary, issues to be voted on will be decided by a simple majority of the CAP membership present provided there is a quorum.
Section 7 — Conduct: CAP members are encouraged to interact and share information with the community and bring information from the community to share with SAWS. CAP members shall not use their position on any SAWS volunteer commit to act as a representative in SAWS’ official business. Committee members shall not engage in any act of discrimination with regard to race, color, sex, age, disability, religion and national origin. Comments and/or conduct calculated to be offensive or degrading to others are strictly prohibited.

ARTICLE V — SUBCOMMITTEES

Section 1 — Subcommittee formation: The CAP or SAWS staff may create subcommittees, as needed, to further discuss any aspect of a water resources project, plan or policy. Subcommittees will be comprised of volunteers from the overall membership and community stakeholder groups. Subcommittees may make recommendations to the CAP, which will in turn make decisions regarding the recommendations of the subcommittee. Subcommittees will provide minutes of their meetings to the CAP and will provide reports of their activities to the CAP at regular meetings.

Section 2 — Workgroup formation: The CAP may create a workgroup, as needed, to complete a short term task that cannot be completed within the hours of the regular CAP meeting. Workgroups will be comprised solely from the CAP membership. Workgroups will provide written minutes and any relevant work products to the CAP membership.

ARTICLE VI — AMENDMENTS

Section 1 — Amendments: A change to the bylaws may be recommended to the SAWS President/CEO when necessary by a two-thirds majority vote of the CAP members after reading and consideration of the amendment during a general meeting. Proposed amendments must be submitted to the Water Resources staff in writing to be sent out with regular CAP announcements.

Section 2 — Provisions: The Provisions of these bylaws notwithstanding, in recognition that a primary goal of the CAP is to provide high quality input to the SAWS Board of Trustees and/or staff, the President/CEO may request that the SAWS Board of Trustees waive one or more bylaw provisions to enhance the CAP’s ability to provide constructive feedback. The request must be justified by identification of special conditions that make it imperative for the success of the System.

CAP CERTIFICATION

After any action by the SAWS Board of Trustees in amending these bylaws, the CAP membership will be provided with updated bylaws.
TO: San Antonio Water System Board of Trustees

FROM: Sharon De La Garza, Vice President, Human Resources

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AUTHORIZATION TO PURCHASE INSURANCE POLICIES FOR BASIC LIFE, ACCIDENTAL DEATH AND DISMEMBERMENT, VOLUNTARY LIFE INSURANCE, AND LONG TERM DISABILITY FOR THE SAN ANTONIO WATER SYSTEM'S EMPLOYEE BENEFITS PROGRAM

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution authorizes an extension to a contract with Standard Insurance Company for the purchase of basic life, accidental death and dismemberment, voluntary life insurance, and long term disability for the period of January 1, 2019 through December 31, 2019. This resolution also authorizes funding in an amount not to exceed $1,114,932.00 for FY 2019 for these coverages.

- The San Antonio Water System (the “System”) has historically provided coverage for basic life, accidental death and dismemberment, voluntary life insurance and long term disability.

- Through an Interlocal Agreement with the Public Employee Benefit Alliance (PEBA), the System has access to Standard Insurance Company's life insurance and long term disability proposal, solicited by PEBA.

- Standard Life Insurance has provided these insurance coverages for the System through PEBA since January 1, 2015.

- The current Standard rates and agreement will expire on December 31, 2018.

- Standard Life Insurance has agreed to an additional one-year renewal term for these services at the following rates:

<table>
<thead>
<tr>
<th>Insurance Plan</th>
<th>2019 Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Life Insurance</td>
<td>$.294 per $1000 of coverage for active members</td>
</tr>
<tr>
<td></td>
<td>$.96 per $1000 of coverage for eligible retired members*</td>
</tr>
<tr>
<td>Accidental Death &amp; Dismemberment</td>
<td>$.02 per $1000 of coverage</td>
</tr>
<tr>
<td>Long Term Disability</td>
<td>.187 percent of insured earnings, up to $10,000</td>
</tr>
</tbody>
</table>

* Employees hired after January 1, 2014 no longer have access to this coverage.

Staff recommends that the Board approve this resolution.
FINANCIAL IMPACT:

Funds for employee and retiree basic life will be paid from the System’s Annual Operating Budget in 2019 (Company: 1000, Accounting Unit: 1000000, Account: 216000, Total 2019 estimated amount: $904,760.00). Funds for the accidental death and dismemberment coverage will be paid from (Company: 1000, Accounting Unit: 1000000, Account: 215900, Total 2019 estimated amount: $25,320.00). Funds for long term disability coverage will be paid from (Company: 1000, Accounting Unit: 1000000, Account: 215800 Total 2019 estimated amount: $184,852.00).

Actual amounts paid for these coverages are calculated monthly based on the number of employees and their salaries. The estimated annual costs for these programs for 2019 are as follows:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Basic Life Insurance</td>
<td>$904,760.00</td>
</tr>
<tr>
<td>Accidental Death and Dismemberment</td>
<td>$25,320.00</td>
</tr>
<tr>
<td>Long Term Disability</td>
<td>$184,852.00</td>
</tr>
</tbody>
</table>

Voluntary Term Life is fully paid by employees electing this coverage and are dependent on employee age and smoking status. Estimated coverage to be paid by employees in 2019 is $646,328.00.

Sharon De La Garza
Vice President
Human Resources

APPROVED:

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AUTHORIZING THE PURCHASE OF INSURANCE POLICIES WITH STANDARD INSURANCE COMPANY FOR BASIC LIFE, ACCIDENTAL DEATH AND DISMEMBERMENT, VOLUNTARY LIFE INSURANCE, AND LONG TERM DISABILITY FOR THE SYSTEM'S EMPLOYEE BENEFITS PROGRAM; AUTHORIZING EXPENDITURES IN AN AMOUNT NOT TO EXCEED $1,114,932.00 FOR THE PERIOD OF JANUARY 1, 2019 THROUGH DECEMBER 31, 2019 FROM THE SYSTEM FUND FOR SUCH COVERAGES; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the San Antonio Water System (the “System”) has historically provided coverage for basic life, accidental death and dismemberment, voluntary life insurance and long term disability; and

WHEREAS, through an Interlocal Agreement with the Public Employee Benefit Alliance (PEBA), the System has access to Standard Insurance Company's life insurance and long term disability proposal, solicited by PEBA; and

WHEREAS, Standard Life Insurance has provided these insurance coverages for the System through PEBA since January 1, 2015; and

WHEREAS, the current Standard rates and agreement will expire on December 31, 2018; and

WHEREAS, Standard Insurance Company has agreed to provide these coverages at the following rates: $0.294 per $1,000.00 of benefit for active basic life, $0.96 per $1,000.00 of benefit for retiree basic life, $0.02 per $1,000.00 of benefit for AD&D and 0.187 percent of insured earnings for long term disability; and

WHEREAS, funds in an amount not to exceed $1,114,932.00 for Fiscal Year 2019 are required for basic term life insurance, accidental death and dismemberment insurance, and long term disability; and

WHEREAS, the voluntary life insurance plan is completely funded by employee contributions; and
WHEREAS, the San Antonio Water System Board of Trustees desires (i) to authorize the purchase of policies with Standard Insurance Group for basic life, accidental death and dismemberment, voluntary life insurance, and long term disability for the period of January 1, 2019 through December 31, 2019, (ii) to authorize expenditures for basic life, accidental death and dismemberment insurance, and long term disability in an amount not to exceed $1,114,932.00 from the System Fund, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to pay Standard Insurance Company an amount not to exceed $1,114,932.00 for such coverages; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the purchase of the policies with Standard Insurance Company for basic life, accidental death and dismemberment, voluntary life insurance, and long term disability, for the period of January 1, 2019 through December 31, 2019 is hereby authorized.

2. That expenditures in an amount not to exceed $1,114,932.00 for basic life and accidental death and dismemberment insurance, and long term disability are hereby authorized from the System Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to pay Standard Insurance Company an amount not to exceed $1,114,932.00 for such coverages.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.
PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary

Attachments:
I. Standard Insurance Company Group Life Insurance Policy
II. Standard Insurance Company Group Long Term Disability Insurance Policy
III. 2019 Standard Life Renewal Letter
IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Standard Insurance Company's toll-free telephone number for information or to make a complaint at:

1-800-348-3226

You may also write to Standard Insurance Company at:

900 SW Fifth Avenue
Portland OR 97204-1282

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance at:

PO Box 149104
Austin TX 78714-9104
FAX# (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:
Should you have a dispute concerning your premium or about a claim, you should contact Standard Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY OR CERTIFICATE: This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener información o para someter una queja:

Usted puede llamar al número de teléfono gratis de Standard Insurance Company para información o para someter una queja al:

1-800-348-3226

Usted también puede escribir a Standard Insurance Company:

900 SW Fifth Avenue
Portland OR 97204-1282

Puede comunicarse con el Departamento de Seguros de Texas para obtener información acerca de compañías coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

PO Box 149104
Austin TX 78714-9104
FAX# (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:
Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con Standard Insurance Company primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA O CERTIFICADO: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.
Texas law establishes a system to protect Texas policyholders if their life or health insurance company fails. The Texas Life and Health Insurance Guaranty Association ("the Association") administers this protection system. Only the policyholders of insurance companies that are members of the Association are eligible for this protection which is subject to the terms, limitations, and conditions of the Association law. (The law is found in the Texas Insurance Code, Chapter 463.)

It is possible that the Association may not protect all or part of your policy because of statutory limitations.

Eligibility for Protection by the Association

When a member insurance company is found to be insolvent and placed under an order of liquidation by a court or designated as impaired by the Texas Commissioner of Insurance, the Association provides coverage to policyholders who are:

- Residents of Texas (regardless of where the policyholder lived when the policy was issued)
- Residents of other states, ONLY if the following conditions are met:
  1. The policyholder has a policy with a company domiciled in Texas;
  2. The policyholder's state of residence has a similar guaranty association; and
  3. The policyholder is not eligible for coverage by the guaranty association of the policyholder's state of residence.

Limits of Protection by the Association

Accident, Accident and Health, or Health Insurance:

- For each individual covered under one or more policies: up to a total of $500,000 for basic hospital, medical-surgical, and major medical insurance, $300,000 for disability or long term care insurance, and $200,000 for other types of health insurance.

Life Insurance:

- Net cash surrender value or net cash withdrawal value up to a total of $100,000 under one or more policies on any single life; or
- Death benefits up to a total of $300,000 under one or more policies on any single life; or
- Total benefits up to a total of $5,000,000 to any owner of multiple non-group life policies.

Individual Annuities:

- Present value of benefits up to a total of $250,000 under one or more policies owned by one life.

Group Annuities:

- Present value of allocated benefits up to a $250,000 on any one life; or
- Present value of unallocated benefits up to a $5,000,000 for one contractholder regardless of the number of contracts.

Aggregate Limit:

- $300,000 on any one life with the exception of the $500,000 health insurance limit, the $5,000,000 multiple owner life insurance limit, and the $5,000,000 unallocated group annuity limit.

These limits are applied for each insolvent insurance company.
Insurance companies and agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance. When you are selecting an insurance company, you should not rely on Association coverage. For additional questions on Association protection or general information about an insurance company, please use the following contact information.

Texas Life and Health Insurance Guaranty Association
515 Congress Avenue, Suite 1875
Austin, Texas 78701
800-982-6362 or www.txlifega.org

Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104
800-252-3439 or www.tdi.state.tx.us
STANDARD INSURANCE COMPANY
A Stock Life Insurance Company
900 SW Fifth Avenue
Portland, Oregon 97204-1282
(503) 321-7000

GROUP LIFE INSURANCE POLICY

Policyholder: San Antonio Water System
Policy Number: 753337-A
Effective Date: January 1, 2016

The consideration for this Group Policy is the application of the Policyholder and the payment by the
Policyholder of premiums as provided herein.

Subject to the Policyholder Provisions and the Incontestability Provisions, this Group Policy (a) is
issued for the Initial Rate Guarantee Period shown in the Coverage Features, and (b) may be renewed
for successive renewal periods by the payment of the premium set by us on each renewal date. The
length of each renewal period will be set by us, but will not be less than 12 months.

For purposes of effective dates and ending dates under this Group Policy, all days begin and end at
12:00 midnight Standard Time at the Policyholder's address.

This policy includes an Accelerated Benefit. Death benefits will be reduced if an Accelerated
Benefit is paid. The receipt of this benefit may be taxable and may affect your eligibility for
Medicaid or other government benefits or entitlements. However, if you meet the definition of
"terminally ill individual" according to the Internal Revenue Code Section 101, your
Accelerated Benefit may be non-taxable. You should consult your personal tax and/or legal
advisor before you apply for an Accelerated Benefit.

All provisions on this and the following pages are part of this Group Policy. "You" and "your" mean the
Member. "We", "us", and "our" mean Standard Insurance Company. Other defined terms appear with
their initial letters capitalized. Section headings, and references to them, appear in boldface type.

This is not a policy of workers' compensation insurance. The employer does not become a
subscriber to the worker's compensation system by purchasing this policy and if the employer
is a non-subscriber, the employer loses those benefits which would otherwise accrue under the
workers' compensation laws. The employer must comply with the workers' compensation law as
it pertains to non-subscribers and the required notifications that must be filed and posted.

STANDARD INSURANCE COMPANY
By

[Signature]
Chairman, President and CEO

[Signature]
Corporate Secretary
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<tr>
<td>Maximum Conversion Amount</td>
<td>6</td>
</tr>
<tr>
<td>Member</td>
<td>1</td>
</tr>
<tr>
<td>Minimum Participation</td>
<td>8</td>
</tr>
<tr>
<td>Minimum Participation Percentage(s)</td>
<td>8</td>
</tr>
<tr>
<td>Minimum Time Insured</td>
<td>6</td>
</tr>
<tr>
<td>Noncontributory</td>
<td>31</td>
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<td>Notice of Rate Change</td>
<td>8</td>
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<td>Physician</td>
<td>31</td>
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<tr>
<td>Policyholder</td>
<td>1</td>
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<td>Premium Due Dates</td>
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<td>28</td>
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<td>Waiting Period (for Waiver Of Premium)</td>
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<td>Waiver Of Premium</td>
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<td>War</td>
<td>15</td>
</tr>
<tr>
<td>You, Your (for Right To Convert)</td>
<td>23</td>
</tr>
</tbody>
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COVERAGE FEATURES

This section contains many of the features of your group life insurance. Other provisions, including exclusions and limitations, appear in other sections. Please refer to the text of each section for full details. The Table of Contents and the Index of Defined Terms help locate sections and definitions.

GENERAL POLICY INFORMATION

Group Policy Number: 753337-A
Type of Insurance Provided:
Life Insurance: Yes
Dependents Life Insurance: Yes
Accidental Death And Dismemberment (AD&D) Insurance:
Member: Yes
Dependents: Yes
Policyholder: San Antonio Water System
Employer(s): San Antonio Water System
Group Policy Effective Date: January 1, 2016
Policy Issued in: Texas

BECOMING INSURED

To become insured for Life Insurance you must: (a) be a Member; (b) complete your Eligibility Waiting Period; and (c) meet the requirements in Life Insurance and Active Work Provisions. The Active Work requirement does not apply to Members who are retired on the Group Policy Effective Date. The requirements for becoming insured for coverages other than Life Insurance are set out in the text.

Definition of Member:
You are a Member if you are one of the following:
1. An active employee of the Employer who is regularly working at least 30 hours each week;
2. An active Board Member of the Employer; or
3. An employee who retired under the Employer’s retirement program.

You are not a Member if you are:
1. A temporary or seasonal employee.
2. A leased employee.
3. An independent contractor.
4. A full time member of the armed forces of any country.
Class Definition:

Class 1: Active Board Members
Class 2: All other active Members
Class 3: Retired Members (This class does not include a Member who is covered under Waiver of Premium).

Eligibility Waiting Period:
You are eligible on one of the following dates:

Active Members:
If you are a Member on the Group Policy Effective Date, you are eligible on that date.
If you become a Member after the Group Policy Effective Date, you are eligible on the date you become a Member.

Retired Members:
The date you become a retired Member.

Evidence Of Insurability:
Required:

a. For late application for Contributory insurance.
b. For reinstatements as required.
c. For Members and Dependents eligible but not insured under the Prior Plan.
d. For any Plan 2 Life Insurance Benefit in excess of the Guaranteed Issue Amount of the lesser of three times your Annual Earnings or $300,000. However, this requirement will be waived on the Group Policy Effective Date for an amount equal to the amount of additional life insurance under the Prior Plan on the day before the Group Policy Effective Date, if you apply on or before the Group Policy Effective Date.
e. For any Dependents Life Insurance Benefit for your Spouse in excess of the Guarantee Issue Amount of $30,000. However, this requirement will be waived on the Group Policy Effective Date for an amount equal to the amount of dependents life insurance under the Prior Plan on the day before the Group Policy Effective Date, if you apply on or before the Group Policy Effective Date.

f. For any increase resulting from a plan or option change you elect.

PREMIUM CONTRIBUTIONS

Life Insurance:
Plan 1: Noncontributory
Plan 2: Contributory

AD&D Insurance:
Member:
Plan 1: Noncontributory
Plan 2: Contributory

Spouse:
Contributory
Dependents Life Insurance:

Spouse: Contributory
Child: Contributory

SCHEDULE OF INSURANCE

SCHEDULE OF LIFE INSURANCE

For you:

Life Insurance Benefit:

You will become insured under Plan 1 if you meet the requirements to become insured under the Group Policy.

If you are an active Member and insured under Plan 1, you may also become insured under any one option of Plan 2 if you meet the requirements to become insured under Plan 2 Life Insurance under the Group Policy. Plan 2 is a Contributory plan requiring premium contributions from Members.

You may be insured under Plan 1 and any one option of Plan 2 at any one time.

A Member may not be insured as both an active Member and a retired Member.

Plan 1 (basic):

Class 1: $10,000
Class 2: 1 times your Annual Earnings, rounded to the next higher multiple of $500, if not already a multiple of $500. The maximum amount is $500,000.
Class 3: An amount equal to your Annual Earnings in effect on the day before the date of your retirement from the Employer, rounded to the next higher multiple of $500, if not already a multiple of $500. The maximum amount is $400,000.

Plan 2 (additional): Your choice of one of the following options:

Active Members:
Option 1: 1 times your Annual Earnings.
Option 2: 2 times your Annual Earnings.
Option 3: 3 times your Annual Earnings.
Option 4: 4 times your Annual Earnings.
Option 5: 5 times your Annual Earnings.

The amount of your Plan 2 (additional) Life Insurance Benefit will be rounded to the next higher multiple of $1,000, if not already a multiple of $1,000. The maximum amount is $1,000,000.

Retired Members: None

The Repatriation Benefit:

The expenses incurred to transport your body to a mortuary near your primary place of residence, but not to exceed $5,000 or 10% of the Life Insurance Benefit, whichever is less.
Dependents Life Insurance Benefit:

If you are insured for Plan 2 Life Insurance, you may apply for Dependents Life Insurance for your Dependents. You may elect to insure your Spouse, your Child(ren) or both.

For your Spouse:

Active Members: You may apply for Dependents Life Insurance in multiples of $1,000 from $10,000 to $100,000.

Retired Members: None

The amount of Dependents Life Insurance for your Spouse may not exceed 100% of the amount of your Plan 2 Life Insurance.

For your Child:

Active Members: $10,000

Retired Members: None

The amount of Dependents Life Insurance for your Child may not exceed 100% of the amount of your Plan 2 Life Insurance.

SCHEDULE OF AD&D INSURANCE

For you:

AD&D Insurance Benefit:

Plan 1:

Active Members: The amount of your Plan 1 AD&D Insurance Benefit is equal to the amount of your Plan 1 Life Insurance Benefit. The amount payable for certain Losses is less than 100% of the AD&D Insurance Benefit. See AD&D Table Of Losses.

Retired Members: None

Plan 2:

Active Members: If you are insured for Plan 2 Life Insurance, you may apply for Plan 2 AD&D Insurance. The amount of your Plan 2 AD&D Insurance Benefit is equal to the amount of your Plan 2 Life Insurance Benefit. The amount payable for certain Losses is less than 100% of the AD&D Insurance Benefit. See AD&D Table Of Losses.

Retired Members: None

Seat Belt Benefit:

The amount of the Seat Belt Benefit is the lesser of (1) $10,000 or (2) the amount of AD&D Insurance Benefit payable for loss of life.

Air Bag Benefit:

The amount of the Air Bag Benefit is the lesser of (1) $5,000; or (2) the amount of AD&D Insurance Benefit payable for Loss of your life.

Career Adjustment Benefit:

The tuition expenses for training incurred by your Spouse within 36 months after the date of your death, exclusive of board and room, books, fees, supplies and other expenses, but not to exceed $5,000 per year, or the cumulative total of $10,000 or 25% of the AD&D Insurance Benefit, whichever is less.
Child Care Benefit: The total child care expense incurred by your Spouse within 36 months after the date of your death for all Children under age 13, but not to exceed $5,000 per year, or the cumulative total of $10,000 or 25% of the AD&D Insurance Benefit, whichever is less.

Higher Education Benefit: The tuition expenses incurred per Child within 4 years after the date of your death at an accredited institution of higher education, exclusive of board and room, books, fees, supplies and other expenses, but not to exceed $5,000 per year, or the cumulative total of $20,000 or 25% of the AD&D Insurance Benefit, whichever is less.

Occupational Assault Benefit: The lesser of (1) $25,000; or (2) 50% of the amount of the AD&D Insurance Benefit otherwise payable for the Loss.

Public Transportation Benefit: The lesser of (1) $200,000; or (2) 100% of the amount of the AD&D Insurance Benefit otherwise payable for the Loss of your life.

For your Spouse:

AD&D Insurance Benefit: If your Spouse is insured for Dependents Life Insurance, you may apply for Dependents AD&D Insurance for your Spouse. The amount of AD&D Insurance Benefit for your Spouse is equal to the amount of Dependents Life Insurance Benefit for your Spouse. The amount payable for certain Losses is less than 100% of the AD&D Insurance Benefit. See AD&D Table Of Losses.

Seat Belt Benefit: The amount of the Seat Belt Benefit is the lesser of (1) $10,000 or (2) the amount of AD&D Insurance Benefit payable for Loss of life.

Air Bag Benefit: The amount of the Air Bag Benefit is the lesser of (1) $5,000; or (2) the amount of AD&D Insurance Benefit payable for Loss of life.

AD&D TABLE OF LOSSES

The amount payable is a percentage of the AD&D Insurance Benefit or the Dependents AD&D Insurance Benefit in effect on the date of the accident and is determined by the Loss suffered as shown in the following table:

<table>
<thead>
<tr>
<th>Loss:</th>
<th>Percentage Payable:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Life</td>
<td>100%</td>
</tr>
<tr>
<td>b. One hand or one foot</td>
<td>50%</td>
</tr>
<tr>
<td>c. Sight in one eye, speech, or</td>
<td>50%</td>
</tr>
<tr>
<td>hearing in both ears</td>
<td></td>
</tr>
<tr>
<td>d. Two or more of the Losses</td>
<td>100%</td>
</tr>
<tr>
<td>listed in b. and c. above</td>
<td></td>
</tr>
<tr>
<td>e. Thumb and index finger of the</td>
<td>25% *</td>
</tr>
<tr>
<td>same hand</td>
<td></td>
</tr>
<tr>
<td>f. Quadriplegia</td>
<td>100%**</td>
</tr>
</tbody>
</table>
g. Hemiplegia 50% **
h. Paraplegia 50% **

**No more than 100% of your AD&D Insurance will be paid for all Losses resulting from one accident.**

* No AD&D Insurance Benefit will be paid for Loss of thumb and index finger of the same hand if an AD&D Insurance Benefit is payable for the Loss of that entire hand.

** No AD&D Insurance Benefit will be paid for loss of a hand or foot if an AD&D Insurance Benefit is payable for Quadriplegia, Hemiplegia, or Paraplegia involving that same hand or foot.

---

**REDUCTIONS IN INSURANCE**

You insurance is not subject to reductions due to age.

---

**OTHER BENEFITS**

Waiver Of Premium: Active Members: Yes
Retired Members: No

Accelerated Benefit: Active Members: Yes
Retired Members: No

---

**OTHER PROVISIONS**

Limits on Right To Convert if Group Policy terminates or is amended:

- Minimum Time Insured: 5 years
- Maximum Conversion Amount: $2,000

Suicide Exclusion: Applies to:

a. Plan 2 Life Insurance
b. Dependents Life Insurance on your Spouse
c. AD&D Insurance

Leave Of Absence Period: 60 days

Insurance Eligible For Portability:

For you:

- Life Insurance: Yes
- Minimum amount: $10,000
- Maximum amount: $300,000
- AD&D Insurance: Yes
Minimum amount: $10,000  
Maximum amount: $300,000

For your Spouse:

Dependents Life Insurance: Yes  
Minimum amount: $5,000  
Maximum amount: $100,000

AD&D Insurance: Yes  
Minimum amount: $5,000  
Maximum amount: $100,000

For your Child:

Dependents Life Insurance: Yes  
Minimum amount: $1,000  
Maximum amount: $5,000

Annual Earnings based on: Earnings in effect on your last full day of Active Work.

---

**PREMIUM RATES AND RENEWALS**

Premium Rates:

**Life Insurance:**

Plan 1: 0.320 monthly per $1,000 of Life Insurance

Plan 2:

<table>
<thead>
<tr>
<th>Age of Member on Last January 1</th>
<th>Non-Tobacco Rate</th>
<th>Tobacco Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>29 or under</td>
<td>$0.050</td>
<td>$0.110</td>
</tr>
<tr>
<td>30 through 34</td>
<td>$0.060</td>
<td>$0.130</td>
</tr>
<tr>
<td>35 through 39</td>
<td>$0.080</td>
<td>$0.170</td>
</tr>
<tr>
<td>40 through 44</td>
<td>$0.140</td>
<td>$0.260</td>
</tr>
<tr>
<td>45 through 49</td>
<td>$0.210</td>
<td>$0.430</td>
</tr>
<tr>
<td>50 through 54</td>
<td>$0.350</td>
<td>$0.610</td>
</tr>
<tr>
<td>55 through 59</td>
<td>$0.550</td>
<td>$0.890</td>
</tr>
<tr>
<td>60 through 64</td>
<td>$0.810</td>
<td>$1.370</td>
</tr>
<tr>
<td>65 through 69</td>
<td>$1.300</td>
<td>$2.250</td>
</tr>
<tr>
<td>70 or over</td>
<td>$3.740</td>
<td>$5.670</td>
</tr>
</tbody>
</table>

**Dependents Life Insurance:**

Spouse:

<table>
<thead>
<tr>
<th>Age of Spouse on Last January 1</th>
<th>Non-Tobacco Rate</th>
<th>Tobacco Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>29 or under</td>
<td>$0.050</td>
<td>$0.110</td>
</tr>
<tr>
<td>30 through 34</td>
<td>$0.060</td>
<td>$0.130</td>
</tr>
<tr>
<td>Age Range</td>
<td>Rate 1</td>
<td>Rate 2</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>35 through 39</td>
<td>0.080</td>
<td>0.170</td>
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</tr>
<tr>
<td>70 or over</td>
<td>3.740</td>
<td>5.670</td>
</tr>
</tbody>
</table>

**Child:**
$2,000 monthly per Member electing Dependents Life Insurance for their Children, regardless of the number of Children covered.

**AD&D Insurance:**

**Member:**
- **Plan 1:** $0.020 monthly per $1,000 of AD&D Insurance
- **Plan 2:** $0.020 monthly per $1,000 of AD&D Insurance

**Spouse:**
$0.020 monthly per $1,000 of AD&D Insurance for each Member electing AD&D Insurance for their Spouse

**Premium Due Dates:**
January 1, 2016 and the first day of each calendar month thereafter.

**Grace Period:**
90 days

**Initial Rate Guarantee Period:**
- **Plan 1 Life Insurance and AD&D Insurance:** January 1, 2016 to January 1, 2018
- **Plan 2 Life Insurance and AD&D Insurance:** January 1, 2016 to January 1, 2019
- **Dependents Life Insurance and AD&D Insurance for your Dependent Spouse:** January 1, 2016 to January 1, 2019

**Notice of Rate Change:** 180 days

**Minimum Participation:**

**Life Insurance:**
- **Plan 1 (basic):**
  - Number: 10 insured Members
  - Percentage: 100% of eligible Members
- **Plan 2 (additional):**
  The greater of 10 insured Members or 20% of eligible Members

**Dependents Life Insurance:**
20% of insured Members with eligible Dependents must elect to insure those Dependents.
LIFE INSURANCE

A. Insuring Clause

If you die while insured for Life Insurance, we will pay benefits according to the terms of the Group Policy after we receive Proof Of Loss satisfactory to us.

B. Amount Of Life Insurance

See the Coverage Features for the Life Insurance schedule.

C. Changes In Life Insurance

1. Increases

You must apply in writing for any elective increase in your Life Insurance.

Subject to the Active Work Provisions, an increase in your Life Insurance becomes effective as follows:

a. Increases Subject To Evidence Of Insurability

An increase in your Life Insurance subject to Evidence Of Insurability becomes effective on the date we approve your Evidence Of Insurability.

b. Increases Not Subject To Evidence Of Insurability

An increase in your Life Insurance not subject to Evidence Of Insurability becomes effective on the first day of the calendar month coinciding with or next following the date you apply for an elective increase or the date of change in your classification, age or Annual Earnings.

2. Decreases

A decrease in your Life Insurance because of a change in your classification, age or Annual Earnings becomes effective on the first day of the calendar month coinciding with or next following the date of the change.

Any other decrease in your Life Insurance becomes effective on the first day of the calendar month coinciding with or next following the date the Policyholder or your Employer receives your written request for the decrease.

D. Repatriation Benefit

The amount of the Repatriation Benefit is shown in the Coverage Features.

We will pay a Repatriation Benefit if all of the following requirements are met.

1. A Life Insurance Benefit is payable because of your death.

2. You die more than 200 miles from your primary place of residence.

3. Expenses are incurred to transport your body to a mortuary near your primary place of residence.

E. Suicide Exclusion: Life Insurance

If your death results from suicide or other intentionally self-inflicted Injury, while sane or insane, 1 and 2 below apply.

1. The amount payable will exclude the amount of your Life Insurance which is subject to this suicide exclusion and which has not been continuously in effect for at least 2 years on the date of your death. In computing the 2-year period, we will include time you were insured under the Prior Plan.
2. We will refund all premiums paid for that portion of your Life Insurance which is excluded from payment under this suicide exclusion.

F. When Life Insurance Becomes Effective

The **Coverage Features** states whether your Life Insurance is Contributory or Noncontributory.

Subject to the **Active Work Provisions**, your Life Insurance becomes effective as follows:

1. Life Insurance subject to Evidence Of Insurability

   Life Insurance subject to Evidence Of Insurability becomes effective on the date we approve your Evidence Of Insurability.

2. Life Insurance not subject to Evidence Of Insurability

   a. Noncontributory Life Insurance

      Noncontributory Life Insurance not subject to Evidence Of Insurability becomes effective on the date you become eligible.

   b. Contributory Life Insurance

      You must apply in writing for Contributory Life Insurance and agree to pay premiums. Contributory Life Insurance not subject to Evidence Of Insurability becomes effective on:

      (i) The date you become eligible if you apply on or before that date.

      (ii) The date you apply if you apply within 31 days after you become eligible.

      Late application: Evidence Of Insurability is required if you apply more than 31 days after you become eligible.

3. Takeover Provision

   a. If you were insured under the Prior Plan on the day before the effective date of your Employer’s coverage under the Group Policy, your Eligibility Waiting Period is waived on the effective date of your Employer’s coverage under the Group Policy.

   b. You must submit satisfactory Evidence Of Insurability to become insured for Life Insurance if you were eligible under the Prior Plan for more than 31 days but were not insured.

G. When Life Insurance Ends

   Life Insurance ends automatically on the earliest of:

   1. The date the last period ends for which a premium was paid for your Life Insurance;

   2. The date the Group Policy terminates;

   3. The date your employment terminates, unless you are covered as a retired Member; and

   4. The date you cease to be a Member. However, if you cease to be a Member because you are working less than the required minimum number of hours, your Life Insurance will be continued with premium payment during the following periods, unless it ends under 1 through 3 above.

      a. While your Employer is paying you at least the same Annual Earnings paid to you immediately before you ceased to be a Member.

      b. While your ability to work is limited because of Sickness, Injury, or Pregnancy.

      c. During the first 60 days of a temporary layoff.

      d. During a leave of absence if continuation of your insurance under the Group Policy is required by a state-mandated family or medical leave act or law.
e. During any other scheduled leave of absence approved by your Employer in advance and in writing and lasting not more than the period shown in the Coverage Features.

H. Reinstatement Of Life Insurance

If your Life Insurance ends, you may become insured again as a new Member. However, 1 through 4 below will apply.

1. If your Life Insurance ends because you cease to be a Member, and if you become a Member again within 90 days, the Eligibility Waiting Period will be waived.

2. If your Life Insurance ends because you fail to make a required premium contribution, you must provide Evidence Of Insurability to become insured again.

3. If you exercised your Right To Convert, you must provide Evidence Of Insurability to become insured again.

4. If your Life Insurance ends because you are on a federal or state-mandated family or medical leave of absence, and you become a Member again immediately following the period allowed, your insurance will be reinstated pursuant to the federal or state-mandated family or medical leave act or law.

DEPENDENTS LIFE INSURANCE

A. Insuring Clause

If your Dependent dies while insured for Dependents Life Insurance, we will pay benefits according to the terms of the Group Policy after we receive Proof Of Loss satisfactory to us.

B. Amount Of Dependents Life Insurance

See the Coverage Features for the amount of your Dependents Life Insurance.

C. Changes In Dependents Life Insurance

1. Increases

You must apply in writing for any elective increase in your Dependents Life Insurance.

Subject to the Active Work Provisions, an increase in your Dependents Life Insurance becomes effective as follows:

a. Increases Subject To Evidence Of Insurability

An increase in your Dependents Life Insurance subject to Evidence Of Insurability becomes effective on the date we approve that Dependent’s Evidence Of Insurability.

b. Increases Not Subject To Evidence Of Insurability

An increase in your Dependents Life Insurance not subject to Evidence Of Insurability becomes effective on the first day of the calendar month coinciding with or next following the date you apply for an elective increase.

An increase in your Dependents Life Insurance because of an increase in your Life Insurance becomes effective on the date your Life Insurance increases.

2. Decreases

A decrease in your Dependents Life Insurance because of a decrease in your Life Insurance becomes effective on the date your Life Insurance decreases.
D. Suicide Exclusion: Dependents Life Insurance

If a Dependent's death results from suicide or other intentionally self-inflicted Injury, while sane or insane, 1 and 2 below will apply.

1. The amount payable will exclude the amount of Dependents Life Insurance which has not been continuously in effect for at least 2 years on the date of death. In computing the 2-year period, we will include time insured under the Prior Plan.

2. We will refund all premiums paid for Dependents Life Insurance which is excluded from payment under this suicide exclusion which we determine are attributable to that Dependent.

E. Definitions For Dependents Life Insurance

Dependent means your Spouse or Child. Dependent does not include a person who is a full-time member of the armed forces of any country.

F. Becoming Insured For Dependents Life Insurance

1. Eligibility

You become eligible to insure your Dependents on the later of:

a. The date you become eligible for Life Insurance; and

b. The date you first acquire a Dependent.

A Member may not be insured as both a Member and a Dependent. A Child may not be insured by more than one Member.

2. Effective Date

The Coverage Features states whether your Dependents Life Insurance is Contributory or Noncontributory. Subject to the Active Work Provisions, your Dependents Life Insurance becomes effective as follows:

a. Dependents Life Insurance Subject To Evidence Of Insurability

   Dependents Life Insurance subject to Evidence Of Insurability becomes effective on the later of:

   1. The date your Life Insurance becomes effective; and

   2. The first day of the calendar month coinciding with or next following the date we approve the Dependent's Evidence Of Insurability.

b. Dependents Life Insurance Not Subject To Evidence Of Insurability

   1. Noncontributory Dependents Life Insurance

       Noncontributory Dependents Life Insurance not subject to Evidence Of Insurability becomes effective on the later of:

       i. The date your Life Insurance becomes effective; and

       ii. The date you first acquire a Dependent.

   2. Contributory Dependents Life Insurance

       You must apply in writing for Contributory Dependents Life Insurance and agree to pay premiums. Contributory Dependents Life Insurance not subject to Evidence Of Insurability becomes effective on the latest of:

       i. The date your Life Insurance becomes effective if you apply on or before that date;
ii. The date you become eligible to insure your Dependents if you apply on or before that date; and

iii. The date you apply if you apply within 31 days after you become eligible.

Late Application: Evidence Of Insurability is required for each Dependent if you apply more than 31 days after you become eligible.

c. While your Dependents Life Insurance is in effect, each new Child becomes insured immediately.

d. Takeover Provision

Each Dependent who was eligible under the Prior Plan for more than 31 days but was not insured must submit satisfactory Evidence Of Insurability to become insured for Dependents Life Insurance.

G. When Dependents Life Insurance Ends

Dependents Life Insurance ends automatically on the earliest of:

1. Five months after you die (no premiums will be charged for your Dependents Life Insurance during this time);

2. The date your Life Insurance ends;

3. The date the Group Policy terminates, or the date Dependents Life Insurance terminates under the Group Policy;

4. The date the last period ends for which you made a premium contribution, if your Dependents Life Insurance is Contributory;

5. For your Spouse, the date of your divorce;

6. For any Dependent, the date the Dependent ceases to be a Dependent; and

7. For a Child who is Disabled, 90 days after we mail you a request for proof of Disability, if proof is not given.

(\text{SP & CH\_SUIC\_ALL})\text{ LI.DL.OT.4}

\text{ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE}

A. Insuring Clause

If you or your Dependents have an accident, including accidental exposure to adverse conditions, while insured for AD&D Insurance, and the accident results in a Loss, we will pay benefits according to the terms of the Group Policy after we receive Proof Of Loss satisfactory to us.

B. Definition Of Loss For AD&D Insurance

Loss means loss of life, hand, foot, sight, speech, hearing in both ears, thumb and index finger of the same hand and Quadriplegia, Hemiplegia or Paraplegia which meets all of the following requirements:

1. Is caused solely and directly by an accident.

2. Occurs independently of all other causes.

3. Occurs within 365 days after the accident.

4. With respect to Loss of life, is evidenced by a certified copy of the death certificate.

5. With respect to all other Losses, is certified by a Physician in the appropriate specialty as determined by us.
With respect to Loss of life, death will be presumed if you or your Dependents disappear and the disappearance:

1. Is caused solely and directly by an accident that reasonably could have caused Loss of life;
2. Occurs independently of all other causes; and
3. Continues for a period of 365 days after the date of the accident, despite reasonable search efforts.

With respect to a hand or foot, Loss means actual and permanent severance from the body at or above the wrist or ankle joint, whether or not surgically reattached.

With respect to sight, Loss means entire, uncorrectable, and irrecoverable loss of sight.

With respect to speech, Loss means entire, uncorrectable, and irrecoverable loss of audible speech.

With respect to hearing, Loss means entire, uncorrectable, and irrecoverable loss of hearing in both ears.

With respect to thumb and index finger of the same hand, Loss means actual and permanent severance from the body at or above the metacarpophalangeal joints.

With respect to Quadriplegia, Hemiplegia, and Paraplegia, Loss must be permanent, complete, and irreversible.

Quadriplegia means total paralysis of both upper and lower limbs. Hemiplegia means total paralysis of the upper and lower limbs on the same side of the body. Paraplegia means total paralysis of both lower limbs.

C. Amount Payable

See Coverage Features for the AD&D Insurance schedule. The amount payable is a percentage of the AD&D Insurance Benefit in effect on the date of the accident and is determined by the Loss suffered. See AD&D Table Of Losses in the Coverage Features.

D. Changes In AD&D Insurance

Changes in your AD&D Insurance will become effective on the date your Life Insurance changes.

Changes in your AD&D Insurance for your Dependents will become effective on the date your Dependents Life Insurance changes.

E. AD&D Insurance Exclusions

No AD&D Insurance benefit is payable if the accident or Loss is caused or contributed to by any of the following:

1. War or act of War. War means declared or undeclared war, whether civil or international, and any substantial armed conflict between organized forces of a military nature.
2. Suicide or other intentionally self-inflicted Injury, while sane or insane.
3. Committing or attempting to commit an assault or felony, or actively participating in a violent disorder or riot. Actively participating does not include being at the scene of a violent disorder or riot while performing your official duties.
4. The voluntary use or consumption of any poison, chemical compound, alcohol or drug, unless used or consumed according to the directions of a Physician.
5. Sickness or Pregnancy existing at the time of the accident.
6. Heart attack or stroke.
7. Medical or surgical treatment for any of the above.
F. Additional AD&D Benefits

Seat Belt Benefit

The amount of the Seat Belt Benefit is shown in the **Coverage Features**.

We will pay a Seat Belt Benefit if all of the following requirements are met:

1. You or your Dependents die as a result of an Automobile accident for which an AD&D Insurance Benefit is payable for that Loss of Life; and

2. The deceased is wearing and properly utilizing a Seat Belt System at the time of the accident, as evidenced by a police accident report.

Seat Belt System means a properly installed combination lap and shoulder restraint system that meets the Federal Vehicle Safety Standards of the National Highway Traffic Safety Administration. Seat Belt System will include a lap belt alone, but only if the Automobile did not have a combination lap and shoulder restraint system when manufactured. Seat Belt System does not include a shoulder restraint alone.

Automobile means a motor vehicle licensed for use on public highways.

Air Bag Benefit

The amount of the Air Bag Benefit is shown in the **Coverage Features**.

We will pay an Air Bag Benefit if all of the following requirements are met:

1. You or your Dependents die as a result of an Automobile accident for which a Seat Belt Benefit is payable for that Loss of life.

2. The Automobile is equipped with an Air Bag System that was installed as original equipment by the Automobile manufacturer and has received regular maintenance or scheduled replacement as recommended by the Automobile or Air Bag manufacturer.

3. The deceased is seated in the driver's or a passenger's seating position intended to be protected by the Air Bag System and the Air Bag System deploys, as evidenced by a police accident report.

Air Bag System means an automatically inflatable passive restraint system that is designed to provide automatic crash protection in front or side impact Automobile accidents and meets the Federal Vehicle Safety Standards of the National Highway Traffic Safety Administration.

Automobile means a motor vehicle licensed for use on public highways.

Career Adjustment Benefit

The amount of the Career Adjustment Benefit is shown in the **Coverage Features**.

We will pay a Career Adjustment Benefit to your Spouse if all of the following requirements are met:

1. You are insured for AD&D Insurance under the Group Policy.

2. You die as a result of an accident for which an AD&D Insurance Benefit is payable for Loss of your life.

3. Your Spouse is, within 36 months after the date of your death, registered and in attendance at an accredited institution of higher education or trades training program for the purpose of obtaining employment or increasing earnings.

No Career Adjustment Benefit will be paid if you have no surviving Spouse.

Child Care Benefit

The amount of the Child Care Benefit is shown in the **Coverage Features**.
We will pay a Child Care Benefit to your Spouse if all of the following requirements are met:

1. You are insured for AD&D Insurance under the Group Policy.
2. You die as a result of an accident for which an AD&D Insurance Benefit is payable for Loss of your life.
3. Your Spouse pays a licensed child care provider who is not a member of your family for child care provided to your Child(ren) under age 13 within 36 months of your death.
4. The child care is necessary in order for your Spouse to work or to obtain training for work or to increase earnings.

No Child Care Benefit will be paid if you have no surviving Spouse.

Higher Education Benefit

The amount of the Higher Education Benefit is shown in the Coverage Features.

We will pay a Higher Education Benefit to your Child if all of the following requirements are met:

1. You are insured for AD&D Insurance under the Group Policy.
2. You die as a result of an accident for which an AD&D Insurance Benefit is payable for Loss of your life.
3. Your Child is, within 12 months after the date of your death, registered and in full-time attendance at an accredited institution of higher education beyond high school.

The Higher Education Benefit will be paid to each Child who meets the requirements of item 3 above, for a maximum of 4 consecutive years beginning on the date of your death. No Higher Education Benefit will be paid if there is no Child eligible to receive it.

Occupational Assault Benefit

The amount of the Occupational Assault Benefit is shown in the Coverage Features.

We will pay an Occupational Assault Benefit if all of the following requirements are met:

1. While Actively At Work you suffer a Loss for which an AD&D Insurance Benefit is payable.
2. The Loss is the result of an act of physical violence against you that is punishable by law and is evidenced by a police report.

Public Transportation Benefit

The amount of the Public Transportation Benefit is shown in the Coverage Features.

We will pay a Public Transportation Benefit if all of the following requirements are met:

1. You or your Dependents die as a result of an accident for which an AD&D Insurance Benefit is payable for Loss of your life.
2. The accident occurs while the deceased is riding as a fare-paying passenger on Public Transportation.

Public Transportation means a public passenger conveyance operated by a licensed common carrier for the transportation of the general public for a fare and operating on regular passenger routes with a definite schedule of departures and arrivals.

G. Becoming Insured For AD&D Insurance

1. Eligibility

You become eligible for AD&D Insurance on the date your Life Insurance is effective.
You become eligible to insure your Dependents on the later of:

a. The date your Life Insurance is effective; and

b. The date your Dependents Life Insurance is effective.

A Member may not be insured as both a Member and a Dependent. A Child may not be insured by more than one Member.

2. Effective Date

The Coverage Features states whether AD&D Insurance is Contributory or Noncontributory. Subject to the Active Work Provisions, AD&D Insurance becomes effective as follows:

a. Noncontributory AD&D Insurance

Noncontributory AD&D Insurance becomes effective on the date you become eligible.

b. Contributory AD&D Insurance

You must apply in writing for Contributory AD&D Insurance and agree to pay premiums. Contributory AD&D Insurance becomes effective on the later of:

(i) The date you become eligible if you apply on or before that date.

(ii) The first day of the calendar month coinciding with or next following the date you apply, if you apply after you become eligible.

c. While AD&D Insurance for your Dependents is in effect, each new Dependent becomes insured immediately.

H. When AD&D Insurance Ends

AD&D Insurance ends automatically on the earlier of:

1. The date your Life Insurance ends.

2. The date your Waiver Of Premium begins.

3. The date AD&D Insurance terminates under the Group Policy.

4. The date the last period ends for which a premium was paid for your AD&D Insurance.

5. For your Dependents, the date your Dependents Life Insurance ends.

ACTIVE WORK PROVISIONS

If you are incapable of Active Work because of Sickness, Injury or Pregnancy on the day before the scheduled effective date of your insurance or an increase in your insurance, your insurance or increase will not become effective until the day after you complete one full day of Active Work as an eligible Member.

Active Work and Actively At Work mean performing the material duties of your own occupation at your Employer’s usual place of business. You will also meet the Active Work requirement if:

1. You were absent from Active Work because of a regularly scheduled day off, holiday, or vacation day;

2. You were Actively At Work on your last scheduled work day before the date of your absence; and

3. You were capable of Active Work on the day before the scheduled effective date of your insurance or increase in your insurance.
CONTINUITY OF COVERAGE

A. Waiver Of Active Work Requirement

If you were insured under the Prior Plan on the day before the effective date of your Employer's coverage under the Group Policy, you can become insured on the effective date of your Employer's coverage without meeting the Active Work requirement. See Active Work Provisions.

B. Payment Of Benefit

The benefits payable before you meet the Active Work requirement will be:

1. The benefits which would have been payable under the terms of the Prior Plan if it had remained in force; reduced by

2. Any benefits payable under the Prior Plan.

PORTABILITY OF INSURANCE

A. Portability Of Insurance

If your insurance under the Group Policy ends because your employment with your Employer terminates, you may be eligible to buy portable group insurance coverage as shown in the Coverage Features for yourself and your Dependents without submitting Evidence Of Insurability. To be eligible you must satisfy the following requirements:

1. On the date your employment terminates, you must be able to perform with reasonable continuity the material duties of at least one gainful occupation for which you are reasonably fitted by education, training and experience.

   (If you are unable to meet this requirement, see the Right To Convert and Waiver Of Premium provisions for other options that may be available to you under the Group Policy.)

2. On the date your employment terminates, you are under age 65.

3. On the date your employment terminates, you must have been continuously insured under the Group Policy for at least 12 consecutive months. In computing the 12 consecutive month period we will include time insured under the Prior Plan.

4. You must apply in writing and pay the first premium directly to us at our Home Office within 31 days after the date your employment terminates. You must purchase portable group life insurance coverage for yourself in order to purchase any other insurance eligible for portability.

This portable group insurance will be provided under a master Group Life Portability Insurance Policy we have issued to the Standard Insurance Company Group Insurance Trust. If approved, the certificate you will receive will be governed under the terms of the Group Life Portability Insurance Policy and will contain provisions that differ from your Employer's coverage under the Group Policy.

B. Amount Of Portable Insurance

The minimum and maximum amounts that you are eligible to buy under the Group Life Portability Insurance Policy are shown in the Coverage Features. You may buy less than the maximum amounts in increments of $1,000.

The combined amounts of insurance purchased under this Portability Of Insurance provision and the Right To Convert provision cannot exceed the amount in effect under the Group Policy on the day before your employment terminates.

C. When Portable Insurance Becomes Effective
Portable group insurance will become effective the day after your employment with your Employer terminates, if you apply within 31 days after the date your employment terminates.

If death occurs within 31 days after the date insurance ends under the Group Policy, life insurance benefits, if any, will be paid according to the terms of the Group Policy in effect on the date your employment terminates and not the terms of the Group Life Portability Insurance Policy. AD&D benefits, if any, will be paid according to the terms of the Group Policy or the Group Life Portability Insurance Policy, but not both. In no event will the benefits paid exceed the amount in effect under the Group Policy on the day before your employment terminates.

**WAIVER OF PREMIUM**

A. Waiver Of Premium Benefit

   Insurance will be continued without payment of premiums while you are Totally Disabled if:
   1. You become Totally Disabled while insured under the Group Policy and under age 60;
   2. You complete your Waiting Period; and
   3. You give us satisfactory Proof Of Loss.

   We may have you examined at our expense at reasonable intervals. Any such examination will be conducted by specialists of our choice.

B. Definitions For Waiver Of Premium

   1. Insurance means all your insurance under the Group Policy, except AD&D Insurance.
   2. Totally Disabled means that, as a result of Sickness, accidental Injury, or Pregnancy, you are unable to perform with reasonable continuity the material duties of any gainful occupation for which you are reasonably fitted by education, training and experience.
   3. Waiting Period means the 180 consecutive day period beginning on the date you become Totally Disabled. Waiver Of Premium begins when you complete the Waiting Period.

C. Premium Payment

   Premium payment must continue until the later of:
   1. The date you complete your Waiting Period; and
   2. The date we approve your claim for Waiver Of Premium.

D. Refund Of Premiums

   We will refund up to 12 months of the premiums that were paid for Insurance after the date you become Totally Disabled.

E. Amount Of Insurance

   The amount of Insurance eligible for Waiver Of Premium is the amount in effect on the day before you become Totally Disabled. However, the following will apply:
   1. Insurance will be reduced or terminated according to the Group Policy provisions in effect on the day before you become Totally Disabled.
   2. If you become insured under a group life insurance plan that replaces the Group Policy while you are eligible for Waiver Of Premium, any death benefit payable under the Group Policy will be reduced by the amount payable under the replacement group life insurance plan.
   3. If you receive an Accelerated Benefit, Insurance will be reduced according to the Accelerated Benefit provision.
F. Effect Of Death During The Waiting Period

If you die during the Waiting Period and are otherwise eligible for Waiver Of Premium, the Waiting Period will be waived.

G. Termination Or Amendment Of The Group Policy

Insurance will not be affected by termination or amendment of the Group Policy after you become Totally Disabled.

H. When Waiver Of Premium Ends

Waiver Of Premium ends on the earliest of:

1. The date you cease to be Totally Disabled;
2. 90 days after the date we mail you a request for additional Proof Of Loss, if it is not given;
3. The date you fail to attend an examination or cooperate with the examiner;
4. With respect to the amount of Insurance which an insured has converted, the effective date of the individual life insurance policy issued to the insured; and
5. The date you reach age 70.

ACCELERATED BENEFIT

A. Accelerated Benefit

If you qualify for Waiver Of Premium and give us satisfactory proof of having a Qualifying Medical Condition while you are insured under the Group Policy, you may have the right to receive during your lifetime a portion of your Insurance as an Accelerated Benefit. You must have at least $10,000 of Insurance in effect to be eligible.

If your Insurance is scheduled to end within 24 months following the date you apply for the Accelerated Benefit, you will not be eligible for the Accelerated Benefit.

Qualifying Medical Condition means you are terminally ill as a result of an illness or physical condition which is reasonably expected to result in death within 12 months.

We may have you examined at our expense in connection with your claim for an Accelerated Benefit. Any such examination will be conducted by one or more Physicians of our choice. A dispute between you and us arising out of conflicting diagnoses will be administered in accordance with the review procedure in the Claims section.

B. Application For Accelerated Benefit

You must apply for an Accelerated Benefit. To apply you must give us satisfactory Proof Of Loss on our forms. Proof Of Loss must include a statement from a Physician that you have a Qualifying Medical Condition. Upon application you will receive a disclosure statement for the Accelerated Benefit.

C. Amount Of Accelerated Benefit

You may receive an Accelerated Benefit of up to 75% of your Insurance. The maximum Accelerated Benefit is $500,000. The minimum Accelerated Benefit is $5,000 or 10% of your Insurance, whichever is greater.

If the amount of your Insurance is scheduled to reduce within 12 months following the date you apply for the Accelerated Benefit, your Accelerated Benefit will be based on the reduced amount.
The Accelerated Benefit will be paid to you once in your lifetime in a lump sum. If you recover from your Qualifying Medical Condition after receiving an Accelerated Benefit, we will not ask you for a refund.

D. Effect On Insurance And Other Benefits

For any purpose other than premium payment, the amount of your Insurance after payment of the Accelerated Benefit will be the greater of the amounts in (1) and (2) below; however, if you assign your rights under the Group Policy, the amount of your Insurance will be the amount in (2) below.

(1) 10% of the amount of your Insurance as if no Accelerated Benefit had been paid; or

(2) The amount of your Insurance as if no Accelerated Benefit had been paid; minus

   The amount of the Accelerated Benefit; minus

   An interest charge calculated as follows:

   A times B times C divided by 365 = interest charge.

   A = The amount of the Accelerated Benefit.

   B = The monthly average of our variable policy loan interest rate or 10% per annum, whichever is less.

   C = The number of days from payment of the Accelerated Benefit to the earlier of (1) the date you die, and (2) the date you have a Right To Convert, but not to exceed a maximum of 12 months.

The amount of your AD&D Insurance, if any, is not affected by payment of the Accelerated Benefit. AD&D is not continued under Waiver Of Premium.

Note: If you assign your rights under the Group Policy, the amount of your Insurance after payment of the Accelerated Benefit will be the amount in (2) above.

E. Exclusions

No Accelerated Benefit will be paid if:

1. All or part of your Insurance must be paid to your Child(ren), or your Spouse or former Spouse as part of a court approved divorce decree, separate maintenance agreement, or property settlement agreement.

2. You are married and live in a community property state unless you give us a signed written consent from your Spouse.

3. You have made an assignment of all or part of your Insurance unless you give us a signed written consent from the assignee.

4. You are required by a government agency to use the Accelerated Benefit to apply for, receive, or continue a government benefit or entitlement.

5. You have previously received an Accelerated Benefit under the Group Policy.

F. Definitions For Accelerated Benefit

Insurance means your Life Insurance Benefit under the Group Policy.
RIGHT TO CONVERT

A. Right To Convert

You may buy an individual policy of life insurance without Evidence Of Insurability if:

1. Your Insurance ends or is reduced due to a Qualifying Event; and
2. You apply in writing and pay us the first premium during the Conversion Period.

Except as limited under C. Limits On Right To Convert, the maximum amount you have a Right To Convert is the amount of your Insurance which ended.

B. Definitions For Right To Convert

1. Conversion Period means the 31-day period after the date of any Qualifying Event.
2. Insurance means all your insurance under the Group Policy, including insurance continued under Waiver Of Premium, but excluding AD&D Insurance.
3. Qualifying Event means termination or reduction of your Insurance for any reason except:
   a. The Member's failure to make a required premium contribution.
   b. Payment of an Accelerated Benefit.
4. You and your mean any person insured under the Group Policy.

C. Limits On Right To Convert

If your Insurance ends or is reduced because of termination or amendment of the Group Policy, 1 and 2 below will apply.

1. You may not convert Insurance which has been in effect for less than the Minimum Time Insured. See Coverage Features.
2. The maximum amount you have a Right To Convert is the lesser of:
   a. The amount of your Insurance which ended, minus any other group life insurance for which you become eligible during the Conversion Period; and

D. The Individual Policy

You may select any form of individual life insurance policy we issue to persons of your age, except:

1. A term insurance policy;
2. A universal life policy;
3. A policy with disability, accidental death, or other additional benefits; or
4. A policy in an amount less than the minimum amount we issue for the form of life insurance you select.

The individual policy of life insurance will become effective on the day after the end of the Conversion Period. We will use our published rates for standard risks to determine the premium.

E. Death During The Conversion Period

If you die during the Conversion Period, we will pay a death benefit equal to the maximum amount you had a Right To Convert, whether or not you applied for an individual policy. The benefit will be paid according to the Benefit Payment And Beneficiary Provisions.
CLAIMS

A. Filing A Claim

Claims should be filed on our forms. If we do not provide our forms within 15 days after they are requested, the claim may be submitted in a letter to us.

B. Time Limits On Filing Proof Of Loss

Proof Of Loss must be provided within 90 days after the date of the loss. If that is not possible, it must be provided as soon as reasonably possible, but not later than one year after that 90-day period.

Proof Of Loss for Waiver Of Premium must be provided within 12 months after the end of the Waiting Period. We will require further Proof Of Loss at reasonable intervals, but not more often than once a year after you have been continuously Totally Disabled for two years.

If Proof Of Loss is filed outside these time limits, the claim will be denied. These limits will not apply while the Member or Beneficiary lacks legal capacity.

C. Proof Of Loss

Proof Of Loss means written proof that a loss occurred:

1. For which the Group Policy provides benefits;
2. Which is not subject to any exclusions; and
3. Which meets all other conditions for benefits.

Proof Of Loss includes any other information we may reasonably require in support of a claim. Proof Of Loss must be in writing and must be provided at the expense of the claimant. No benefits will be provided until we receive Proof Of Loss satisfactory to us.

D. Investigation Of Claim

We may have you examined at our expense at reasonable intervals. Any such examination will be conducted by specialists of our choice.

We may have an autopsy performed at our expense, except where prohibited by law.

E. Time Of Payment

We will pay benefits within 60 days after Proof Of Loss is satisfied.

F. Notice Of Decision On Claim

We will evaluate a claim for benefits promptly after we receive it. With respect to all claims except Waiver Of Premium claims (or other benefits based on disability), within 90 days after we receive the claim we will send the claimant: (a) a written decision on the claim; or (b) a notice that we are extending the period to decide the claim for an additional 90 days.

With respect to Waiver Of Premium claims (or other benefits based on disability), within 45 days after we receive the claim we will send the claimant: (a) a written decision on the claim; or (b) a notice that we are extending the period to decide the claim for 30 days. Before the end of this extension period we will send the claimant: (a) a written decision on the Waiver Of Premium claim (or other benefits based on disability); or (b) a notice that we are extending the period to decide the claim for an additional 30 days. If an extension is due to the claimant’s failure to provide information necessary to decide the Waiver Of Premium claim (or other benefits based on disability), the extended time period for deciding the claim will not begin until the claimant provides the information or otherwise responds.

If we extend the period to decide the claim, we will notify the claimant of the following: (a) the reasons for the extension; (b) when we expect to decide the claim; (c) an explanation of the
standards on which entitlement to benefits is based; (d) the unresolved issues preventing a decision; and (e) any additional information we need to resolve those issues.

If we request additional information, the claimant will have 45 days to provide the information. If the claimant does not provide the requested information within 45 days, we may decide the claim based on the information we have received.

If we deny any part of the claim, we will send the claimant a written notice of denial containing:

1. The reasons for our decision.
2. Reference to the parts of the Group Policy on which our decision is based.
3. A description of any additional information needed to support the claim.
4. Information concerning the claimant’s right to a review of our decision.

G. Review Procedure

If all or part of a claim is denied, the claimant may request a review. The claimant must request a review in writing:

1. Within 180 days after receiving notice of the denial of a claim for Waiver Of Premium (or other benefits based on disability);
2. Within 60 days after receiving notice of the denial of any other claim.

The claimant may send us written comments or other items to support the claim. The claimant may review and receive copies of any non-privileged information that is relevant to the request for review. There will be no charge for such copies. Our review will include any written comments or other items the claimant submits to support the claim.

We will review the claim promptly after we receive the request. With respect to all claims except Waiver Of Premium claims (or other benefits based on disability), within 60 days after we receive the request for review we will send the claimant: (a) a written decision on review; or (b) a notice that we are extending the review period for 60 days.

With respect to Waiver Of Premium claims (or other benefits based on disability), within 45 days after we receive the request for review we will send the claimant: (a) a written decision on review; or (b) a notice that we are extending the review period for 45 days.

If an extension is due to the claimant’s failure to provide information necessary to decide the claim on review, the extended time period for review of the claim will not begin until the claimant provides the information on which we rely.

If we extend the review period, we will notify the claimant of the following: (a) the reasons for the extension; (b) when we expect to decide the claim on review; and (c) any additional information we need to decide the claim.

If we request additional information, the claimant will have 45 days to provide the information. If the claimant does not provide the requested information within 45 days, we may conclude our review of the claim based on the information we have received.

With respect to Waiver Of Premium claims (or other benefits based on disability), the person conducting the review will be someone other than the person who denied the claim and will not be subordinate to that person. The person conducting the review will not give deference to the initial denial decision. If the denial was based on a medical judgement, the person conducting the review will consult with a qualified health care professional. This health care professional will be someone other than the person who made the original medical judgement and will not be subordinate to that person. The claimant may request the names of medical or vocational experts who provided advice to us about a claim for Waiver Of Premium (or other benefits based on disability).

If we deny any part of the claim on review, the claimant will receive a written notice of denial containing:
1. The reasons for our decision.
2. Reference to the parts of the Group Policy on which our decision is based.
3. Information concerning the claimant’s right to receive, free of charge, copies of non-privileged documents and records relevant to the claim.

ASSIGNMENT

The rights and benefits under the Group Policy cannot be assigned.

BENEFIT PAYMENT AND BENEFICIARY PROVISIONS

A. Payment Of Benefits

1. Except as provided in item 5 below, benefits payable because of your death will be paid to the Beneficiary you name. See B through E of this section.

2. AD&D Insurance benefits payable for Losses other than Loss of Life will be paid to the person who suffers the Loss for which benefits are payable. Any such benefits remaining unpaid at that person’s death will be paid according to the provisions for payment of a death benefit.

3. The benefits below will be paid to you if you are living:
   a. AD&D Insurance benefits payable because of the death of your Dependent.
   b. Dependents Life Insurance benefits.
   c. Accelerated Benefits.

4. Dependents Life Insurance benefits and AD&D Insurance benefits payable because of the death of your Dependent which are unpaid at your death will be paid in equal shares to the first surviving class of the classes below:
   a. The children of the Dependent.
   b. The parents of the Dependent.
   c. The brothers and sisters of the Dependent.
   d. Your estate.

5. Additional Benefits will be paid as follows:

   The Child Care Benefit will be paid to your surviving Spouse. No Child Care Benefit will be paid if you have no Spouse.

   The Career Adjustment Benefit will be paid to your Spouse. No Career Adjustment Benefit will be paid if you have no Spouse.

   The Higher Education Benefit will be paid to each eligible Child. No Higher Education Benefit will be paid if there is no Child eligible to receive it.

   The Repatriation Benefit will be paid to the person who incurs the transportation expenses.

B. Naming A Beneficiary

Beneficiary means a person you name to receive death benefits. You may name one or more Beneficiaries.

If you name two or more Beneficiaries in a class:
1. Two or more surviving Beneficiaries will share equally, unless you provide for unequal shares.

2. If you provide for unequal shares in a class, and two or more Beneficiaries in that class survive, we will pay each surviving Beneficiary his or her designated share. Unless you provide otherwise, we will then pay the share(s) otherwise due to any deceased Beneficiary(ies) to the surviving Beneficiaries pro rata based on the relationship that the designated percentage or fractional share of each surviving Beneficiary bears to the total shares of all surviving Beneficiaries.

3. If only one Beneficiary in a class survives, we will pay the total death benefits to that Beneficiary.

You may name or change Beneficiaries at any time without the consent of a Beneficiary.

Your Beneficiary designation must be the same for Life Insurance and AD&D Insurance death benefits.

You may name or change Beneficiaries in writing. Writing includes a form signed by you; or a verification from us, or our designated agent, the Policyholder, the Policyholder's designated agent, the Employer, or the Employer's designated agent of an electronic or telephonic designation made by you.

Your designation:
1. Must be dated;
2. Must be delivered to us, our designated agent, the Policyholder, the Policyholder's designated agent, the Employer, or the Employer's designated agent; during your lifetime.
3. Must relate to the insurance provided under the Group Policy; and
4. Will take effect on the date it is delivered or, if a telephonic or electronic designation, verified by us, our designated agent, the Policyholder, the Policyholder's designated agent, the Employer, or the Employer's designated agent.

If we approve it, a designation, which meets the requirements of a Prior Plan, will be accepted as your Beneficiary designation under the Group Policy.

C. Simultaneous Death Provision

If a Beneficiary or a person in one of the classes listed in item D. No Surviving Beneficiary dies on the same day you died, or within 15 days thereafter, benefits will be paid as if that Beneficiary or person had died before you, unless Proof Of Loss with respect to your death is delivered to us before the date of the Beneficiary's death.

D. No Surviving Beneficiary

If you do not name a Beneficiary, or if you are not survived by one, benefits will be paid in equal shares to the first surviving class of the classes below.

1. Your Spouse. (See Definitions)
2. Your children.
3. Your parents.
4. Your brothers and sisters.
5. Your estate.

E. Methods Of Payment

Recipient means a person who is entitled to benefits under this Benefit Payment and Beneficiary Provisions section.
1. Lump Sum
   If the amount payable to a Recipient is less than $25,000, we will pay it in a lump sum.

2. Standard Secure Access Checking Account
   If the amount payable to a Recipient is $25,000, or more, we will deposit it into a Standard Secure Access checking account which:
   a. Bears interest at a rate equal to the 13-week Treasury Bill (T-Bill) auction rate, but not to exceed 5%;
   b. Is owned by the Recipient;
   c. Is subject to the terms and conditions of a confirmation certificate which will be given to the Recipient; and
   d. Is fully guaranteed by us.

3. Installments
   Payment to a Recipient may be made in installments if:
   a. The amount payable is $25,000 or more;
   b. The Recipient chooses; and
   c. We agree.

To the extent permitted by law, the amount payable to the Recipient will not be subject to any legal process or to the claims of any creditor or creditor’s representative.

TIME LIMITS ON LEGAL ACTIONS

No action at law or in equity may be brought until 60 days after we have been given Proof Of Loss. No such action may be brought more than three years after the earlier of:

1. The date we receive Proof Of Loss; and
2. The time within which Proof Of Loss is required to be given.

INCONTESTABILITY PROVISIONS

A. Incontestability Of Insurance
   Any statement made to obtain or to increase insurance is a representation and not a warranty.
   No misrepresentation will be used to reduce or deny a claim unless:
   1. The insurance would not have been approved if we had known the truth; and
   2. We have given you or any other person claiming benefits a copy of the signed written instrument which contains the misrepresentation.

   We will not use a misrepresentation to reduce or deny a claim after the insured’s insurance has been in effect for two years during the lifetime of the insured.

B. Incontestability Of Group Policy
   Any statement made by the Policyholder or Employer to obtain the Group Policy is a representation and not a warranty.
No misrepresentation by the Policyholder or Employer will be used to deny a claim or to deny the validity of the Group Policy unless:

1. The Group Policy would not have been issued if we had known the truth; and
2. We have given the Policyholder or Employer a copy of a written instrument signed by the Policyholder or Employer which contains the misrepresentation.

The validity of the Group Policy will not be contested after it has been in force for two years, except for nonpayment of premiums.

**CLERICAL ERROR AND MISSTATEMENT**

A. Clerical Error

Clerical error by the Policyholder, your Employer, or their respective employees or representatives will not:

1. Cause a person to become insured;
2. Invalidate insurance under the Group Policy otherwise validly in force; or
3. Continue insurance under the Group Policy otherwise validly terminated.

B. The Policyholder and your Employer act on their own behalf as your agent, and not as our agent.

C. Misstatement Of Age

If a person's age has been misstated, we will make an equitable adjustment of premiums, benefits, or both. The adjustment will be based on:

1. The amount of insurance based on the correct age; and
2. The difference between the premiums paid and the premiums which would have been paid if the age had been correctly stated.

D. Misstatement Of Tobacco Use

If a person's use of tobacco has been misstated in the application, we have the rights in 1 and 2 below:

1. The right to rescind that person's insurance subject to Incontestability Provisions. We will return the premiums paid for that person's insurance.
2. The right to make an equitable adjustment of premiums, benefits, or both. The adjustment will be based on:
   a. The amount of insurance based on the correct tobacco use status; and
   b. The difference between the premiums paid and the premiums which would have been paid if the tobacco use status had been correctly stated.

**TERMINATION OR AMENDMENT OF THE GROUP POLICY**

The Group Policy may be terminated by us or the Policyholder according to its terms. It will terminate automatically for nonpayment of premium. The Policyholder may terminate the Group Policy in whole, and may terminate insurance for any class or group of Members, at any time by giving us written notice.

Benefits under the Group Policy are limited to its terms, including any valid amendment. No change or amendment will be valid unless it is approved in writing by one of our executive officers and given to
the Policyholder for attachment to the Group Policy. If the terms of the Certificate differ from the Group Policy, the terms stated in the Group Policy will govern. The Policyholder, your Employer, and their respective employees or representatives have no right or authority to change or amend the Group Policy or to waive any of its terms or provisions without our signed written approval.

We may change the Group Policy in whole or in part when any change or clarification in law or governmental regulation affects our obligations under the Group Policy, or with the Policyholder's consent.

Any such change or amendment of the Group Policy may apply to current or future Members or to any separate classes or groups thereof.

**DEFINITIONS**

AD&D Insurance means accidental death and dismemberment insurance, if any, under the Group Policy.

Annual Earnings means your annual rate of earnings from your Employer. Your Annual Earnings will be based on your earnings in effect on your last full day of Active Work unless a different date applies (see the Coverage Features). Annual Earnings includes:

1. Contributions you make through a salary reduction agreement with your Employer to:
   a. An Internal Revenue Code (IRC) Section 401(k), 403(b), 408(k), or 457 deferred compensation arrangement; or
   b. An executive nonqualified deferred compensation arrangement.
2. Amounts contributed to your fringe benefits according to a salary reduction agreement under an IRC Section 125 plan.

Annual Earnings does not include:

1. Bonuses.
2. Commissions.
3. Overtime pay.
5. Stock options or stock bonuses.
6. Your Employer's contributions on your behalf to any deferred compensation arrangement or pension plan.
7. Any other extra compensation.

Child means:

1. Your child from live birth through age 25; or
2. Your child who meets either of the following requirements:
   a. The child is insured under the Group Policy and, on and after the date on which insurance would otherwise end because of the Child’s age, is continuously Disabled.
   b. The child was insured under the Prior Plan on the day before the effective date of your Employer's coverage under the Group Policy and was Disabled on that day, and is continuously Disabled thereafter.
Child includes any of the following, if they otherwise meet the definition of Child:

i. Your natural or adopted child;

ii. A natural or adopted dependent grandchild of the insured for federal income tax purposes at the time the application for coverages is made; or

iii. Your stepchild, if living in your home.

Your child is Disabled if your child is:

1. Continuously incapable of self-sustaining employment because of mental retardation or physical handicap; and

2. Chiefly dependent upon you for support and maintenance, or institutionalized because of mental retardation or physical handicap.

You must give us proof your Child is Disabled on our forms within 31 days after a) the date on which insurance would otherwise end because of the Child’s age or b) the effective date of your Employer’s coverage under the Group Policy if your child is Disabled on that date. At reasonable intervals thereafter, but not more than once a year, we may require further proof, and have your Child examined at our expense.

Contributory means you pay all or part of the premium for insurance.

Dependents Life Insurance means dependents life insurance, if any, under the Group Policy.

Eligibility Waiting Period means the period you must be a member before you become eligible for insurance. See Coverage Features.

Evidence Of Insurability means an applicant must:

1. Complete and sign our medical history statement;

2. Sign our form authorizing us to obtain information about the applicant’s health;

3. Undergo a physical examination if required by us, which may include blood testing; and

4. Provide any additional information about the applicant’s insurability that we may reasonably require.

Group Policy means the group life insurance policy issued by us to the Policyholder and identified by the Group Policy Number.

Injury means an injury to your body.

Life Insurance means life insurance under the Group Policy.

Noncontributory means the Policyholder or Employer pays the entire premium for insurance.

Physician means a licensed M.D. or D.O., acting within the scope of the license. Physician does not include you or your spouse, or the brother, sister, parent or child of either you or your spouse.

Pregnancy means your pregnancy, childbirth, or related medical conditions, including complications of pregnancy.

Prior Plan means your Employer’s group life insurance plan in effect on the day before the effective date of your Employer’s coverage under the Group Policy and which is replaced by the Group Policy.

Sickness means your sickness, illness, or disease.

Spouse means a person to whom you are legally married. However, for purposes of insurance under the Group Policy, Spouse does not include a person who is a full-time member of the armed forces of any country or a person from whom you are divorced.
POLICYHOLDER PROVISIONS

A. Premiums

The premium due on each Premium Due Date is the sum of the premiums for all persons then insured. Premium Rates are shown in the Coverage Features.

B. Contributions From Members

The Policyholder determines the amount, if any, of each Member's contribution toward the cost of insurance under the Group Policy.

C. Changes In Premium Rates

We may change Premium Rates when:

1. A change or clarification in law or governmental regulation affects the amount payable under the Group Policy. Any such change in Premium Rates will reflect only the change in our obligations; or

2. Factors material to underwriting the risk we assumed under the Group Policy, including, but not limited to, number of persons insured, age, Annual Earnings, gender and occupational classification, change by 25% or more; or

3. We and the Policyholder mutually agree to change Premium Rates.

Except as provided above, Premium Rates will not be changed during the Initial Rate Guarantee Period shown in the Coverage Features. Thereafter, except as provided above, we may change Premium Rates upon advance written notice to the Policyholder. The minimum advance notice is shown in the Coverage Features as Notice of Rate Change. Any such change in Premium Rates may be made effective on any Premium Due Date, but no such change will be made more than once in any contract year. Contract years are successive 12 month periods computed from the end of the Initial Rate Guarantee Period.

D. Payment Of Premiums

All premiums are due on the Premium Due Dates shown in the Coverage Features.

Each premium is payable on or before its Premium Due Date directly to us at our home office. The payment of each premium as it becomes due will maintain the Group Policy in force until the next Premium Due Date.

E. Grace Period And Termination For Nonpayment

If a premium is not paid on or before its Premium Due Date, it may be paid during the following Grace Period. The length of the Grace Period is shown in the Coverage Features. The Group Policy will remain in force during the Grace Period.

If the premium is not paid during the Grace Period, the Group Policy will terminate automatically at the end of the Grace Period.

The Policyholder is liable for premium for insurance under the Group Policy during the Grace Period. We may charge interest at the legal rate for any premium which is not paid during the Grace Period, beginning with the first day after the Grace Period.

F. Termination For Other Reasons

The Policyholder may terminate the Group Policy by giving us written notice. The effective date of termination will be the later of:

1. The date stated in the notice; and

2. The date we receive the notice.
We may terminate the Group Policy as follows:

1. On any Premium Due Date if the number of persons insured is less than the Minimum Participation shown in the Coverage Features.

2. On any Premium Due Date if we determine that the Policyholder has failed to promptly furnish any necessary information requested by us, or has failed to perform any other obligations relating to the Group Policy.

The minimum advance notice of such termination by us is 60 days.

G. Premium Adjustments

Premium adjustments involving a return of unearned premiums to the Policyholder will be limited to the 12 months just before the date we receive a request for premium adjustment.

H. Certificates

We will issue certificates to the Policyholder showing the coverage under the Group Policy. The Policyholder will distribute a certificate to each insured Member. If the terms of the Certificate differ from the Group Policy, the terms stated in the Group Policy will govern.

I. Records And Reports

The Policyholder or Employer will furnish on our forms all information reasonably necessary to administer the Group Policy. We have the right at a reasonable time to inspect the payroll and other records of the Policyholder or Employer which relate to insurance under the Group Policy.

J. Agency And Release

Individuals selected by the Policyholder or by any Employer to secure coverage under the Group Policy or to perform their administrative functions under it, represent and act on behalf of the person selecting them, and do not represent or act on behalf of Standard Insurance Company. The Policyholder, Employer and such individuals have no authority to alter, expand or extend our liability or to waive, modify or compromise any defense or right we may have under the Group Policy. The Policyholder and each Employer hereby release, hold harmless and indemnify Standard Insurance Company from any liability arising from or related to any negligence, error, omission, misrepresentation or dishonesty of any of them or their representatives, agents or employees.

K. Notice Of Suit

The Policyholder or Employer shall promptly give us written notice of any lawsuit or other legal proceedings arising under the Group Policy.

L. Entire Contract, Changes

The Group Policy and the application of the Policyholder constitute the entire contract between the parties. A copy of the Policyholder's application is attached to the Group Policy when issued.

The Group Policy may be changed in whole or in part. No change in the Group Policy will be valid unless it is approved in writing by one of our executive officers and given to the Policyholder for attachment to the Group Policy. No agent has authority to change the Group Policy or to waive any of its provisions.

M. Effect On Workers' Compensation, State Disability Insurance

The coverage provided under the Group Policy is not a substitute for coverage under a workers' compensation or state disability income benefit law and does not relieve the Employer of any obligation to provide such coverage.

N. Nonassessable Policy
This Group Policy, like all group insurance policies issued by us, is nonassessable.

ALJ99X
IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Standard Insurance Company's toll-free telephone number for information or to make a complaint at:

1-800-348-3226

You may also write to Standard Insurance Company at:

900 SW Fifth Avenue
Portland OR 97204-1282

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance at:

PO Box 149104
Austin TX 78714-9104
FAX# (512) 475-1771
Web: http://www.tdi.state.tx.us
E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:
Should you have a dispute concerning your premium or about a claim, you should contact Standard Insurance Company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY OR CERTIFICATE: This notice is for information only and does not become a part or condition of the attached document.
Texas law establishes a system to protect Texas policyholders if their life or health insurance company fails. The Texas Life and Health Insurance Guaranty Association ("the Association") administers this protection system. Only the policyholders of insurance companies that are members of the Association are eligible for this protection which is subject to the terms, limitations, and conditions of the Association law. (The law is found in the Texas Insurance Code, Chapter 463.)

It is possible that the Association may not protect all or part of your policy because of statutory limitations.

Eligibility for Protection by the Association

When a member insurance company is found to be insolvent and placed under an order of liquidation by a court or designated as impaired by the Texas Commissioner of Insurance, the Association provides coverage to policyholders who are:

- Residents of Texas (regardless of where the policyholder lived when the policy was issued)
- Residents of other states, ONLY if the following conditions are met:
  1. The policyholder has a policy with a company domiciled in Texas;
  2. The policyholder's state of residence has a similar guaranty association; and
  3. The policyholder is not eligible for coverage by the guaranty association of the policyholder's state of residence.

Limits of Protection by the Association

Accident, Accident and Health, or Health Insurance:
- For each individual covered under one or more policies: up to a total of $500,000 for basic hospital, medical-surgical, and major medical insurance, $300,000 for disability or long term care insurance, and $200,000 for other types of health insurance.

Life Insurance:
- Net cash surrender value or net cash withdrawal value up to a total of $100,000 under one or more policies on any single life; or
- Death benefits up to a total of $300,000 under one or more policies on any single life; or
- Total benefits up to a total of $5,000,000 to any owner of multiple non-group life policies.

Individual Annuities:
- Present value of benefits up to a total of $250,000 under one or more policies owned by one life.

Group Annuities:
- Present value of allocated benefits up to a $250,000 on any one life; or
- Present value of unallocated benefits up to a $5,000,000 for one contractholder regardless of the number of contracts.

Aggregate Limit:
- $300,000 on any one life with the exception of the $500,000 health insurance limit, the $5,000,000 multiple owner life insurance limit, and the $5,000,000 unallocated group annuity limit.

These limits are applied for each insolvent insurance company.
Insurance companies and agents are prohibited by law from using the existence of the Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance. When you are selecting an insurance company, you should not rely on Association coverage. For additional questions on Association protection or general information about an insurance company, please use the following contact information.

Texas Life and Health Insurance Guaranty Association
515 Congress Avenue, Suite 1875
Austin, Texas 78701
800-982-6362 or www.txlifega.org

Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104
800-252-3439 or ww.tdi.state.tx.us
GROUP LONG TERM DISABILITY INSURANCE POLICY

Policyholder: San Antonio Water System
Policy Number: 75337-B
Effective Date: January 1, 2016

The consideration for this Group Policy is the application of the Policyholder and the payment by the Policyholder of premiums as provided herein.

Subject to the Policyholder Provisions and the Incontestability Provisions, this Group Policy (a) is issued for the Initial Rate Guarantee Period shown in the Coverage Features, and (b) may be renewed for successive renewal periods by the payment of the premium set by us on each renewal date. The length of each renewal period will be set by us, but will not be less than 12 months.

For purposes of effective dates and ending dates under this Group Policy, all days begin and end at 12:00 midnight Standard Time at the Policyholder's address.

All provisions on this and the following pages are part of this Group Policy. "You" and "your" mean the Member. "We", "us", and "our" mean Standard Insurance Company. Other defined terms appear with their initial letters capitalized. Section headings, and references to them, appear in boldface type.

This is not a policy of workers' compensation insurance. The employer does not become a subscriber to the worker's compensation system by purchasing this policy and if the employer is a non-subscriber, the employer loses those benefits which would otherwise accrue under the workers' compensation laws. The employer must comply with the workers' compensation law as it pertains to non-subscribers and file the required notifications that must be filed and posted.

STANDARD INSURANCE COMPANY

By

Chairman, President and CEO
Corporate Secretary
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**COVERAGE FEATURES**

This section contains many of the features of your long term disability (LTD) insurance. Other provisions, including exclusions, limitations, and Deductible Income, appear in other sections. Please refer to the text of each section for full details. The Table of Contents and the Index of Defined Terms help locate sections and definitions.

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**GENERAL POLICY INFORMATION**

Group Policy Number: 753337-B
Policyholder: San Antonio Water System
Employer(s): San Antonio Water System
Group Policy Effective Date: January 1, 2016
Policy Issued in: Texas

Member means:

1. A regular employee of the Employer;
2. Actively At Work at least 30 hours each week for purposes of the Member definition. Actively At Work will include regularly scheduled days off, holidays, or vacation days, so long as the person is capable of Active Work on those days; and
3. A citizen or resident of the United States or Canada.

Member does not include a temporary or seasonal employee, a full-time member of the armed forces of any country, a leased employee, or an independent contractor.

Class Definition: None

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**SCHEDULE OF INSURANCE**

Eligibility Waiting Period: You are eligible on one of the following dates:

- If you are a Member on the Group Policy Effective Date, you are eligible on that date.
- If you become a Member after the Group Policy Effective Date, you are eligible on the date you become a Member.

Eligibility Waiting Period means the period you must be a Member before you become eligible for insurance.

Own Occupation Period: The first 24 months for which LTD Benefits are paid.
Any Occupation Period: From the end of the Own Occupation Period to the end of the Maximum Benefit Period.

LTD Benefit: 60% of the first $10,000 of your Predisability Earnings, reduced by Deductible Income.
Maximum: $6,000 before reduction by Deductible Income.
Minimum: $100
Benefit Waiting Period: 90 days.
Maximum Benefit Period: Determined by your age when Disability begins, as follows:

<table>
<thead>
<tr>
<th>Age</th>
<th>Maximum Benefit Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>61 or younger</td>
<td>To age 65, or to SSNRA, or 3 years 6 months, whichever is longest.</td>
</tr>
<tr>
<td>62</td>
<td>To SSNRA, or 3 years 6 months, whichever is longer.</td>
</tr>
<tr>
<td>63</td>
<td>To SSNRA, or 3 years, whichever is longer.</td>
</tr>
<tr>
<td>64</td>
<td>To SSNRA, or 2 years 6 months, whichever is longer.</td>
</tr>
<tr>
<td>65</td>
<td>2 years</td>
</tr>
<tr>
<td>66</td>
<td>1 year 9 months</td>
</tr>
<tr>
<td>67</td>
<td>1 year 6 months</td>
</tr>
<tr>
<td>68</td>
<td>1 year 3 months</td>
</tr>
<tr>
<td>69 or older</td>
<td>1 year</td>
</tr>
</tbody>
</table>

Social Security Normal Retirement Age (SSNRA) means your normal retirement age under the Federal Social Security Act, as amended.

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**PREMIUM CONTRIBUTIONS**

Insurance is: Noncontributory

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**PREMIUM AND RENEWALS**

Premium Rates:
LTD Insurance: 0.220% of the first $10,000 of each insured Member's insured Predisability Earnings.

Premium Due Dates: January 1, 2016 and the first day of each calendar month thereafter.

Initial Rate Guarantee Period: January 1, 2016 to January 1, 2018

Minimum Participation Number: 10 insured Members

Minimum Participation Percentage: 100% of eligible Members
INSURING CLAUSE

If you become Disabled while insured under the Group Policy, we will pay LTD Benefits according to the terms of the Group Policy after we receive Proof Of Loss satisfactory to us.

BECOMING INSURED

To become insured you must be a Member, complete your Eligibility Waiting Period, and meet the requirements in Active Work Provisions and When Your Insurance Becomes Effective.

You are a Member if you are:

1. A regular employee of the Employer;
2. Actively At Work at least 30 hours each week (for purposes of the Member definition, Actively At Work will include regularly scheduled days off, holidays, or vacation days, so long as you are capable of Active Work on those days); and
3. A citizen or resident of the United States or Canada.

You are not a Member if you are a temporary or seasonal employee, a full-time member of the armed forces of any country, a leased employee, or an independent contractor.

Eligibility Waiting Period means the period you must be a Member before you become eligible for insurance. Your Eligibility Waiting Period is shown in the Coverage Features.

WHEN YOUR INSURANCE BECOMES EFFECTIVE

A. When Insurance Becomes Effective

Subject to the Active Work Provisions, your insurance becomes effective as follows:

1. Insurance Subject To Evidence Of Insurability

   Insurance subject to Evidence Of Insurability becomes effective on the date we approve your Evidence Of Insurability.

2. Insurance Not Subject To Evidence Of Insurability

   The Coverage Features states whether insurance is Contributory or Noncontributory.

   a. Noncontributory Insurance

      Noncontributory insurance not subject to Evidence Of Insurability becomes effective on the date you become eligible.

   b. Contributory Insurance

      You must apply in writing for Contributory insurance and agree to pay premiums. Contributory insurance not subject to Evidence Of Insurability becomes effective on:

      i. The date you become eligible if you apply on or before that date; or

      ii. The date you apply if you apply within 31 days after you become eligible.

      Late application: Evidence Of Insurability is required if you apply more than 31 days after you become eligible.
B. Takeover Provisions

1. If you were insured under the Prior Plan on the day before the effective date of your Employer’s coverage under the Group Policy, your Eligibility Waiting Period is waived on the effective date of your Employer’s coverage under the Group Policy.

2. You must submit satisfactory Evidence Of Insurability to become insured if you were eligible for insurance under the Prior Plan for more than 31 days but were not insured.

C. Evidence Of Insurability Requirement

Evidence Of Insurability satisfactory to us is required:

a. For late application for Contributory insurance.

b. For Members eligible but not insured under the Prior Plan.

c. For reinstatements if required.

Providing Evidence Of Insurability means you must:

1. Complete and sign our medical history statement;

2. Sign our form authorizing us to obtain information about your health;

3. Undergo a physical examination, if required by us, which may include blood testing; and

4. Provide any additional information about your insurability that we may reasonably require.

ACTIVE WORK PROVISIONS

A. Active Work Requirement

You must be capable of Active Work on the day before the scheduled effective date of your insurance or your insurance will not become effective as scheduled. If you are incapable of Active Work because of Physical Disease, Injury, Pregnancy or Mental Disorder on the day before the scheduled effective date of your insurance, your insurance will not become effective until the day after you complete one full day of Active Work as an eligible Member.

Active Work and Actively At Work mean performing with reasonable continuity the Material Duties of your Own Occupation at your Employer’s usual place of business.

B. Changes In Insurance

This Active Work requirement also applies to any increase in your insurance.

CONTINUITY OF COVERAGE

If your Disability is subject to the Preexisting Condition Exclusion, LTD Benefits will be payable if:

1. You were insured under the Prior Plan on the day before the effective date of your Employer’s coverage under the Group Policy;

2. You became insured under the Group Policy when your insurance under the Prior Plan ceased;

3. You were continuously insured under the Group Policy from the effective date of your insurance under the Group Policy through the date you became Disabled from the Preexisting Condition; and

4. Benefits would have been payable under the terms of the Prior Plan if it had remained in force, taking into account the preexisting condition exclusion, if any, of the Prior Plan.
For such a Disability, the amount of your LTD Benefit will be the lesser of:

a. The monthly benefit that would have been payable under the terms of the Prior Plan if it had remained in force; or
b. The LTD Benefit payable under the terms of the Group Policy, but without application of the Preexisting Condition Exclusion.

Your LTD Benefits for such a Disability will end on the earlier of the following dates:

a. The date benefits would have ended under the terms of the Prior Plan if it had remained in force; or
b. The date LTD Benefits end under the terms of the Group Policy.

WHEN YOUR INSURANCE ENDS

Your insurance ends automatically on the earliest of:

1. The date the last period ends for which a premium contribution was made for your insurance.
2. The date the Group Policy terminates.
3. The date your employment terminates.
4. The date you cease to be a Member. However, your insurance will be continued during the following periods when you are absent from Active Work unless it ends under any of the above.
   a. During the first 90 days of a temporary or indefinite administrative or involuntary leave of absence or sick leave, provided your Employer is paying you at least the same Predisability Earnings paid to you immediately before you ceased to be a Member. A period when you are absent from Active Work as part of a severance or other employment termination agreement is not a leave of absence, even if you are receiving the same Predisability Earnings.
   b. During a leave of absence in connection with your insurance under the Group Policy is required by a state-mandated family or medical leave act or law.
   c. During any other temporary leave of absence approved by your Employer in advance and in writing and scheduled to last 30 days or less. A period of Disability is not a leave of absence.
   d. During the Benefit Waiting Period.

WAIVER OF PREMIUM

We will waive payment of premium for your insurance while LTD Benefits are payable.

REINSTATEMENT OF INSURANCE

If your insurance ends, you may become insured again as a new Member. However, the following will apply:

1. If you cease to be a Member because of a covered Disability following the Benefit Waiting Period, your insurance will end; however, if you become a Member again immediately after LTD Benefits end, the Eligibility Waiting Period will be waived and, with respect to the condition(s) for which LTD Benefits were payable, the Preexisting Condition Exclusion will be applied as if your insurance had remained in effect during that period of Disability.
2. If your insurance ends because you cease to be a Member for any reason other than a covered Disability, and if you become a Member again within 90 days, the Eligibility Waiting Period will be waived.

3. If your insurance ends because you fail to make a required premium contribution, you must provide Evidence Of Insurability to become insured again.

4. If your insurance ends because you are on a federal or state-mandated family or medical leave of absence, and you become a Member again immediately following the period allowed, your insurance will be reinstated pursuant to the federal or state-mandated family or medical leave act or law.

5. The Preexisting Conditions Exclusion will be applied as if insurance had remained in effect in the following instances:
   a. If you become insured again within 90 days.
   b. If required by federal or state-mandated family or medical leave act or law and you become insured again immediately following the period allowed under the family or medical leave act or law.

6. In no event will insurance be retroactive.

DEFINITION OF DISABILITY

You are Disabled if you meet the following definitions during the periods they apply:

A. Own Occupation Definition Of Disability

B. Any Occupation Definition Of Disability.

A. Own Occupation Definition Of Disability

During the Benefit Waiting Period and the Own Occupation Period you are required to be Disabled only from your Own Occupation.

You are Disabled from your Own Occupation if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder:

1. You are unable to perform with reasonable continuity the Material Duties of your Own Occupation; and

2. You suffer a loss of at least 20% in your Indexed Predisability Earnings when working in your Own Occupation.

Note: You are not Disabled merely because your right to perform your Own Occupation is restricted, including a restriction or loss of license.

During the Own Occupation Period you may work in another occupation while you meet the Own Occupation Definition Of Disability. However, you will no longer be Disabled when your Work Earnings from another occupation meet or exceed 80% of your Indexed Predisability Earnings. Your Work Earnings may be Deductible Income. See Return To Work Provisions and Deductible Income.

Own Occupation means any employment, business, trade, profession, calling or vocation that involves Material Duties of the same general character as the occupation you are regularly performing for your Employer when Disability begins. In determining your Own Occupation, we are not limited to looking at the way you perform your job for your Employer, but we may also look at the way the occupation is generally performed in the national economy. If your Own Occupation involves the rendering of professional services and you are required to have a professional or
occupational license in order to work, your Own Occupation is as broad as the scope of your license.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation that cannot be reasonably modified or omitted. In no event will we consider working an average of more than 40 hours per week to be a Material Duty.

B. Any Occupation Definition Of Disability

During the Any Occupation Period you are required to be Disabled from all occupations.

You are Disabled from all occupations if, as a result of Physical Disease, Injury, Pregnancy or Mental Disorder, you are unable to perform with reasonable continuity the Material Duties of Any Occupation.

Any Occupation means any occupation or employment which you are able to perform, whether due to education, training, or experience, which is available at one or more locations in the national economy and in which you can be expected to earn at least 60% of your Indexed Predisability Earnings within twelve months following your return to work, regardless of whether you are working in that or any other occupation.

Material Duties means the essential tasks, functions and operations, and the skills, abilities, knowledge, training and experience, generally required by employers from those engaged in a particular occupation that cannot be reasonably modified or omitted. In no event will we consider working an average of more than 40 hours per week to be a Material Duty.

Your Own Occupation Period and Any Occupation Period are shown in the Coverage Features.

RETURN TO WORK PROVISIONS

A. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period no LTD Benefits will be paid for any period when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

B. Return To Work Incentive

You may serve your Benefit Waiting Period while working if you meet the Own Occupation Definition Of Disability.

You are eligible for the Return To Work Incentive on the first day you work after the Benefit Waiting Period if LTD Benefits are payable on that date. The Return To Work Incentive changes 12 months after that date, as follows:

1. During the first 12 months, your Work Earnings will be Deductible Income as determined in a., b. and c:
   a. Determine the amount of your LTD Benefit as if there were no Deductible Income, and add your Work Earnings to that amount.
   b. Determine 100% of your Indexed Predisability Earnings.
   c. If a. is greater than b., the difference will be Deductible Income.

2. After those first 12 months, 50% of your Work Earnings will be Deductible Income.
C. Work Earnings Definition

Work Earnings means your gross monthly earnings from work you perform while Disabled, plus the earnings you could receive if you worked as much as you are able to, considering your Disability, in work that is reasonably available:

a. In your Own Occupation during the Own Occupation Period; and

b. In Any Occupation during the Any Occupation Period.

Work Earnings includes earnings from your Employer, any other employer, or self-employment, and any sick pay, vacation pay, annual or personal leave pay or other salary continuation earned or accrued while working.

Earnings from work you perform will be included in Work Earnings when you have the right to receive them. If you are paid in a lump sum or on a basis other than monthly, we will prorate your Work Earnings over the period of time to which they apply. If no period of time is stated, we will use a reasonable one.

In determining your Work Earnings we:

1. Will use the financial accounting method you use for income tax purposes, if you use that method on a consistent basis.

2. Will not be limited to the taxable income you report to the Internal Revenue Service.

3. May ignore expenses under section 179 of the IRC as a deduction from your gross earnings.

4. May ignore depreciation as a deduction from your gross earnings.

5. May adjust the financial information you give us in order to clearly reflect your Work Earnings.

If we determine that your earnings vary substantially from month to month, we may determine your Work Earnings by averaging your earnings over the most recent three-month period. During the Own Occupation Period you will no longer be Disabled when your average Work Earnings over the last three months exceed 80% of your Indexed Predisability Earnings. During the Any Occupation Period you will no longer be Disabled when your average Work Earnings over the last three months exceed 60% of your Indexed Predisability Earnings.

REASONABLE ACCOMMODATION EXPENSE BENEFIT

If you return to work in any occupation for any employer, not including self-employment, as a result of a reasonable accommodation made by such employer, we will pay that employer a Reasonable Accommodation Expense Benefit of up to $25,000, but not to exceed the expenses incurred.

The Reasonable Accommodation Expense Benefit is payable only if the reasonable accommodation is approved by us in writing prior to its implementation.

REHABILITATION PLAN PROVISION

While you are Disabled you may qualify to participate in a Rehabilitation Plan. Rehabilitation Plan means a written plan, program or course of vocational training or education that is intended to prepare you to return to work.

To participate in a Rehabilitation Plan you must apply on our forms or in a letter to us. The terms, conditions and objectives of the plan must be accepted by you and approved by us in advance. We have the sole discretion to approve your Rehabilitation Plan.
While you are participating in an approved Rehabilitation Plan, your LTD Benefit will be increased by 10% of your Predisability Earnings. Your LTD Benefit may not exceed the Maximum LTD Benefit shown in the **Coverage Features** as a result of this increase.

An approved Rehabilitation Plan may include our payment of some or all of the expenses you incur in connection with the plan, including:

a. Training and education expenses.
b. Family care expenses.
c. Job-related expenses.
d. Job search expenses.

**TEMPORARY RECOVERY**

You may temporarily recover from your Disability and then become Disabled again from the same cause or causes without having to serve a new Benefit Waiting Period. Temporary Recovery means you cease to be Disabled for no longer than the applicable Allowable Period. See **Definition Of Disability**.

A. Allowable Periods

1. During the Benefit Waiting Period: a total of 90 days of recovery.
2. During the Maximum Benefit Period: 180 days for each period of recovery.

B. Effect Of Temporary Recovery

If your Temporary Recovery does not exceed the Allowable Periods, the following will apply.

1. The Predisability Earnings used to determine your LTD Benefit will not change.
2. The period of Temporary Recovery will not count toward your Benefit Waiting Period, your Maximum Benefit Period or your Own Occupation Period.
3. No LTD Benefits will be payable for the period of Temporary Recovery.
4. No LTD Benefits will be payable and benefits become payable to you under any other disability insurance plan under which you become insured during your period of Temporary Recovery.
5. Except as stated above, the provisions of the Group Policy will be applied as if there had been no interruption of your Disability.

**WHEN LTD BENEFITS END**

Your LTD Benefits end automatically on the earliest of:

1. The date you are no longer Disabled.
2. The date your Maximum Benefit Period ends.
3. The date you die.
4. The date benefits become payable under any other LTD plan under which you become insured through employment during a period of Temporary Recovery.
5. The date you fail to provide proof of continued Disability and entitlement to LTD Benefits.
PREDISABILITY EARNINGS

Your Predisability Earnings will be based on your earnings in effect on your last full day of Active Work. Any subsequent change in your earnings after that last full day of Active Work will not affect your Predisability Earnings.

Predisability Earnings means your monthly rate of earnings from your Employer, including:

1. Contributions you make through a salary reduction agreement with your Employer to:
   a. An Internal Revenue Code (IRC) Section 401(k), 403(b), 408(k), 408(p), or 457 deferred compensation arrangement; or
   b. An executive nonqualified deferred compensation arrangement.

2. Amounts contributed to your fringe benefits according to a salary reduction agreement under an IRC Section 125 plan.

Predisability Earnings does not include:

1. Bonuses.
2. Commissions.
3. Overtime pay.
5. Stock options or stock bonuses.
6. Your Employer's contributions on your behalf to an deferred compensation arrangement or pension plan.
7. Any other extra compensation.

If you are paid on an annual contract basis, your monthly rate of earnings is one-twelfth (1/12th) of your annual contract salary.

If you are paid hourly, your monthly rate of earnings is based on your hourly pay rate multiplied by the number of hours you are regularly scheduled to work per month, but not more than 173 hours. If you do not have regular work hours, your monthly rate of earnings is based on the average number of hours you worked per month during the preceding 12 calendar months (or during your period of employment if less than 12 months), but not more than 173 hours.

DEDUCTIBLE INCOME

Subject to Exceptions To Deductible Income, Deductible Income means:

1. Your Work Earnings, as described in the Return To Work Provisions.

2. Any amount you receive or are eligible to receive because of your disability, including amounts for partial or total disability, whether permanent, temporary, or vocational, under any of the following:
   a. A workers' compensation law;
   b. The Jones Act;
   c. Maritime Doctrine of Maintenance, Wages, or Cure;
   d. Longshoremen's and Harbor Worker's Act; or
   e. Any similar act or law.
3. Any amount you, your spouse, or your child under age 18 receive or are eligible to receive because of your disability or retirement under:
   a. The Federal Social Security Act;
   b. The Canada Pension Plan;
   c. The Quebec Pension Plan;
   d. The Railroad Retirement Act; or
   e. Any similar plan or act.

   Full offset: Both the primary benefit (the benefit awarded to you) and dependents benefit are Deductible Income.

   Benefits your spouse or a child receives or are eligible to receive because of your disability are Deductible Income regardless of marital status, custody, or place of residence. The term "child" has the meaning given in the applicable plan or act.

4. Any amount you receive or are eligible to receive because of your disability under any state disability income benefit law or similar law.

5. Any amount you receive or are eligible to receive because of your disability under another group insurance coverage.

6. Any disability or retirement benefits you receive or are eligible to receive under your Employer's retirement plan, including a public employee retirement system, a state teacher retirement system, and a plan arranged and maintained by a union or employee association for the benefit of its members. You and your Employer's contributions will be considered as distributed simultaneously throughout your lifetime, regardless of how funds are distributed from the retirement plan.

   If any of these plans has two or more payment options, the option which comes closest to providing you a monthly income for life with no survivors benefit will be Deductible Income, even if you choose a different option.

7. Any earnings or compensation included in Predisability Earnings which you receive or are eligible to receive while LTD Benefits are payable.

8. Any amount you receive or are eligible to receive under any unemployment compensation law or similar act or law.

9. Any amount you receive or are eligible to receive from or on behalf of a third party because of your disability, whether by judgment, settlement or other method. If you notify us before filing suit or settling your claim against such third party, the amount used as Deductible Income will be reduced by a pro rata share of your costs of recovery, including reasonable attorney fees.

10. Any amount you receive by compromise, settlement, or other method as a result of a claim for any of the above, whether disputed or undisputed.

   (NO SL_NO OTHR OFFST_PUB_WITH 3RD) LT.DI.OT.1

   EXCEPTIONS TO DEDUCTIBLE INCOME

   Deductible Income does not include:

1. Any cost of living increase in any Deductible Income other than Work Earnings, if the increase becomes effective while you are Disabled and while you are eligible for the Deductible Income.

2. Reimbursement for hospital, medical, or surgical expense.

3. Reasonable attorneys fees incurred in connection with a claim for Deductible Income.
4. Benefits from any individual disability insurance policy.
5. Early retirement benefits under the Federal Social Security Act which are not actually received.
6. Group credit or mortgage disability insurance benefits.
7. Accelerated death benefits paid under a life insurance policy.
8. Benefits from the following:
   a. Profit sharing plan.
   b. Thrift or savings plan.
   c. Deferred compensation plan.
   d. Plan under IRC Section 401(k), 408(k), 408(p), or 457.
   e. Individual Retirement Account (IRA).
   f. Tax Sheltered Annuity (TSA) under IRC Section 403(b).
   g. Stock ownership plan.
   h. Keogh (HR-10) plan.

**RULES FOR DEDUCTIBLE INCOME**

A. Monthly Equivalents

Each month we will determine your LTD Benefit using the Deductible Income for the same monthly period, even if you actually receive the Deductible Income in another month.

If you are paid Deductible Income in a lump sum or by a method other than monthly, we will determine your LTD Benefit using a prorated amount. We will use the period of time to which the Deductible Income applies. If no period of time is stated, we will use a reasonable one.

B. Your Duty To Pursue Deductible Income

You must pursue Deductible Income for which you may be eligible. We may ask for written documentation of your pursuit of Deductible Income. You must provide it within 60 days after we mail you our request. Otherwise, we may reduce your LTD Benefits by the amount we estimate you would be eligible to receive upon proper pursuit of the Deductible Income.

C. Pending Deductible Income

We will not deduct pending Deductible Income until it becomes payable. You must notify us of the amount of the Deductible Income when it is approved. You must repay us for the resulting overpayment of your claim.

D. Overpayment Of Claim

We will notify you of the amount of any overpayment of your claim under any group disability insurance policy issued by us. You must immediately repay us. You will not receive any LTD Benefits until we have been repaid in full. In the meantime, any LTD Benefits paid, including the Minimum LTD Benefit, will be applied to reduce the amount of the overpayment. We may charge you interest at the legal rate for any overpayment which is not repaid within 30 days after we first mail you notice of the amount of the overpayment.
SUBROGATION

If LTD Benefits are paid or payable to you under the Group Policy as the result of any act or omission of a third party, we will be subrogated to all rights of recovery you may have in respect to such act or omission. You must execute and deliver to us such instruments and papers as may be required and do whatever else is needed to secure such rights. You must avoid doing anything that would prejudice our rights of subrogation.

If you notify us before filing suit or settling your claim against such third party, the amount to which we are subrogated will be reduced by a pro rata share of your costs of recovery, including reasonable attorney fees. If suit or action is filed, we may record a notice of payments of LTD Benefits, and such notice shall constitute a lien on any judgment recovered.

If you or your legal representative fail to bring suit or action promptly against such third party, we may institute such suit or action in our name or in your name. We are entitled to retain from any judgment recovered the amount of LTD Benefits paid or to be paid to you or on your behalf, together with our costs of recovery, including attorney fees. The remainder of such recovery, if any, shall be paid to you or as the court may direct.

SURVIVORS BENEFIT

If you die while LTD Benefits are payable, and on the date you die you have been continuously Disabled for at least 180 days, we will pay a Survivors Benefit according to 1 through 3 below.

1. The Survivors Benefit is a lump sum equal to 3 times your LTD Benefit without reduction by Deductible Income.
2. The Survivors Benefit will first be applied to reduce any overpayment of your claim.
3. The Survivors Benefit will be paid at our option to any one or more of the following:
   a. Your surviving spouse;
   b. Your surviving unmarried children, including adopted children, under age 25;
   c. Your surviving spouse's unmarried children, including adopted children, under age 25; or
   d. Any person providing the care and support of any person listed in a., b., or c. above.
   e. Your estate, if you are not survived by any person listed in a., b., or c. above.

BENEFITS AFTER INSURANCE ENDS OR IS CHANGED

During each period of continuous Disability, we will pay LTD Benefits according to the terms of the Group Policy in effect on the date you become Disabled. Your right to receive LTD Benefits will not be affected by:

1. Any amendment to the Group Policy that is effective after you become Disabled.
2. Termination of the Group Policy after you become Disabled.

EFFECT OF NEW DISABILITY

If a period of Disability is extended by a new cause while LTD Benefits are payable, LTD Benefits will continue while you remain Disabled. However, 1 and 2 apply:

1. LTD Benefits will not continue beyond the end of the original Maximum Benefit Period.
2. The **Disabilities Excluded From Coverage, Disabilities Subject To Limited Pay Periods, and Limitations** sections will apply to the new cause of Disability.

**DISABILITIES EXCLUDED FROM COVERAGE**

A. War

You are not covered for a Disability caused or contributed to by War or any act of War. War means declared or undeclared war, whether civil or international, and any substantial armed conflict between organized forces of a military nature.

B. Intentionally Self-Inflicted Injury

You are not covered for a Disability caused or contributed to by an intentionally self-inflicted Injury, while sane or insane.

C. Preexisting Condition

1. Definition

   Preexisting Condition means a mental or physical condition:
   
   a. For which you have done any of the following:
   
      i. Consulted a physician or other licensed medical professional;
      
      ii. Received medical treatment, services or advice;
      
      iii. Undergone diagnostic procedures, including self-administered procedures;
      
      iv. Taken prescribed drugs or medications;
   
   b. Which, as a result of any medical examination, was discovered or suspected;
   
   at any time during the 90-day period just before the date your insurance becomes effective.

2. Exclusion

   You are not covered for a Disability caused or contributed to by a Preexisting Condition or medical or surgical treatment of a Preexisting Condition unless, on the date you become Disabled, you have been continuously insured under the Group Policy for 12 months.

D. Loss Of License Or Certification

   You are not covered for a Disability caused or contributed to by the loss of your professional license, occupational license or certification.

E. Violent Or Criminal Conduct

   You are not covered for a Disability caused or contributed to by your committing or attempting to commit an assault or felony, or actively participating in a violent disorder or riot. Actively participating does not include being at the scene of a violent disorder or riot while performing your official duties.

**DISABILITIES SUBJECT TO LIMITED PAY PERIODS**

A. Mental Disorders and Substance Abuse
Payment of LTD Benefits is limited to 24 months during your entire lifetime for a Disability caused or contributed to by any one or more of the following, or medical or surgical treatment of one or more of the following:

1. Mental Disorders; or
2. Substance Abuse.

However, if you are confined in a Hospital solely because of a Mental Disorder at the end of the 24 months, this limitation will not apply while you are continuously confined.

Mental Disorder means any mental, emotional, behavioral, psychological, personality, cognitive, mood or stress-related abnormality, disorder, disturbance, dysfunction or syndrome, regardless of cause (including any biological or biochemical disorder or imbalance of the brain) or the presence of physical symptoms. Mental Disorder includes, but is not limited to, bipolar affective disorder, organic brain syndrome, schizophrenia, psychotic illness, manic depressive illness, depression and depressive disorders, anxiety and anxiety disorders.

Substance Abuse means use of alcohol, alcoholism, use of any drug, including hallucinogens, or drug addiction.

Hospital means a legally operated hospital providing full-time medical care and treatment under the direction of a full-time staff of licensed physicians. Rest homes, nursing homes, convalescent homes, homes for the aged, and facilities primarily affording custodial, educational, or rehabilitative care are not Hospitals.

B. Rules For Disabilities Subject To Limited Pay Periods

1. If you are Disabled as a result of a Mental Disorder or any Physical Disease or Injury for which payment of LTD Benefits is subject to a limited pay period, and at the same time are Disabled as a result of a Physical Disease, Injury, or Pregnancy that is not subject to such limitation, LTD Benefits will be payable first for conditions that are subject to the limitation.

2. No LTD Benefits will be payable after the end of the limited pay period, unless on that date you continue to be Disabled as a result of a Physical Disease, Injury, or Pregnancy for which payment of LTD Benefits is not limited.

C. Care Of A Physician

You must be under the ongoing care of a Physician in the appropriate specialty as determined by us during the Benefit Waiting Period. No LTD Benefits will be paid for any period of Disability when you are not under the ongoing care of a Physician in the appropriate specialty as determined by us.

B. Return To Work Responsibility

During the Own Occupation Period no LTD Benefits will be paid for any period of Disability when you are able to work in your Own Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but you elect not to work.

During the Any Occupation Period, no LTD Benefits will be paid for any period of Disability when you are able to work in Any Occupation and able to earn at least 20% of your Indexed Predisability Earnings, but elect not to work.

C. Rehabilitation Program

No LTD Benefits will be paid for any period of Disability when you are not participating in good faith in a plan, program or course of medical treatment or vocational training or education approved by us unless your Disability prevents you from participating.
D. Foreign Residency

Payment of LTD Benefits is limited to 12 months for each period of continuous Disability while you reside outside of the United States or Canada.

E. Imprisonment

No LTD Benefits will be paid for any period of Disability when you are confined for any reason in a penal or correctional institution.

CLAIMS

A. Filing A Claim

Claims should be filed on our forms. If we do not provide our forms within 15 days after they are requested, you may submit your claim in a letter to us. The letter should include the date disability began, and the cause and nature of the disability.

B. Time Limits On Filing Proof Of Loss

You must give us Proof Of Loss within 90 days after the end of the Benefit Waiting Period. If you cannot do so, you must give it to us as soon as reasonably possible, but not later than one year after that 90-day period. If Proof Of Loss is filed outside these time limits, your claim will be denied. These limits will not apply while you lack legal capacity.

C. Proof Of Loss

Proof Of Loss means written proof that you are Disabled and entitled to LTD Benefits. Proof Of Loss must be provided at your expense.

For claims of Disability due to conditions other than Mental Disorders, we may require proof of physical impairment that results from anatomical or physiological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

D. Documentation

Completed claims statements, a signed authorization for us to obtain information, and any other items we may reasonably require in support of a claim must be submitted at your expense. If the required documentation is not provided within 45 days after we mail our request, your claim may be denied.

E. Investigation Of Claim

We may investigate your claim at any time. At our expense, we may have you examined at reasonable intervals by specialists of our choice. We may deny or suspend LTD Benefits if you fail to attend an examination or cooperate with the examiner.

F. Time Of Payment

We will pay LTD Benefits within 60 days after you satisfy Proof Of Loss.

LTD Benefits will be paid to you at the end of each month you qualify for them. LTD Benefits remaining unpaid at your death will be paid to the person(s) receiving the Survivors Benefit. If no Survivors Benefit is paid, the unpaid LTD Benefits will be paid to your estate.

G. Notice Of Decision On Claim

We will evaluate your claim promptly after you file it. Within 45 days after we receive your claim we will send you: (a) a written decision on your claim; or (b) a notice that we are extending the period to decide your claim for 30 days. Before the end of this extension period we will send you:
(a) a written decision on your claim; or (b) a notice that we are extending the period to decide your claim for an additional 30 days. If an extension is due to your failure to provide information necessary to decide the claim, the extended time period for deciding your claim will not begin until you provide the information or otherwise respond.

If we extend the period to decide your claim, we will notify you of the following: (a) the reasons for the extension; (b) when we expect to decide your claim; (c) an explanation of the standards on which entitlement to benefits is based; (d) the unresolved issues preventing a decision; and (e) any additional information we need to resolve those issues.

If we request additional information, you will have 45 days to provide the information. If you do not provide the requested information within 45 days, we may decide your claim based on the information we have received.

If we deny any part of your claim, you will receive a written notice of denial containing:

a. The reasons for our decision.
b. Reference to the parts of the Group Policy on which our decision is based.
c. A description of any additional information needed to support your claim.
d. Information concerning your right to a review of our decision.

H. Review Procedure

If all or part of a claim is denied, you may request a review. You must request a review in writing within 180 days after receiving notice of the denial.

You may send us written comments or other items to support your claim. You may review and receive copies of any non-privileged information that is relevant to your request for review. There will be no charge for such copies. You may request the names of medical or vocational experts who provided advice to us about your claim.

The person conducting the review will be someone other than the person who denied the claim and will not be subordinate to that person. The person conducting the review will not give deference to the initial denial decision. If the denial was based on a medical judgment, the person conducting the review will consult with a qualified health care professional. This health care professional will be someone other than the person who made the original medical judgment and will not be subordinate to that person. Our review will include any written comments or other items you submit to support your claim.

We will review your claim promptly after we receive your request. Within 45 days after we receive your request for review we will send you: (a) a written decision on review; or (b) a notice that we are extending the review period for 45 days. If the extension is due to your failure to provide information necessary to decide the claim on review, the extended time period for review of your claim will not begin until you provide the information or otherwise respond.

If we extend the review period, we will notify you of the following: (a) the reasons for the extension; (b) when we expect to decide your claim on review; and (c) any additional information we need to decide your claim.

If we request additional information, you will have 45 days to provide the information. If you do not provide the requested information within 45 days, we may conclude our review of your claim based on the information we have received.

If we deny any part of your claim on review, you will receive a written notice of denial containing:

a. The reasons for our decision.
b. Reference to the parts of the Group Policy on which our decision is based.
c. Information concerning your right to receive, free of charge, copies of non-privileged documents and records relevant to your claim.
I. Assignment

The rights and benefits under the Group Policy are not assignable.

TIME LIMITS ON LEGAL ACTIONS

No action at law or in equity may be brought until 60 days after you have given us Proof Of Loss. No such action may be brought more than three years after the earlier of:

1. The date we receive Proof Of Loss; and
2. The time within which Proof Of Loss is required to be given.

INCONTESTABILITY PROVISIONS

A. Incontestability Of Insurance

Any statement made to obtain insurance or to increase insurance is a representation and not a warranty.

No misrepresentation will be used to reduce or deny a claim or contest the validity of insurance unless:

1. The insurance would not have been approved if we had known the truth; and
2. We have given you or any other person claiming benefits a copy of the signed written instrument which contains the misrepresentation.

After insurance has been in effect for two years during the lifetime of the insured, we will not use a misrepresentation to reduce or deny the claim, unless it was a fraudulent misrepresentation.

B. Incontestability Of The Group Policy

Any statement made by the Policyholder or Employer to obtain the Group Policy is a representation and not a warranty.

No misrepresentation by the Policyholder or your Employer will be used to deny a claim or to deny the validity of the Group Policy unless:

1. The Group Policy would not have been issued if we had known the truth; and
2. We have given the Policyholder or Employer a copy of a written instrument signed by the Policyholder or Employer which contains the misrepresentation.

The validity of the Group Policy will not be contested after it has been in force for two years, except for nonpayment of premiums or fraudulent misrepresentations.

CLERICAL ERROR, AGENCY, AND MISSTATEMENT

A. Clerical Error

Clerical error by the Policyholder, your Employer, or their respective employees or representatives will not:

1. Cause a person to become insured.
2. Invalidate insurance under the Group Policy otherwise validly in force.
3. Continue insurance under the Group Policy otherwise validly terminated.
B. Agency

The Policyholder and your Employer act on their own behalf as your agent, and not as our agent. The Policyholder and your Employer have no authority to alter, expand or extend our liability or to waive, modify or compromise any defense or right we may have under the Group Policy.

C. Misstatement Of Age

If a person's age has been misstated, we will make an equitable adjustment of premiums, benefits, or both. The adjustment will be based on:

1. The amount of insurance based on the correct age; and
2. The difference between the premiums paid and the premiums which would have been paid if the age had been correctly stated.

**TERMINATION OR AMENDMENT OF THE GROUP POLICY**

The Group Policy may be terminated by us or the Policyholder according to its terms. It will terminate automatically for nonpayment of premium. The Policyholder may terminate the Group Policy in whole, and may terminate insurance for any class or group of Members, in any time by giving us written notice.

Benefits under the Group Policy are limited to its terms, including any valid amendment. No change or amendment will be valid unless it is approved in writing by one of our executive officers and given to the Policyholder for attachment to the Group Policy. If the terms of the certificate differ from the Group Policy, the terms stated in the Group Policy will govern. The Policyholder, your Employer, and their respective employees or representatives have no right or authority to change or amend the Group Policy or to waive any of its terms or provisions without our signed written approval.

We may change the Group Policy in whole or in part when any change or clarification in law or governmental regulation affects our obligations under the Group Policy, or with the Policyholder's consent.

Any such change or amendment of the Group Policy may apply to current or future Members or to any separate classes or groups of Members.

**DEFINITIONS**

Benefit Waiting Period means the period you must be continuously Disabled before LTD Benefits become payable. No LTD Benefits are payable for the Benefit Waiting Period. See Coverage Features.

Contributory means insurance is elective and Members pay all or part of the premium for insurance.

CPI-W means the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor. If the CPI-W is discontinued or changed, we may use a comparable index. Where required, we will obtain prior state approval of the new index.

Employer means an employer (including approved affiliates and subsidiaries) for which coverage under the Group Policy is approved in writing by us.

Group Policy means the group LTD insurance policy issued by us to the Policyholder and identified by the Group Policy Number.

Indexed Predisability Earnings means your Predisability Earnings adjusted by the rate of increase in the CPI-W. During your first year of Disability, your Indexed Predisability Earnings are the same as your Predisability Earnings. Thereafter, your Indexed Predisability Earnings are determined on each anniversary of your Disability by increasing the previous year’s Indexed Predisability Earnings by the
rate of increase in the CPI-W for the prior calendar year. The maximum adjustment in any year is 10%. Your Indexed Predisability Earnings will not decrease, even if the CPI-W decreases.

Injury means an injury to the body.

LTD Benefit means the monthly benefit payable to you under the terms of the Group Policy.

Maximum Benefit Period means the longest period for which LTD Benefits are payable for any one period of continuous Disability, whether from one or more causes. It begins at the end of the Benefit Waiting Period. No LTD Benefits are payable after the end of the Maximum Benefit Period, even if you are still Disabled. See Coverage Features.

Noncontributory means (a) insurance is nonelective and the Policyholder or Employer pay the entire premium for insurance; or (b) the Policyholder or Employer require all eligible Members to have insurance and to pay all or part of the premium for insurance.

Physical Disease means a physical disease entity or process that produces structural or functional changes in the body as diagnosed by a Physician.

Physician means a licensed M.D. or D.O., acting within the scope of the license. Physician does not include you or your spouse, or the brother, sister, parent, or child of either you or your spouse.

Pregnancy means your pregnancy, childbirth, or related medical conditions, including complications of pregnancy.

Prior Plan means your Employer's group long term disability insurance plan in effect on the day before the effective date of your Employer's participation under the Group Policy and which is replaced by coverage under the Group Policy.

POLICYHOLDER PROVISIONS

A. Premiums

The premium due on each Premium Due Date is the sum of the premiums for all persons then insured. Premium Rates are shown in Coverage Features.

B. Contributions From Members

The Policyholder determines the amount, if any, of each Member's contribution toward the cost of insurance.

C. Changes In Premium Rates

We may change Premium Rates whenever:

1. A change or clarification in law or governmental regulation affects the amount payable under the Group Policy. Any such change in Premium Rates will reflect only the change in our obligations.

2. Factors material to underwriting the risk we assumed under the Group Policy with respect to an Employer, including, but not limited to, number of persons insured, age, Predisability Earnings, gender, and occupational classification, changes by 25% or more.

3. The premium contribution arrangement for Members is changed or varies from that stated in the Group Policy when issued or last renewed.

4. We and the Policyholder or the Employer mutually agree to change Premium Rates.

Except as provided above, Premium Rates will not be changed during the Initial Rate Guarantee Period shown in Coverage Features. Thereafter, except as provided above, we may change Premium Rates upon 180 days advance written notice to the Policyholder. Any such change in Premium Rates may be made effective on any Premium Due Date, but no such change will be
made more than once in any contract year. Contract years are successive 12 month periods computed from the end of the Initial Rate Guarantee Period.

D. Payment Of Premiums

All premiums are due on the Premium Due Dates shown in Coverage Features.

Each premium is payable on or before its Premium Due Date directly to us at our home office. The payment of each premium by the Policyholder as it becomes due will maintain the Group Policy in force until the next Premium Due Date.

E. Grace Period And Termination For Nonpayment

If a premium is not paid on or before its Premium Due Date, it may be paid during the following Grace Period of 90 days. The Group Policy or an Employer's coverage under the Group Policy will remain in force during the Grace Period.

If the premium is not paid during the Grace Period, the Group Policy will terminate automatically at the end of the Grace Period.

The Policyholder is liable for premium for coverage during the Grace Period. We may charge interest at the legal rate for any premium which is not paid during the Grace Period, beginning with the first day after the Grace Period.

F. Termination For Other Reasons

The Policyholder may terminate the Group Policy by giving us written notice. The effective date of termination will be the later of:

1. The date stated in the notice; and
2. The date we receive the notice.

We may terminate the Group Policy as follows:

1. On any Premium Due Date if the number of persons insured is less than the Minimum Participation shown in Coverage Features.
2. On any Premium Due Date if we determine that the Policyholder has failed to promptly furnish any necessary information requested by us, or has failed to perform any other obligations relating to the Group Policy.

The minimum advance notice of termination by us is 60 days.

G. Premium Adjustments

Premium adjustments involving a return of unearned premiums to the Policyholder will be limited to the 12 months just before the date we receive a request for premium adjustment.

H. Certificates

We will issue certificates to the Policyholder showing the coverage under the Group Policy. The Policyholder will distribute a certificate to each insured Member. If the terms of the certificate differ from the Group Policy, the terms stated in the Group Policy will govern.

I. Records And Reports

The Policyholder will furnish on our forms all information reasonably necessary to administer the Group Policy. We have the right at all reasonable times to inspect the payroll and other records of the Policyholder which relate to insurance under the Group Policy.

J. Agency And Release

Individuals selected by the Policyholder or by any Employer to secure coverage under the Group Policy or to perform their administrative function under it, represent and act on behalf of the
person selecting them, and do not represent or act on behalf of Standard. The Policyholder, Employer and such individuals have no authority to alter, expand or extend our liability or to waive, modify or compromise any defense or right we may have under the Group Policy. The Policyholder and each Employer hereby release, hold harmless and indemnify Standard from any liability arising from or related to any negligence, error, omission, misrepresentation or dishonesty of any of them or their representatives, agents or employees.

K. Notice Of Suit

The Policyholder or Employer shall promptly give us written notice of any lawsuit or other legal proceedings arising under the Group Policy.

L. Entire Contract, Changes

The Group Policy and the applications of the Policyholder constitute the entire contract between the parties. A copy of the Policyholder's application is attached to the Group Policy when issued.

The Group Policy may be changed in whole or in part. No change in the Group Policy will be valid unless it is approved in writing by one of our executive officers and given to the Policyholder for attachment to the Group Policy. No agent has authority to change the Group Policy, or to waive any of their provisions.

M. Effect On Workers' Compensation, State Disability Insurance

The coverage provided under the Group Policy is not a substitute for coverage under a workers' compensation or state disability income benefit law and does not relieve the Employer of any obligation to provide such coverage.

N. Nonassessable Policy

This Group Policy, like all group insurance policies issued by us, is nonassessable.

TX/LTDP2000
Thank you for allowing Standard Insurance Company to provide quality products to support your employees’ insurance needs. We are pleased to renew your policy with continued coverage and services. Based upon a review of your claims experience to date, effective January 1, 2019, we are adjusting your premium rates as indicated in the chart below. These rates are guaranteed until January 1, 2020.

<table>
<thead>
<tr>
<th>Insurance Product</th>
<th>Through 12/31/18</th>
<th>Effective 01/01/19</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic Life</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active Members</td>
<td>$0.320 Per $1,000 of Benefit</td>
<td>$0.290 Per $1,000 of Benefit</td>
</tr>
<tr>
<td>Retired Members</td>
<td>$0.640 Per $1,000 of Benefit</td>
<td>$0.960 Per $1,000 of Benefit</td>
</tr>
<tr>
<td>Additional Life and Spouse Life</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-tobacco / Tobacco rate</td>
<td>Non-tobacco / Tobacco rate</td>
<td></td>
</tr>
<tr>
<td>Age &lt; 30</td>
<td>$0.05 / $0.11</td>
<td>$0.05 / $0.11</td>
</tr>
<tr>
<td>Age 30 – 34</td>
<td>$0.06 / $0.13</td>
<td>$0.06 / $0.13</td>
</tr>
<tr>
<td>Age 35 – 39</td>
<td>$0.08 / $0.17</td>
<td>$0.08 / $0.17</td>
</tr>
<tr>
<td>Age 40 – 44</td>
<td>$0.14 / $0.26</td>
<td>$0.14 / $0.26</td>
</tr>
<tr>
<td>Age 45 – 49</td>
<td>$0.21 / $0.43</td>
<td>$0.21 / $0.43</td>
</tr>
<tr>
<td>Age 50 – 54</td>
<td>$0.35 / $0.61</td>
<td>$0.35 / $0.61</td>
</tr>
<tr>
<td>Age 55 – 59</td>
<td>$0.55 / $0.89</td>
<td>$0.55 / $0.89</td>
</tr>
<tr>
<td>Age 60 – 64</td>
<td>$0.81 / $1.37</td>
<td>$0.81 / $1.37</td>
</tr>
<tr>
<td>Age 65 – 69</td>
<td>$1.30 / $2.25</td>
<td>$1.30 / $2.25</td>
</tr>
<tr>
<td>Age 70+</td>
<td>$3.74 / $5.67</td>
<td>$3.74 / $5.67</td>
</tr>
</tbody>
</table>

Note: The above rates are per $1,000 of benefit and based on the member’s/spouse’s age as of January 1st.

<table>
<thead>
<tr>
<th>Product</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Life</td>
<td>$2.00 per Member Elective</td>
</tr>
<tr>
<td>Basic AD&amp;D</td>
<td>$0.02 Per $1,000 of Benefit</td>
</tr>
<tr>
<td>Additional AD&amp;D</td>
<td>$0.02 Per $1,000 of Benefit</td>
</tr>
<tr>
<td>Spouse AD&amp;D</td>
<td>$0.02 Per $1,000 of Benefit</td>
</tr>
<tr>
<td>Long Term Disability</td>
<td>0.220 Percent of Insured Earnings</td>
</tr>
<tr>
<td>Employee Assistance Program (EAP)</td>
<td>Cost included in LTD rate</td>
</tr>
</tbody>
</table>

** This rate takes into consideration the amendment that we are currently processing.
If you have any questions about your rates or our review process, the Dallas Employee Benefits Sales and Service Office at (972) 943-1615 is available to serve your needs. We value your business and welcome the opportunity to provide continued assistance to you.

Sincerely yours,

Matthew Moran, CEBS
National Accounts Underwriter
Employee Benefits Division
Standard Insurance Company
Request for Group Insurance Amendment

Standard Insurance Company
900 SW Fifth Avenue
Portland, OR 97204-1282

Employee Benefits Consultant: Jason Guy
Employee Benefits Service Representative: Kathy Macias
Employee Benefits Sales and Service Office: Dallas

Policyholder: San Antonio Water System
Group Number: 753337

As an authorized representative of the Employer, I request that Standard Insurance Company (“The Standard”) amend the above Employer’s coverage under the Group Policy to make the following change(s):

○ Disabilities Subject to Limited Pay Periods: Add self-reported/musculoskeletal conditions, with a 24-month limit (during lifetime).
○ Require disabled employees to exhaust their sick leave prior to receiving LTD benefits.

I request that the amendment become effective on 01/01/2019. I understand that the amendment will not become effective unless approved and issued by The Standard.

I request that the amendment be approved by The Standard subject to The Standard’s usual underwriting requirements, including, if applicable, Evidence of Insurability or a Pre-existing Condition provision.

I understand that the amendment, if approved by The Standard, will be issued in the policy language customarily used by The Standard.

I understand that any increase in Insurance for a Member who is not Actively At Work all day on the Member’s last regular work day before the scheduled effective date of the amendment will be deferred until the first day after the Member completes one full day of Active Work.

I request that the amendment, if approved and issued by The Standard, become effective by its terms without any further acceptance by the Employer, and that a copy of this Request for Group Insurance Amendment form be attached to and made a part of the amendment.

Sign Name: ______________________________ Title: ______________________________
Authorized Representative

Print Name: ______________________________ Date: ___________________________
AGENDA ITEM NO. 30

TO: San Antonio Water System Board of Trustees

FROM: Sree Pulapaka, Vice President/Chief Information Officer and Douglas P. Evanson, Senior Vice President/Chief Financial Officer

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: APPROVAL OF ADDITIONAL EXPENDITURES TO THE EXISTING CONTRACTS WITH VARIOUS TEMPORARY EMPLOYMENT AGENCIES FOR INFORMATION SYSTEMS RELATED POSITIONS

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves amends Resolution No. 17-273 by approving additional expenditures to the existing contracts with various employment agencies in an amount not to exceed $250,000.00 in connection with Information Systems related positions.

- Resolution No. 13-014 approved on January 9, 2013, accepted the proposal of and authorized the execution of a new contract with various temporary employment agencies to provide employment services for Information Systems related positions from January 1, 2013 through December 31, 2016, with two successive one-year term extensions.

- Resolution 17-273 approved on December 5, 2017, authorized the execution of a second of two one-year contract extensions with various temporary employment agencies and provided funds in an amount not to exceed $2,276,320.00 for the period of January 1, 2018 through December 31, 2018.

- San Antonio Water System, on average, contracts the services of 15, and sometimes up to 20, workers through temporary employment agencies per year for Information Systems related positions.

- Temporary employment workers are requested on an as-needed basis from the most appropriate agency and based on the type of work required. Payment is made only upon actual use of the agencies.

Staff recommends that the Board approve this resolution.
Authorization of Additional Funds
For Temporary Employment Agencies

FINANCIAL IMPACT:

Funds for the services to be provided during FY 2018 will be paid from System and Project Funds budgeted in the 2018 Budget (Company: 1000, Center Number: Various, Account: Various. Total amount $250,000.00).

Each department will fund the cost of temporary employees in their cost centers as services are utilized.

SUPPLEMENTARY COMMENTS:

SAWS awarded to the following:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>22nd Century Technologies, Inc.</td>
<td>Non-Local/MBE-Asian</td>
</tr>
<tr>
<td>National Human Resource Group, Inc.</td>
<td>Non-Local/WBE-Caucasian</td>
</tr>
<tr>
<td>PsS Corporation</td>
<td>Local/WBE-Hispanic</td>
</tr>
<tr>
<td>RFD &amp; Associates, Inc.</td>
<td>Non-Local/WBE-Caucasian</td>
</tr>
<tr>
<td>Sistema Technologies, Inc.</td>
<td>Local/MBE-Hispanic</td>
</tr>
<tr>
<td>Amer Technologies</td>
<td>Local/MBE-Asian</td>
</tr>
</tbody>
</table>

APPROVED:

Sree Pallapaka
Vice President/Chief Information Officer

Douglas P. Edmonson
Senior Vice President/Chief Financial Officer

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AMENDING RESOLUTION NO. 17-273, BY APPROVING ADDITIONAL EXPENDITURES TO THE EXISTING CONTRACTS WITH VARIOUS TEMPORARY EMPLOYMENT AGENCIES FOR INFORMATION SYSTEMS RELATED POSITIONS IN AN AMOUNT NOT TO EXCEED $250,000.00 FOR TEMPORARY EMPLOYMENT SERVICES; AUTHORIZING ADDITIONAL EXPENDITURES IN AN AMOUNT NOT TO EXCEED $250,000.00 FOR EMPLOYMENT SERVICES FROM SYSTEM AND PROJECT FUNDS; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO PAY VARIOUS AGENCIES AN AMOUNT NOT TO EXCEED $250,000.00 FOR THE PERIOD OF JANUARY 1, 2018 THROUGH DECEMBER 31, 2018 FOR EMPLOYMENT SERVICES; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on December 5, 2017 by Resolution No. 17-273, the San Antonio Water System’s (the “System”) Board of Trustees authorized the execution of a second of two one-year contract extensions with various temporary employment agencies to provide temporary employment services for Information Systems related positions and provided funds in an amount not to exceed $2,276,320.00; and

WHEREAS, additional services from temporary workers are required by the Information Systems department due to an expanded portfolio of projects; and

WHEREAS, temporary employment workers are requested on an as-needed basis from the most appropriate agency and based on the type of work required. Payment is made only upon actual use of the agencies; and

WHEREAS, the San Antonio Water system Board of Trustees desires (i) to amend Resolution No. 17-273, by approving additional expenditures to the existing contracts with various temporary employment agencies for temporary worker services in an amount not to exceed $250,000.00, (ii) to authorize expenditures in an amount not to exceed $250,000.00 for employment services from the System and Project Funds, and (ii) to authorize the President/Chief Executive Officer or his duly appointed designee to pay an amount not to exceed $250,000.00 to the temporary employment agencies for Information Systems related temporary worker services from January 1, 2018 through December 31, 2018; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That Resolution No. 17-273 is hereby amended by approving additional expenditure of funds to the existing contracts with various temporary employment agencies for temporary worker services in an amount not to exceed $250,000.00.

2. That expenditures in an amount not to exceed $250,000.00 are hereby approved to be expended from the System and Project Funds.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to pay an amount not to exceed $250,000.00 to the temporary employment agencies for temporary worker services for FY 2018 for Information Systems related positions from January 1, 2018 through December 31, 2018.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary
AGENDA ITEM NO. 31

TO: San Antonio Water System Board of Trustees

FROM: Douglas P. Evanson, Senior Vice President/Chief Financial Officer

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF A CONTRACT IN CONNECTION WITH DEPOSITORY BANKING AND CUSTODY SERVICES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a contract to JPMorgan Chase Bank, N.A. in connection with providing depository banking services, and enters into a custody agreement with Bank of New York Mellon Trust Company, N.A. in connection with providing safekeeping services of investments for the San Antonio Water System (the “System”) for a two-year term with three additional one-year extensions.

• The System maintains a depository relationship which facilitates the carrying out of daily business activities.

• The services required include reporting on daily activity and account balances, account reconciliation services, processing all deposits and checks, incoming and outgoing wire transfers, electronic funds transfers, automated clearing house transfers, and safekeeping of investments.

• The System solicited a Request for Proposals for depository banking services in February 2018 and received responses from six banks.

• The Selection Committee evaluated the proposals pursuant to the criteria established in the Request for Proposals to determine the most qualified firm to provide the required scope of services, interviewing four of the respondents.

• Based on the review of the proposals, interviews, and demonstration of each firm’s online banking system, the Selection Committee recommends that JPMorgan Chase Bank, N.A. be awarded a contract to provide depository banking services to the System.

• The proposal from JPMorgan Chase Bank, N.A. includes The Bank of New York Mellon Trust Company, N.A. acting as custodian for System investments. A Custody Agreement will also be executed with The Bank of New York Mellon Trust Company, N.A. in addition to the Depository Bank Services Agreement with JPMorgan Chase Bank, N.A.

• The resolution also provides that the Senior Vice President/Chief Financial Officer and
Treasurer are delegated by the Board of Trustees as authorized System representatives to act on behalf of System in matters relating to the terms of the Depository Bank Services Agreement, Custody Agreement and any ancillary documentation and programmatic modifications related thereto, and that Resolution 17-271, approved December 5, 2017, and any amendments related thereto, provide for the authorized representatives who have signature authority for the withdrawal and disbursement of funds.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

Earnings credit received on System deposits at the bank will be used to offset banking fees to the extent that earnings credit is favorable to other investment yields. Should investments other than earnings credit produce higher yields, banks fees will be paid from the System Fund, and any futures year fees will be incorporated into the operating budget.

**SUPPLEMENTAL INFORMATION:**

Six firms responded to the Request for Proposal. JPMorgan Chase Bank, N.A. was determined to be the most qualified firm to provide the required services.

The submitting firms are as follows:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>BBVA Compass</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>Bank of America, N.A.</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>Cadence Bank, N.A.</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>Frost Bank</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td><strong>JPMorgan Chase Bank, N.A.</strong>*</td>
<td><strong>Local/Non-SMWVB</strong></td>
</tr>
<tr>
<td>Wells Fargo Bank, N.A.</td>
<td>Local/Non-SMWVB</td>
</tr>
</tbody>
</table>

*Selected Firm

There was no SMWVB requirement for this selection.

Douglas P. Evanson  
Senior Vice President/Chief Financial Officer
Award of Contract
Depository Banking Services

APPROVED:

[Signature]

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDS A CONTRACT TO JPMORGAN CHASE BANK, N.A. IN CONNECTION WITH PROVIDING DEPOSITORY BANKING SERVICES TO THE SAN ANTONIO WATER SYSTEM AND ENTERING INTO A CUSTODY AGREEMENT WITH BANK OF NEW YORK MELLON TRUST COMPANY, N.A. TO SERVE AS CUSTODIAN FOR INVESTMENTS OF THE SAN ANTONIO WATER SYSTEM, BOTH FOR A TWO-YEAR TERM WITH THREE OPTIONAL ONE-YEAR EXTENSIONS; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE IN SUBSTANTIALLY THE FORM ATTACHED A CONTRACT WITH JPMORGAN CHASE BANK, N.A. TO PROVIDE DEPOSITORY BANKING SERVICES AND EXECUTE IN SUBSTANTIALLY THE FORM ATTACHED A CUSTODY AGREEMENT WITH BANK OF NEW YORK MELLON TRUST COMPANY, N.A. TO SERVE AS CUSTODIAN FOR INVESTMENTS OF THE SAN ANTONIO WATER SYSTEM; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the San Antonio Water System ("System") maintains a depository relationship which facilitates the carrying out of daily business activities; and

WHEREAS, the services required include reporting on daily activity and account balances, account reconciliation services, processing all deposits and checks, incoming and outgoing wire transfers, electronic funds transfers, automated clearing house transfers, and safekeeping of investments; and

WHEREAS, System solicited a Request for Proposals for depository banking services in February 2018 and received responses from six banks; and

WHEREAS, the Selection Committee evaluated the proposals pursuant to the criteria established in the Request for Proposals and recommends JPMorgan Chase Bank, N.A. be awarded a contract to provide depository banking services; and

WHEREAS, the proposal from JPMorgan Chase Bank, N.A. includes The Bank of New York Mellon Trust Company, N.A. acting as custodian for System investments; and
WHEREAS, a Custody Agreement will also be executed with The Bank of New York in addition to the Depository Bank Services Agreement with JPMorgan Chase Bank, N.A.; and

WHEREAS, the Senior Vice President/Chief Financial Officer and Treasurer are delegated by the Board of Trustees as authorized System representatives to act on behalf of System in matters relating to the terms of the Depository Bank Services Agreement, Custody Agreement and any ancillary documentation and programmatic modifications related thereto, and that Resolution 17-271, approved December 5, 2017, and any amendments related thereto, provide for the authorized representatives who have signature authority for the withdrawal and disbursement of funds; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a contract to JPMorgan Chase Bank, N.A. in connection with providing depository banking services for a two-year term with three optional one-year extensions; and (ii) enter into a custody agreement with Bank of New York Mellon Trust Company, N.A. for a two-year term with three optional one-year extensions; (iii) the Senior Vice President/Chief Financial Officer and Treasurer are authorized representatives of the System in matters relating to the terms of the Depository Bank Services Agreement, Custody Agreement; and any ancillary documentation and programmatic modifications related thereto, and (iv) to authorize the President/Chief Executive Officer or his duly appointed designee to execute in substantially the form attached a contract with JPMorgan Chase Bank, N.A. and custody agreement with Bank of New York Mellon Trust Company, N.A.; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a contract with JPMorgan Chase Bank, N.A. in connection with providing depository banking services for a two-year term with three optional one-year extensions is hereby authorized.

2. That a custody agreement with Bank of New York Mellon Trust Company, N.A. in connection with providing custodian services for System investments for a two-year term with three optional one-year extensions is hereby authorized.

3. That the Senior Vice President/Chief Financial Officer and Treasurer are authorized representatives of the System relating to matters regarding the Depository Bank Services Agreement, Custody Agreement and any ancillary documentation and programmatic modifications related thereto.

4. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute in substantially the form attached a contract with JPMorgan Chase Bank, N.A. in connection with providing depository banking services and a custody agreement with Bank of New York Mellon Trust Company, N.A. in connection with providing custodian services to the System.
5. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

6. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

7. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

Berto Guerra, Jr., Chairman

ATTEST:

Patricia Merritt, Assistant Secretary

Attachment I – Depository Bank Services Agreement
Attachment II – Custody Agreement
DEPOSITORY BANK SERVICES AGREEMENT

THIS DEPOSITORY BANK SERVICES AGREEMENT, entered into as of September 11, 2018 (this Agreement) by and between the City of San Antonio, Texas (the City), acting by and through the San Antonio Water System (SAWS), and JPMorgan Chase Bank, N.A., Austin, Texas (the Bank, and together with SAWS, the Parties), a national banking association duly organized and existing under the laws of the United States of America and authorized to transact business in the State of Texas (the State), provides the following:

1. Designation of Depository. SAWS, through action of its Board of Trustees (the Board) hereby designates the Bank as a primary depository bank through this Agreement, dated September 11, 2018 (the Dated Date), but effective as of the Implementation Completion Date (as defined below), who shall serve in such role for the period beginning on the Implementation Completion Date and continuing until the second (2nd) anniversary of the Implementation Completion Date, with the option for three (3) one-year extensions under the same terms and conditions. The Bank agrees to renew, modify, or extend this Agreement upon a mutual, agreed upon written extension executed by both Parties. The "Implementation Completion Date" shall mean the date certified, pursuant to written documentation thereof, as the date the services (as described in the hereafter-defined RFP) are completely implemented by the Bank, as determined by the Bank in its reasonable discretion.

2. General. All services rendered to SAWS by the Bank under this Agreement shall be performed in accordance with the "ordinary care" standard of care imposed upon banks under the Uniform Commercial Code and under the overall direction and instructions of SAWS pursuant to the Bank's standard operations, policies, and procedures.

3. Scope of Services. The Bank agrees to provide those services described in the "San Antonio Water System Request for Proposals for Depository Bank Services RFP No. 18-18002" released February 1, 2018 (hereafter referred to as the RFP), attached hereto as Exhibit A. The Bank’s response to the RFP (hereinafter referred to as the Bank’s Proposal) is attached hereto as Exhibit B.

The Bank hereby acknowledges that all services performed by the Bank are subject to the approval of SAWS in its sole discretion.

4. SAWS Representatives. During the term of this Agreement, SAWS will, through appropriate Board action, designate the officer(s) individually or jointly authorized to represent and act on behalf of SAWS in any and all matters of every kind arising under the terms of this Agreement, and to (a) appoint and designate, from time to time, person(s) who may request withdrawals, orders for payment, or transfers on behalf of SAWS in accordance with the electronic funds or funds transfer agreement, and any addenda related thereto, and (b) make withdrawals or transfers by written instrument. Initially, such individuals are set forth in the Resolution of Authorizing Signatories for Withdrawals, as amended by the Board from time to time. In addition, the Board hereby appoints authorized representatives, who may do anything necessary or advisable and to otherwise engage in any action to effectuate the purposes of this Agreement. Initially, such authorized representatives will include both the Senior Vice President/Chief Financial Officer and Treasurer of SAWS, effective as of the Dated Date of this
Agreement and continuing until appropriate Board action designating otherwise. Pursuant to the notice provisions of Section 34 hereof, SAWS will provide the Bank with appropriate documentation evidencing any modification of the authorized representatives identified above, to which the Bank may fully rely.

5. **Custodian.** SAWS and the Bank, by execution of this Agreement, hereby designate The Federal Reserve Bank, as custodian (the *Custodian*), to hold in trust, according to the terms and conditions of this Agreement, the collateral described and pledged by the Bank in accordance with the provisions of this Agreement. Custodian documentation is attached hereto as Exhibit D.

6. **Custodian Fees.** Any and all fees associated with the Custodian’s holding of collateral for the benefit of SAWS will be paid by the Bank and SAWS will have no liability related thereto.

7. **Banking Agreements.** The Bank’s Proposal, the Bank’s Account Terms and Service Terms, and any agreement(s) required by the Custodian (together, the *Banking Agreements*) are each listed in governing order of precedence below. In the event of conflict among the Banking Agreements, this Agreement supersedes any and all prior representations, statements, and agreements, whether written or oral. Any conflicts among the Banking Agreements are determined in the following order of precedence:

   i. this Agreement
   ii. RFP
   iii. Bank’s Proposal (including the Bank’s Account Terms and Service Terms)
   iv. Pledge and Security Agreement to Collateralize Public Fund Deposits

8. **City Ordinance No. 75686.** All of the designated funds of SAWS are to be held by the Bank as depository demand accounts and are to be adequately secured as detailed in Section 22A and Section 31 of City Ordinance No. 75686 adopted on April 30, 1992 (the *Ordinance*), and this Agreement will not in any way interfere with or impair the power and authority of SAWS to exercise its full discretion with reference to withdrawal, handling, and investments of SAWS funds. A copy of the Ordinance is attached hereto as Exhibit E. To the extent any provision of this Agreement (including the Exhibits attached here) are in conflict with the requirements of the Ordinance, the Ordinance shall prevail over all documentation, including the Banking Agreements.

9. **Collateralization.** All funds on deposit with the Bank to the credit of SAWS shall be secured by collateral as provided for in the Texas Public Funds Investment Act (Chapter 2256, Texas Government Code, as amended), the Texas Public Funds Collateral Act (Chapter 2257, Texas Government Code, as amended), SAWS Investment Policy, and the Bank’s Proposal. Upon each amendment to SAWS Investment Policy, SAWS will send notice of such modifications and an updated copy of SAWS Investment Policy pursuant to the provisions of Section 34 hereof. If a conflict arises between the Bank’s Proposal and an amended version of SAWS Investment Policy with respect to collateralizing SAWS’ deposits (and such conflict did not arise due to a change in law), the Bank and SAWS will discuss such requirements to mutually agree to such collateral requirements.
If marketable securities are pledged, the total market value of the securities securing such deposits will be in an amount at least equal to the minimum required amount as set forth in the Pledge and Security Agreement to Collateralize Public Fund Deposits, as set forth in Exhibit D and SAWS Investment Policy, as set forth in Exhibit F. The market value of any pledged securities (collateral) will be obtained from non-Bank affiliated sources. The Bank will monitor and maintain the required collateral margins and levels at all times and initiate remedied or corrective action when, and if necessary, as a result of collateral margins falling below requisite threshold levels. SAWS will inform the Bank of changes in the amount or activity of deposits that may exceed SAWS' current collateral value, within a reasonable time before such change occurs.

The Bank heretofore delivered, or will promptly hereafter deliver, to the Custodian collateral of the kind and character mentioned above in a sufficient amount and market value to provide adequate collateral for the funds of SAWS deposited with the Bank. The Bank shall cause the Custodian to accept said collateral and hold the same in trust for the purposes herein stated. The Bank shall cause said collateral or substitute collateral as hereinafter provided for, to be kept and retained by the Custodian in trust so long as deposits of SAWS remain with the Bank. The Bank hereby grants a security interest in such collateral to SAWS.

If at any time the collateral in the hands of the Custodian shall have a market value in excess of the required balances, SAWS may authorize the withdrawal of a specified amount of collateral, and the Custodian shall deliver said amount of collateral (and no more) to the Bank. If a surety bond or letters of credit are utilized, SAWS shall agree upon the issuer and the form of contract prior to the pledge. The amount of surety bonds or letters of credit will be at least equal to the minimum required amount, per SAWS Investment Policy. The termination or expiration of any surety bond or letter of credit shall be a minimum of two (2) business days after SAWS anticipates withdrawing the secured deposit.

10. Representations. The Bank represents that:

a. the Bank is the sole legal and actual owner of the securities or of a beneficial interest in the securities utilized to collateralize deposits;

b. other than the security interest granted to SAWS herein, no other security interest has been, nor will be, granted in the securities utilized to collateralize deposits;

c. the Bank accounts are insured to the regulatory limits by the Federal Deposit Insurance Corporation (FDIC);

d. this Agreement has been approved by the Bank's Board of Directors, or designated loan committee, and such approval is evidenced by a resolution of the Bank's Board of Directors, or designated loan committee, adopted at the meeting at which this Agreement was approved, and further, such approval is reflected in the minutes of such meeting of the Bank’s Board of Directors or designated loan committee as evidenced by such approval set forth in Exhibit G (which also includes the Bank’s FIRREA Compliant
Resolution) and provides authorization to the individuals permitted to contractually bind the Bank through execution of the Agreement;

e. this Agreement is an official record of the Bank, and has been, and will continue to be, an official record of the Bank from the date of its approval by the Bank's Board of Directors;

f. the Bank is a national banking association that has a branch office in the State and is authorized to perform, and is currently conducting depository services for government entities in the State;

g. the Bank is the sole legal and actual owner of the securities utilized to collateralize deposits;

h. no other security interest has been, nor will be, granted in the securities utilized to collateralize SAWS' deposits;

i. the Bank is covered for all uncollateralized deposits through the FDIC or a similar federal insurance program;

j. the Bank has, not later than five (5) days before commencement of the term of this Agreement, provided security to SAWS for municipal funds to be deposited in accordance therewith;

k. the Bank is a member of the Federal Reserve System;

l. the Bank is a member of the FDIC or has similar federal insurance coverage;

m. J.P. Morgan Chase & Co., an affiliate of the Bank, is a direct financial institution member of the National Automated Clearing House Association;

n. the Bank has banking facilities within the City limits; and

o. the Bank agrees to provide collateral for all SAWS' deposits in accordance with the Texas Public Funds Investment Act and the Texas Collateral for Public Funds Act.

11. Indemnity. The Bank shall provide the following indemnity:

The Bank agrees to INDEMNIFY AND HOLD SAWS AND THE CITY, THEIR ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES HARMLESS against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including attorneys' fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including, but not limited to, personal injury (including death), property damage, or other harm for which recovery of damages is sought that may DIRECTLY ARISE OUT OF OR BE OCCASIONED OR CAUSED DIRECTLY BY THE BANK'S NEGLIGENT ACT OR
WILLFUL MISCONDUCT OR THE NEGLIGENT ACT OR WILLFUL MISCONDUCT OF ITS OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES while the exercise of performance of the rights or duties under this Agreement. IN THE EVENT THE BANK AND SAWS ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE WITHOUT SAWS WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO IT OR THE CITY UNDER STATE LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER STATE LAW. Notwithstanding anything to the contrary herein, (i) the Bank’s liability for indemnification hereunder shall be invoked only to the extent that the claimed damages, losses, and expenses are directly due to the negligence of the Bank and/or its subcontractors; (ii) the Bank’s indemnification obligations shall not exceed an amount in the aggregate, over the term of this Agreement, that exceeds two times the average annual revenues received by the Bank from SAWS under this Agreement; and (iii) neither Party shall be liable to the other for any indirect, incidental, consequential, exemplary, punitive, or special damages, including lost profits, regardless of the form of the action or theory of recovery, even if that Party has been advised of the possibility of those damages or the same are reasonably foreseeable.

The Bank shall advise SAWS in writing within 24 hours of receiving knowledge of any claim or demand against SAWS or the Bank, known to the Bank, relating to or arising from the Bank’s activities under this Agreement.

12. **Insurance.** Prior to commencement of the provision of the services that are the subject of this Agreement, the Bank shall provide the insurance documentation required as set forth in Exhibit H hereto. Each certificate shall be clearly labeled “SAWS Depository Bank Services” in the Description of Operations block therefor, and shall be completed by an agent and executed by a person authorized by such insurer to bind coverage on its behalf. SAWS reserves the right to review the insurance requirements of this Section during the effective period of this Agreement and any extension or renewal hereof, and to modify insurance coverages and their limits when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding the Agreement. In no instance will SAWS allow modification whereby SAWS may incur increased risk.

13. **Private and Confidential Data.** SAWS databases contain elements of data that are considered private and confidential. The accuracy and handling of some data elements can affect the safety and property of residents, officers of the law, elected and appointed officials as well as the financial assets of SAWS. It is therefore critical that SAWS protect this information to ensure its privacy and integrity. In order to accomplish this, SAWS takes extraordinary care to ensure the security of its computer related software, networks, equipment, and data. SAWS may at times refuse a service or method of implementing a service that SAWS deems a risk to the security of its data or data processing systems. In such event, the Bank must provide an acceptable alternative to provide the service, if such alternative is available in the Bank’s sole and reasonable discretion.

Data obtained from SAWS’ databases will not be given, sold, or in any way transmitted to anyone or any organization not having a direct need for and explicit written permission by SAWS to obtain such information. The Bank will be held responsible for breaches of SAWS
data or system security, and liable for damages, subject to the Bank's indemnification obligations described in Section 11 of this Agreement, that occur as a result of its negligence or the misconduct of the Bank's employees, officers, partners, and affiliates.

The Parties agree that all proprietary information shall be retained by both Parties in strict confidence, and the proprietary information shall not be sold, licensed, transferred, disclosed, published, communicated, or otherwise made available to any person or entity not a Party to this Agreement by either Party or its respective officers, directors, partners, employees, affiliates, agents, subcontractors, or representatives without the prior written approval of the other Party.

This Section shall not apply to any proprietary information which is (i) publically available without breach of this Section on the part of the receiving Party, (ii) approved for disclosure by the other Party in writing, (iii) disclosed to the Parties' professional advisors or auditors, (iv) required or requested by a securities exchange or regulatory body to with either Party is subject or submits, or (v) as otherwise required to be disclosed by law or by legal or governmental process.

14. Security Measures. SAWS and the Bank acknowledge that, compliant with SAWS' fiduciary responsibilities, is the utilization of state-of-the-art security measures and processes, both to safeguard the public's financial resources and to protect SAWS from fraudulent or negligent acts. The Bank acknowledges that, as set forth in the Bank's Proposal, it is required to provide such on-going state-of-the-art security measures (as determined by current and general industry practice) and processes to SAWS. SAWS, in coordination with and assistance from the Bank, shall evaluate and implement data transmission, electronic and online security measures, and other security mechanisms proposed by the Bank pursuant to the requirements hereunder, to further the goals stated above.

15. Termination. SAWS expressly reserves the right to terminate this Agreement with or without cause at any time by providing ninety (90) days written notice to the Bank to close its accounts. The Bank reserves the right to terminate this Agreement by providing ninety (90) days written notice to SAWS if SAWS breaches its obligations under this Agreement and fails to cure the same within such timeframe or as otherwise provided by this Agreement.

16. Independent Contractor. It is expressly understood and agreed that the Bank is and shall be deemed to be an independent contractor responsible for its respective acts or omissions, and that SAWS shall in no way be responsible therefor. It is also expressly understood and agreed that neither Party hereto retains the authority to bind the other or to hold out to third parties that it has the authority to bind the other Party.

17. Compliance with Applicable Law. In performing this Agreement, the Bank agrees to comply with laws and regulations that are applicable to the Bank in the performance of the services that are within the scope of this Agreement, pay for and comply with all permits, governmental fees, licenses, inspections, bonds, securities, or deposits necessary for proper execution and completion of performance under this Agreement. The Bank agrees to not make or permit any improper payments, or to perform any unlawful acts.
18. **No Boycott of Israel.** The Bank hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, as amended, and to the extent such Section does not contravene applicable federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Bank understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

19. **Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, as amended, and posted on any of the following pages of such officer’s Internet website:

   https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf,
   https://comptroller.texas.gov/purchasing/docs/iran-list.pdf, or
   https://comptroller.texas.gov/purchasing/docs/fto-list.pdf.

   The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, as amended, and to the extent such section does not contravene applicable federal law and excludes the Bank and each of its parent companies, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

20. **No Personal Liability.** None of the members of the Board, nor any officer, agent, or employee of SAWS or the City, shall be charged personally by the Bank or any affiliates with any liability, or be held liable to the Bank or any affiliates under any term or provision of this Agreement, or because of execution or attempted execution, or because of any breach or attempted or alleged breach, of this Agreement.

21. **Non-Appropriation.** The Bank acknowledges SAWS projected costs for this Agreement and SAWS expects to pay all obligations of this Agreement from projected and prospective SAWS revenues. Payment of all obligations of SAWS hereunder are subject to annual appropriation by the Board. Accordingly, notwithstanding anything in this Agreement to the contrary, in the event SAWS should fail to appropriate funds to pay any of SAWS’ obligations under the terms of this Agreement, SAWS’ obligations under this Agreement shall terminate, and the Bank’s sole option and remedy shall be to terminate this Agreement by written
notice to SAWS, and neither SAWS nor the Bank shall have any further duties, obligations, or liabilities hereunder, except those provisions that expressly survive.

22. **Equal Employment Opportunity/Minority Business Enterprise.** The Bank agrees not to engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, disability, genetic information, or political belief or affiliation.

23. **Records Retention.** The Bank shall maintain a separate, accurate, and complete record relating to each pledged investment security, deposit of public funds, and transaction related to a pledged investment security. SAWS retains the ability to examine and verify, upon reasonable notice and during regular business hours, a pledged investment security or record kept by the Bank. Any statements, cancelled checks, check registers, deposit slips, debit and credit notices, reconciliations, notices of interest earned and any other related documentation shall be retained by the Bank during the term of this Agreement, including any extensions or renewals thereof, if any, for a period of five years after the fiscal year end of this Agreement's termination. Notwithstanding anything to the contrary herein, the Bank will allow SAWS' auditors and independent public accountants, including where state or federal assistance is involved, State and federal auditors identified by SAWS, reasonable access during normal working hours to Bank records of SAWS' as reasonably required in connection with their examination of the books and records specifically pertaining to SAWS' accounts, use of funds and services provided by Bank to SAWS. Any access or examination will be requested in writing; specifically describe the scope and records required; mutually agreed upon as to time and scope; and subject to the Bank's security procedures and record retention policies. The Bank may impose reasonable restrictions on the number of individuals allowed access, the frequency and length of access, and the scope of the records made available. SAWS shall reimburse the Bank for the reasonable cost of copying, collating, researching, and producing archived information. Any examination will be at SAWS' expense.

Further, the Bank is subject to a documentation retention policy which governs the retention period for each particular form of documentation and other information; this policy is largely dictated by law and regulation of the various jurisdictions in which the Bank does business. The documentation retention policy will often require retention of documentation and information after the termination of the Bank's relationship with the relevant customer. The period of retention beyond termination of the relationship will be dependent on the type of information and will be governed by the documentation retention policy.

24. **Tax Matters.** The Bank shall be solely responsible for payment of all taxes related to the Bank's provision of the services under this Agreement. SAWS retains a tax-exempt certificate on file, which is available upon request for the purchase of materials and goods (related to the contracted services of this Agreement).

25. **Compensation.** SAWS and the Bank agree that any compensation for the performance of all duties and services is set forth in the Bank Proposal accepted by SAWS. Except as may otherwise be provided in the Banking Agreements, said compensation shall constitute full payment for all services, liaison, products, materials, and equipment required to
provide the professional banking services, including services, materials, training, equipment, travel, overhead, and expenses. Fees shall be fixed for the term of the Banking Agreements, including all extensions.

26. Assignment; Binding Effect. No assignment, transfer, or delegation of any rights or obligations under this Agreement by the Bank shall be made without the prior written consent of SAWS, which may be withheld in the sole and absolute discretion of SAWS. This Agreement shall be binding upon the Parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other successors and permitted assigns, and shall inure to the benefit of the Parties to this Agreement and their respective legal representatives, heirs, devisees, legatees, or other permitted successors and permitted assigns. Notwithstanding anything to the contrary herein, the Bank may not assign its rights and duties under this Agreement without the written consent of SAWS; provided, however, the Bank may assign this Agreement without the prior written consent of SAWS to a successor in interest in connection with a merger, reorganization, consolidation, or a disposition of a particular business to which this Agreement relates, and may assign this Agreement to an affiliate or subsidiary. In the event of an assignment, the Bank shall notify SAWS prior to such assignment in writing, and SAWS shall have the right to terminate this Agreement.

27. No Waiver. The failure of any Party to this Agreement at any time or times to require the performance of any provisions of this Agreement shall in no manner affect the right to enforce the same, and no waiver by any Party to this Agreement of any provision (or of a breach of any provision) of this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed or construed either as a further or continuing waiver of any such provision or breach or as a waiver of any other provision (or of a breach of any other provision) of this Agreement.

28. Benefits of Agreement. Nothing herein, express or implied, shall give to any person, other than the Parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

29. Consideration. The Banking Agreements are executed by the Parties hereto without coercion or duress and for substantial consideration, the sufficiency of which is hereby acknowledged.

30. Counterparts. The Banking Agreements may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which shall constitute one and the same Agreement. A facsimile or electronic signature (scanned and emailed) will also be deemed to constitute an original if properly executed.

31. Authority to Execute. The individuals executing the Banking Agreements on behalf of the respective Parties represent to each other and to others that: (i) all appropriate and necessary action has been taken to authorize the individual who is executing the Banking Agreements to do so for and on behalf of the Party for which his or her signature appears, (ii) the execution of the Banking Agreements binds the Parties to all terms, conditions, covenants, obligations, and provisions contained therein, (iii) there are no other Parties or entities required to execute the Banking Agreements in order for the same to be authorized and binding on the
Party for whom the individual is signing, and (iv) each individual affixing his or her signature hereto is authorized to do so.

32. **Upgrading Procedural or Operational Aspects.** SAWS may, through an authorized representative, amend, change, or modify this Agreement to (i) upgrade procedural or operational aspects of this Agreement consistent with the intent and Scope of Services provided for in the RFP, and (ii) add services to be performed by the Bank as a result of the analysis and review of the current services provided. No modification, or alternation of the procedural or operational aspects of this Agreement, or addition of services to be performed by the Bank, shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by authorized representatives of the Parties hereto.

33. **Governing Law and Venue.** This Agreement shall be construed in accordance with and governed by the laws of the State and the United States of America. Bexar County will be the venue for any lawsuit arising out of this Agreement.

34. **Notices.** Except as may otherwise be specified in the applicable service-level agreements and/or set-up forms, any request, demand, authorization, direction, notice, consent, waiver, instruction, designation, or other communication(s) required in writing under this Agreement shall be personally delivered or sent certified mail, return receipt requested, to the individual contacts at the following:

**Bank:**
Ms. Brenda Pollard
JPMorgan Chase Bank, N.A.
221 West Sixth Street, Floor 02
Austin, Texas 78701
brenda.a.pollard@jpmorgan.com

**SAWS:**
Ms. Phyllis Garcia, Treasurer
San Antonio Water System
Administrative Building
2800 U.S. Highway 281 North
San Antonio, Texas 78212
phyllis.garcia@saws.org

Changes to notice information may be made to either Party with written notification to the other Party.

35. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the Parties shall agree to insert a legal, valid, and enforceable substitute provision that is as similar in effect to the illegal, invalid, or unenforceable provision. The remaining portion of the Agreement not declared illegal, invalid, or unenforceable shall remain valid and in full force and effect for the term remaining.

36. **Effect of Headings.** The section headings herein are for convenience only and shall not affect the construction hereof.
37. **Binding Commitment.** Without in any way limiting the Bank's obligations under Section 17 hereof, the Bank hereby acknowledges itself duly and firmly bound for the faithful performance of all duties and obligations required by applicable law, including the Texas Government Code and Texas Local Government Code, such that all funds deposited with it as depository shall be faithfully kept by it and accounted for according to law.

38. **Continuation.** Unless this Agreement is terminated sooner, the Bank's designation as the primary SAWS depository will remain continuously in effect through the second anniversary of the Implementation Completion Date, subject to the execution of the applicable extension options by both Parties.

39. **Entire Agreement.** This Agreement, together with its authorizing resolution and all exhibits attached hereto, which are hereby incorporated by reference herein, constitute the final and entire agreement between the Parties and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties hereto, unless same is in writing, dated subsequent to the date hereof, and duly executed by the Parties. The Parties acknowledge that certain agreements and policies referenced herein and necessary to effectuate the purposes of this Agreement, including but not limited to, SAWS Investment Policy, insurance policy requirements, and contracts and agreements between the Parties and third parties may be negotiated prospectively and in certain instances, are required by law to be amended from time to time after the execution of this Agreement. Such documentation, as amended, shall have the same effect and constitute a part of this final and entire Agreement as the documentation originally included herewith.
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

SAN ANTONIO WATER SYSTEM

By: ________________________________  
Name: ______________________________  
Title: ______________________________

Attest:

By: ________________________________  
Name: ______________________________  
Title: ______________________________
JPMORGAN CHASE BANK, N.A.

By: __________________________
Name: __________________________
Title: __________________________

Attest:

By: __________________________
Name: __________________________
Title: __________________________
EXHIBIT A

San Antonio Water System Request for Proposals for Depository Bank Services RFP No. 18-18002
Exhibit A
On File with SAWS
EXHIBIT B

JPMorgan Chase Bank, N.A.
Proposal for Depository Bank Services to San Antonio Water System
(including “best and final” offer)
Exhibit B
On File with SAWS
EXHIBIT C

JPMorgan Chase Bank, N.A.
Account Terms and Service Terms
ACCOUNT TERMS

INTRODUCTION
This document, as amended or supplemented by account addenda for each country in which the Accounts are held, (collectively, the "Account Terms") contains the general terms, conditions and disclosures for the Accounts and Services selected by the Customer and constitutes an agreement between the Bank and the Customer and supersedes all previous drafts, discussions and negotiations, whether oral or written, between them in connection with the opening of Accounts and receipt of Services. References to "the Bank" shall mean JPMorgan Chase Bank, N.A., and any of its affiliates. References to the "Customer" shall mean the entity to which the Bank, as an independent contractor, provides Accounts and Services, including any entity that is bound by a Subsidiary Election Agreement (not applicable in all jurisdictions), as may be amended from time to time. All accounts subject to the Account Terms are, regardless of their location, referred to as "Accounts". The Account Terms may be supplemented or amended as set forth in Section 17.6 (Amendments; Supplement; Waivers) herein. References to "Services" shall mean services offered by the Bank and subject to the Account Terms and any applicable Service Terms. References to "Service Terms" shall mean any terms and conditions regarding specific types of Accounts or Services that are subject to the Account Terms. In addition to the Account Terms and Service Terms, the Accounts are subject to other Account-related documentation, including signature cards and application forms (the "Account Documentation").

The Customer shall not transfer any of its rights and obligations in an Account or with respect to a Service, or create any form of security interest over such rights and obligations in an Account, without the prior written consent of the Bank. Failure to obtain the Bank's prior written consent constitutes a breach of these Account Terms by the Customer and may result in immediate closure of Account or termination of Services.

The Account Terms, Account Documentation and Service Terms may vary applicable law to the maximum extent permitted under any such law. Any provision of applicable law that cannot be varied shall supersede any conflicting term of the Account Terms, Account Documentation or Service Terms.

1. Authorized Persons.

1.1 Authorized Persons. The Bank is authorized to rely upon any document that identifies a person authorized to act on behalf of the Customer ("Authorized Person") with respect to the Accounts and Services, until the authority for such Authorized Person is withdrawn by the Customer upon written notice to the Bank, and the Bank has had a reasonable opportunity to act on such notice. The Customer will provide a specimen signature for each Authorized Person in the manner requested by the Bank.

1.2 Authorizations. Each Authorized Person is independent of the Bank, and, subject to any written limitation provided by the Customer and received and accepted by the Bank, is authorized on behalf of the Customer to: open, operate and close Accounts; draw, accept, endorse or discount checks, drafts, bills of exchange, notes and other financial instruments; transfer or withdraw of funds; make, execute or otherwise agree to any form of agreement relating to the Accounts or Services, including Account Documentation, execute guarantees, indemnities or other undertakings to the Bank in relation to guarantees, letters of credit or other financial transactions (or in respect to missing documents; draw, accept, endorse or discount checks, drafts, bills of exchange, notes and other financial instruments; transfer or withdrawal of funds; make, execute or otherwise agree to any form of agreement relating to the Accounts or Services, including Account Documentation, execute guarantees, indemnities or other undertakings to the Bank in relation to guarantees, letters of credit or other financial transactions); receive materials related to security procedures; and give instructions ("Instructions"); including requests and payment orders, by means other than the signing of an item, with respect to any Account transaction. Without limitation, such Instructions may direct: (i) the payment, transfer or withdrawal of funds; (ii) the disposition of money, credits, items or property at any time held by the Bank for account of the Customer; (iii) the provision of access as described in Section 1.4 (Third Party Access) and Section 2.1 (Third Party Instructions) below, or (iv) any other transaction of the Customer with the Bank.

1.3 Facsimile Signatures. If the Customer provides the Bank with facsimile signature specimens, or if the Customer issues items with a facsimile signature on one or more occasions, the Bank is authorized to pay items signed by facsimile signature (including computer generated signatures) if the actual or purported facsimile signature, regardless of how or by whom affixed, resembles the specimens filed with the Bank by the Customer, or resembles a specimen facsimile signature otherwise employed for the Customer's benefit.

1.4 Third Party Access. The Customer may request that the Bank permit a third party to have access to an Account by submitting an access request in a form acceptable to the Bank (an "Access Request"); and the third party designated in such form will be referred to as a "Third Party"). Each Third Party is authorized by the Customer to issue Instructions to the Bank in relation to an Account, including to initiate payments and transfers against an Account, and to access and receive balance and transaction information (including account statements, information reporting and transaction advices) by any method of communication, including the Bank's electronic channels, facsimile transmission, in writing, by telephone and SWIFT, and the Bank is authorized to act on such Instructions and provide such access as described in this Section and Section 2.1 (Third Party Instructions) below. Subject to the Third Party's completion of documentation required by the Bank, the Bank is authorized to act upon any Instructions issued in the name of any authorized person of the Third Party who has been nominated by the Third Party in a form acceptable to the Bank, and such authorized person shall be deemed an Authorized Person with respect to the provisions of these Account Terms relating to the use of the Accounts and the giving of Instructions with respect to the Accounts. The Customer may revoke an Access Request at any time by giving the Bank written notice of such revocation; such revocation shall be effective when the Bank has received such notice and has had a reasonable opportunity to act upon it.

2. Instructions; Security Procedures.

2.1 Security Procedures Generally. When issuing Instructions, the Customer is required to follow the Bank's security procedures as communicated to the Customer by the Bank from time to time, including the procedures set forth herein, and shall be bound by such security procedures for use of the Service. Upon receipt of an Instruction, the Bank will use the security procedures to verify that the Instruction is effective as that of the Customer. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, call back procedures or similar security devices. It is understood that the purpose of the security procedure is to verify the authenticity of, and not to detect errors in,
Instructions. The Customer shall safeguard the security procedure and make it available only to persons that it has authorized. Any Instruction, the authenticity of which has been verified through such security procedure, shall be effective as that of the Customer, whether or not authorized. An authenticated SWIFT or host-to-host (secure communications channel for data transfer) message issued to the Bank in the name of the Customer shall be deemed to have been given by an Authorized Person. For SWIFT, the security procedure shall be the authentication procedures established by SWIFT.

Security Procedure for Verbal or Written Instructions. Unless the Customer and the Bank have agreed in writing to an alternate security procedure, the Bank may verify the authenticity of verbal or written (including those transmitted by facsimile) funds transfer Instructions by telephonic call-back to an Authorized Person. The Customer agrees that this security procedure is commercially reasonable for such Instructions.

Third Party Instructions. The security procedures applicable to Instructions from any Third Party shall be those security procedures established by the Bank with the Third Party. Any Instruction that the Bank receives from the Third Party, the authenticity of which has been verified through such security procedure, shall be effective as that of the Customer, whether or not authorized, and shall be deemed an Instruction given on behalf of the Customer for all purposes of these Account Terms. The Bank is authorized to act upon any Instructions received via any of the SWIFT BIC codes specified in an Access Request whether or not such SWIFT BIC codes are associated with the Customer or the Third Party.

2.2 Confirmations. If the Customer, other than with respect to security procedures, chooses to confirm an Instruction, any confirmation must be clearly marked as a confirmation, and, if there is any discrepancy between an Instruction and a confirmation, the terms of the Instruction shall prevail. Subject to Section 2.1 (Security Procedure for Verbal or Written Instructions), the Bank may, at its option, confirm or clarify any request or Instruction using any means, even if a security procedure appears to have been followed. If the Bank is not satisfied with any confirmation or clarification, it may decline to honor the Instruction.

3. Deposits.

3.1 Processing Incoming Items. All Items deposited or cashed are received for collection only, and are received subject to final payment. The Bank may agree with other banks and clearing houses to vary procedures regarding the collection or return of Items, and deadlines to the extent permitted by applicable law or practice. The Bank chooses the method of processing Items and may use other banks in the process. The Bank will present Items in accordance with the custom and practice of the jurisdiction in which the Items are handled for collection. The Bank is not responsible for actions or omissions of other banks, nor for the size or destruction of any Item in the possession of other banks or in transit. The Customer shall use reasonable efforts to assist the Bank in locating or obtaining replacements of Items lost while in the Bank's possession.

3.2 Availability of Funds; Credits Not Received. Credits and deposits to an Account will be available in accordance with the Bank's availability policy and applicable law. If the Bank credits an Account: (i) in contemplation of receiving funds for the Customer's credit and those funds are not actually received by the Bank; or (ii) in reliance on a transaction which is subsequently returned, reversed, set aside or revoked, or if the Bank does not receive funds for the Customer's credit for value on the date advised by or on behalf of the Customer, or if final settlement is not received by the Bank for any reason, then the Bank shall be entitled to debit any Account of the Customer with the amount previously credited and/or with any other charges incurred, even if doing so creates or increases an overdraft.

3.3 Collection Basis Processing. Items processed by the Bank on a collection basis, the Bank may defer credit to the relevant Account until it has received final, non-reversible, payment in accordance with applicable law and market practice.

4. Payment of Items.

4.1 Processing Outgoing Items. The Bank is authorized to pay any Item drawn on the Account, in accordance with the Bank's usual procedures, including any Item that purports to be a substitute check. The Bank is authorized to debit the Account on which the Item is drawn on the day the Item is presented, certified or accepted, or at such earlier time when the Bank receives notice by electronic or other means that an Item drawn on an Account has been deposited for collection. The Bank may determine Account balances in order to decide whether to dishonor an Item for insufficient funds at any time between receiving such presentment or notice and the time of the return of the Item, and need make no more than one such determination.

4.2 No Inquiry. The Bank is authorized to pay all Items presented to it or cashed at the Bank, regardless of amount and without inquiry as to the circumstances of issue, negotiation or endorsement or as to the disposition of proceeds, even if drawn, endorsed or payable to cash, bearer or the order of the signer or any Authorized Person or to a lender in payment of the signer's or Authorized Person's obligations.

4.3 Limitations. The Customer shall immediately notify the Bank if it becomes aware that any Items (whether completed or blank) are lost or stolen. The Customer shall not allow any third party to issue Items against or otherwise use the Accounts unless specifically agreed to in writing by the Bank. The Customer shall not allow Items that are post-dated, and the Bank shall not be liable for any damages caused by premature payment or certification of a post-dated Item. Further, the Customer shall not put any condition, restriction or legend on any Item, and the Bank is not required to comply with any such condition, restriction or legend.

4.4 Electronic Processing; Specifications. The Bank may process any Item by electronic means. All Items issued by the Customer against any Account must comply with industry standards and the Bank's check specifications and image standards, published from time to time. The Bank shall not be liable for damages or losses due to any delay or failure in procuring, collecting or paying Items not conforming to such specifications or standards, except to the extent such losses or damages are the direct result of the Bank's gross negligence or willful misconduct.
5. Funds Transfer Instructions.

5.1 Processing Funds Transfer Instructions. The Customer may issue funds transfer instructions against Accounts, subject to the Bank’s acceptance. Funds transfer instructions will be received, processed and transmitted only on the Bank’s funds transfer business days, and within the Bank’s established cut-off hours on such days. Communications requesting cancellation or amendment of funds transfer instructions must be clearly marked as such and received at a time and in a manner affording the Bank a reasonable opportunity to act on the communication. The Customer may reverse, amend, cancel or revoke any instructions only with the consent of the Bank and, if applicable, the beneficiary’s bank. The Bank will debit the Account for the amount of each funds transfer instruction accepted by the Bank, and the Customer authorizes the Bank to debit the Account for, or deduct from the amount of the funds transfer, all associated fees, including debit and credit processing charges. In processing a funds transfer, other banks may deduct fees from the funds transfer. No restrictions upon the acceptance of funds transfer instructions by the Bank or upon the Accounts that the Bank may debit shall be binding unless agreed to by the Bank in writing. The Bank shall not be required to inquire into the circumstances of any transaction.

5.2 Acting on Instructions. Notwithstanding any instructions by the Customer to the contrary, the Bank reserves the right to use any funds transfer system and any intermediary bank in the execution of any funds transfer instruction and may otherwise use any means of executing the funds transfer instruction that the Bank deems reasonable in the circumstances.

5.3 Inconsistent Name and Number. The Bank and other financial institutions, including the beneficiary’s bank, may rely upon the identifying number of the beneficiary, the beneficiary’s bank or any intermediary bank included in a funds transfer instruction, even if it identifies a person different from the beneficiary, the beneficiary’s bank or intermediary bank identified by name.

5.4 Foreign Exchange. If the Bank accepts a funds transfer instruction issued in the Customer’s name for payment in a currency (the “Non-Account Currency”) other than the currency of the Account (the “Account Currency”), the Bank is authorized to enter into a foreign exchange transaction to sell to the Customer the amount of Non-Account Currency required to complete the funds transfer and debit the Account for the purchase price of the Non-Account Currency. If the Bank accepts a funds transfer instruction for payment to the Account in a Non-Account Currency, the Bank is authorized to purchase the Non-Account Currency from the Customer and to credit the purchase price to the Customer’s Account in lieu of the Non-Account Currency. The purchase price for the foregoing transactions shall be at a rate and spread as the Bank determines in its discretion and may differ from rates at which comparable transactions are entered into with other customers or the range of foreign exchange rates at which the Bank otherwise enters into foreign exchange transactions at the relevant time. Further, (i) the Bank may execute such foreign exchange transactions in such manner as the Bank determines in its sole discretion and (ii) the Bank may manage the associated risks of the Bank’s own position in the market in a manner it deems appropriate without regard to the impact of such activities on the Customer. The Bank may also earn a profit which may be imbedded in the applicable rate and/or spread. Any such foreign exchange transaction will be between the Bank and the Customer as principals, and the Bank will not be acting as agent or fiduciary for the Customer.

Foreign Exchange Cancellations, Reversals, and Buybacks. Notwithstanding any prior action or course of dealing, subject to applicable law, the Bank has no obligation to cancel, reverse, or otherwise buy back foreign currencies purchased by the Customer under a Service and the Bank makes no commitment to buy back currencies and acknowledges that it may not be able to sell back certain foreign currencies once purchased.

5.5 Cancellation of Foreign Exchange Drafts. Subject to applicable law, the Bank may cancel any draft issued by the Bank on behalf of the Customer in a Non-Account Currency if the draft is not presented for payment within one hundred eighty (180) calendar days after the date of issuance, and the Customer authorizes the Bank to recredit the Customer’s Account with an equivalent amount of Account Currency at a foreign exchange rate and spread, and at such date and time, as the Bank determines in its discretion. Following such cancellation, the Customer shall be responsible for all claims that may be asserted against the Bank in respect of the draft.

6. Interest; Fees; Taxes.

6.1 Interest. The Bank may pay interest on balances in interest-bearing Accounts at rates determined by the Bank, subject to any withholding or deduction for tax as required by applicable law, including without limitation the Foreign Account Tax Compliance Act (“FATCA”) and is authorized to perform any other function (including debiting, blocking or suspending the Accounts) as required by applicable law or practice of any relevant government, regulatory, judicial or tax authority or in accordance with the Bank’s usual business practice. The Bank may deduct from the Accounts charges for early withdrawals, which may include a deduction from principal (if permitted or required by law). To the extent market interest rates are negative, the rate applied by the Bank to interest-bearing Accounts may be negative, in which case the Customer may be entitled to make a negative rate payment, which the Bank shall also be entitled to collect by debiting the Account.

6.2 Fees and Taxes.

(a) The Bank may impose and the Customer will pay fees for Accounts and Services provided by the Bank, including transaction, maintenance, balance-deficiency, and service fees and other charges (collectively “Fees”). The Bank may debit any Account for Fees and/or Taxes, even if such debit creates or increases an overdraft of the Account. References to “Taxes” shall mean any taxes (including value added taxes, sales taxes and similar taxes), levies, imposts, deductions, charges, stamp, transaction and other duties and withholdings (together with any related interest, penalties, fines, and expenses) in connection with the Fees, Accounts or Services (including payments or receipts to an Account) except if such Taxes are imposed on the overall net income of the Bank.

(b) All payments (including Fees and interest on overdrafts) from the Customer to the Bank pursuant to the Account Terms, the Service Terms and any Account Documentation shall be in full, without set-off or counterclaim, and free of any withholding or deduction (collectively, a
"Deduction") related to any tax or other claim, unless a Deduction is required by applicable law. If any Deduction is required by applicable law in respect of any payment due to the Bank, the Customer shall:

(i) ensure that the Deduction is made;

(ii) pay the amount of the Deduction as required by applicable law;

(iii) increase the payment in respect of which the Deduction is required so that the net amount received by the Bank after the Deduction shall be equal to the amount which the Bank would have been entitled to receive in the absence of any requirement to make any Deduction; and

(iv) deliver to the Bank, within thirty (30) days after it has made payment to the applicable authority, a certified copy of the original receipt issued by the authority, evidencing the payment to the authority of all amounts required to be deducted.

(c) All Fees are exclusive of Taxes. In addition to any Fees or other amounts due and except to the extent the Bank is otherwise compensated for such Taxes under this Section 6, the Customer will pay or reimburse the Bank for any Taxes which the Bank is required to account for to any tax authority under any applicable law and, where required by applicable law, the Customer shall account for any Taxes directly to the applicable tax authority.

6.3 Documentation and Information. The Customer will provide the Bank with such documentation and information as the Bank may require in connection with taxation, and warrants that such information is true and correct in every respect and shall immediately notify the Bank if any information requires updating or correction.

7. Account Statements.

The Bank will issue Account statements, confirmations, or advices ("Account Statements") at the frequency and in the manner advised to the Customer from time to time. The Customer is responsible for ensuring that an Authorized Person promptly examines each Account Statement and any accompanying Items that are made available to it by the Bank, and reporting any irregularities to the Bank in writing, including any claim of unauthorized funds transfer activity. The Bank shall not be responsible for the Customer's reliance on balance, transaction or related information that is subsequently updated or corrected or for the accuracy or completeness of information supplied by any third party to the Bank. Internet Account Statements or electronic Account Statements, if applicable, shall be deemed by the Customer and the Bank to be available to the Customer when the Account Statements are posted on the internet and the Bank sends an electronic mail notification of availability to the Customer, or when the Bank sends the electronic Account Statement to the Customer. For purposes of determining when a statement is sent to the Customer, an image of an Item or information identifying the Item (i.e. item number, amount and date of payment) is a sufficient substitute for the actual Item.

8. Overdrafts.

8.1 Overdrafts. The Bank may debit an Account even where the debit may cause or increase an overdraft. Unless otherwise agreed in writing, the Bank is under no obligation to permit any person or to continue to permit overdrafts after having permitted an overdraft or to provide notice of any refusal to permit an overdraft, in each case subject to the Bank's prior action or course of dealing. Any overdraft shall be immediately due and payable by the Customer to the Bank, unless otherwise agreed in writing. If the Bank permits an overdraft, the Bank is authorized to charge interest on the amount of the overdraft as long as the overdraft is outstanding, at a rate determined by the Bank, up to the maximum rate permitted by law at the time of the overdraft, at the specific rate agreed in writing between the Customer and the Bank. Subject to applicable law, interest shall accrue on any negative balance in an Account notwithstanding closure of the Account and/or termination of these Account Terms. If the Bank pays an Item that causes or increases an overdraft, the Bank may deduct applicable Fees and expenses from the Account without notice.

8.2 Order of Payment. When Items and other debits to the Account are presented to the Bank for payment on the same day and there are insufficient available funds in the Account to pay all of these transactions, the Bank may choose the order in which it pays transactions, including the largest transaction first or any other order determined by the Bank, in its sole discretion.


The Bank may at any time, without prejudice to any other rights which it may have, and without prior notice or demand for payment, combine, consolidate or merge all or any of the Accounts of the Customer or may retain, apply or set off any money, deposits or balances held in, or standing to the credit of, any Account in any currency towards payment of any amount owing by the Customer to the Bank or any of its affiliates. The Bank shall be entitled to accelerate the maturity of any time deposit or fixed term deposit. For the purposes of this Section the Bank may effect currency conversions at such times or rates as it may think reasonable and may effect such transfers between any Accounts as it considers necessary. The Customer grants to the Bank a lien and security interest in any Accounts of the Customer at the Bank, in order to secure any and all obligations and liabilities of the Customer to the Bank or any of its affiliates.

10. Agents; Information.

10.1 Confidential Information. The Bank agrees to take customary and reasonable measures to maintain the confidentiality of Customer confidential information. The Customer authorizes the Bank and its affiliates, and their respective agents, employees, officers and directors to disclose Account opening documentation, information with respect to any Account or Service, any banking transaction, and the Customer itself, including Customer confidential information, in order to provide the services under the Account Terms, Account Documentation and Service Terms, for
10.4 Offshoring. Subject to applicable laws, including without limitation FATCA, processing of Customer confidential information may be performed by any Bank affiliate, including affiliates, branches and units located in any country in which we conduct business or have a service provider. The Customer authorizes the Bank to transfer Customer Information to such affiliates, branches and units at such locations as the Bank deems appropriate.

10.5 Consents. The Customer represents and warrants that prior to submitting to the Bank information about natural persons related to the Customer (including Authorized Persons, users of the Bank’s electronic access systems, officers and directors, employees, beneficial owners, and customers and persons on whose behalf the Customer is receiving or transmitting funds, issuing items or maintaining an Account), the Customer shall have obtained such consents as may be required by applicable law or agreement for the Bank to process and use the information for purposes of providing the Services.

11. Liability Limitation; Force Majeure.

11.1 Liability. The Bank, its agents, employees, officers and directors, shall not be liable for any damage, loss, expense or liability of any nature which the Customer may suffer or incur, except to the extent of direct loss or damages resulting from the gross negligence or willful misconduct of the Bank, its agents, employees, officers or directors. The Bank, its agents, employees, officers and directors shall not, in any event, be liable for indirect, special, consequential or punitive loss or damage of any kind (including lost profits, loss of business or loss of goodwill), in each case, whether or not foreseeable, even if the Bank, its agents, employees, officers or directors have been advised of the likelihood of such loss or damage, and regardless of whether the claim for loss or damage is made in negligence, gross negligence, for breach of contract or otherwise; provided, however, that the foregoing shall not apply to the extent losses or damage is caused by fraud on the part of the Bank, its agents, employees, officers or directors. Customer shall promptly provide the Bank with a notice of any claims it receives regarding a Service.

11.2 Force Majeure. Neither the Bank nor the Customer shall be liable for any loss or damage, expense or liability of any nature to the other for its failure to perform or delay in the performance of its obligations resulting from an act of God, act of governmental or other authority, de jure or de facto, legal constraint, civil or labour disturbance, fraud or forgery (other than on the part of the other party or its employees), war, terrorism, catastrophe, fire, flood or electrical, computer, mechanical or telecommunications failure or malfunction, including inability to obtain or interruption of communications facilities, failure of any agent, correspondent, or unavailability or failure of or the effect of rules or operations of a payment or funds transfer system, including non-availability of appropriate foreign exchange or foreign currency, or any cause beyond its reasonable control.

12. Indemnity.

The Customer indemnifies and holds the Bank, and its agents, employees, officers and directors, harmless from and against any and all claims, damages, demands, judgments, liabilities, fines, costs and expenses (including attorneys’ fees) (collectively, "Losses") arising out of or resulting from: (i) the Bank’s acceptance or execution of any request, direction or transaction in connection with any Account or any Service provided to the Customer, including items and instructions; or (ii) the Bank’s payment of any taxes, interest or penalty otherwise due from the Customer paid on the Customer’s behalf, or for which the Bank has no responsibility under the Account Terms, the Service Terms or any Account Documentation. Notwithstanding the foregoing, the Bank shall not be indemnified for any Losses to the extent resulting directly from its own gross negligence, willful misconduct or fraud.


All Account Statements and notices may be sent to the Customer by ordinary mail, courier, facsimile transmission, electronic transmission (including SWIFT communication and emails), through internet sites, or by such other means as the Customer and the Bank may agree upon from time to time, at the address of the Customer provided to the Bank. Unless otherwise arranged, all notices to the Bank must be sent to the Bank officer or service representative managing the Account or to any other address notified by the Bank to the Customer in writing from time to time, and must be sent by ordinary mail, by courier, by facsimile transmission, by electronic transmission or by such other means as the Customer and the Bank agree upon from time to time. The Bank shall have a reasonable time to act on any notices received.

14. Termination.

Unless otherwise agreed, either the Bank or the Customer may close an Account or terminate a Service by giving the other party not less than thirty (30) calendar days’ prior written notice of intent to close or terminate. Notwithstanding the foregoing, either party may terminate an Account or a Service upon written notice to the other party in the event of: (i) a breach of the Account Terms, Account Documentation or Service Terms by the other party; (ii) the other party’s inability to meet its debts as they become due, receivership, administration, liquidation, or voluntary or
15. **Account Disclosures.**

15.1 **Rejection of Funds.** The Bank may return or refuse to accept all or any part of a deposit or credit to an Account, at any time, and will not be liable to the Customer for doing so, even if such action causes outstanding items to be dishonored and returned, or payment orders to be rejected.

15.2 **Withdrawal.** The Bank may refuse to allow withdrawals from Accounts in certain circumstances, including where: (i) there appears to be a dispute relating to an Account, including disputes regarding the persons authorized to issue Instructions; (ii) legal process affecting the Account is received by the Bank, including a levy, restraining notice or, order of a court or other competent authority; (iii) the Account is being used as collateral to secure indebtedness to the Bank or its affiliates; (iv) documentation requested by the Bank has not been presented; or (v) the Customer fails to pay its indebtedness to the Bank or its affiliates on time.

15.3 **Payable Branch; Deposits Outside of the U.S.** Any amount standing to the credit of any Account with the Bank is payable exclusively at a branch in the country at which the Account is held; however, payment may be suspended from time to time in order to comply with any applicable law, governmental decree or similar order, in any jurisdiction, for the time period affecting the Bank, its officers, employees, affiliates, subsidiaries, agents or correspondents. The Customer acknowledges that deposits held at a branch of the Bank located outside the United States are not payable in the United States and: (i) are not insured by the Federal Deposit Insurance Corporation or any other United States governmental agency; (ii) are subject to cross-border risks; and (iii) have a lesser preference as compared to deposits held in the United States in the event of a liquidation of the Bank.

15.4 **Commissions and Rebates.** In connection with the provision of any Service by the Bank to the Customer, the Bank may from time to time receive commission, rebate or similar payments from other banks or third parties.

16. **Governing Law.**

16.1 **Governing Law.** The Account Terms, Account Documentation and the rights and obligations of the Customer and the Bank in respect of each Account shall be governed by and construed in accordance with the laws of the country in which the branch holding the relevant Account is located.

16.2 **Waiver of Jury Trial; Limitation of Claims.** The Customer and the Bank hereby irrevocably waive all right to, and will not seek, trial by jury in any action, proceeding or counterclaim of whatever type or nature, arising out of these Account Terms, the Account Documentation or the relationship established hereby. Any claim in connection with any Account or Service, unless a shorter period of time is expressly provided, must be brought against the Bank within two (2) years of the occurrence of the event giving rise to the claim, except as prohibited by applicable law.

16.3 **Venue.** In relation to each Account, the courts of the country or state in which the branch of the Bank at which the Account is held shall have exclusive jurisdiction to settle any disputes that arise out of or are connected with the Account Terms, the Account Documentation and/or the Account and the Customer agrees to submit to the jurisdiction of such courts. This section is for the benefit of the Bank only and does not prevent the Bank from taking proceedings in the courts of any other country or state with jurisdiction including, to the extent allowed by law, concurrently in any number of countries or states.

17. **Miscellaneous.**

17.1 **Languages.** If the Account Terms, Account Documentation or Service Terms are translated into, or appear in a language other than English, the English language version shall control.

17.2 **Successors.** The term Bank in the Account Terms, the Service Terms and any Account Documentation shall include any successors of the Bank, including assignees or successors of JPMorgan Chase Bank, N.A. or its affiliates or any person who under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Bank or its affiliates hereunder or to which the same has been transferred. The Bank may, at any time, assign or transfer all or any of its rights and obligations hereunder to an affiliate of JPMorgan Chase Bank, N.A..

17.3 **Order of Precedence.** Any terms of any supplement, amendment, agreement, Service Terms or notice that are inconsistent with a provision of the Account Terms or the Account Documentation shall supersede such provision of the Account Terms or the Account Documentation for
purposes of the particular Account or Service that is the subject thereof. The Account Terms and Account Documentation supersede and replace any other account conditions previously sent to the Customer.

17.4 Interpretation. Section and subsection headings are for convenience only and shall not affect the meaning of the Account Terms, the Service Terms and any Account Documentation. References to Schedules, Sections, Subsections and Clauses are to Schedules, Sections, Subsections and Clauses of the Account Terms, the Service Terms and any Account Documentation. Words in the singular import the plural and vice versa. If any provision of the Account Terms, the Service Terms and any Account Documentation shall be held to be illegal, invalid, or unenforceable the validity of the remaining portions of the Account Terms the Service Terms and any Account Documentation shall not be affected. The term “including” shall in all cases mean “including without limitation” unless otherwise indicated. The term “affiliates” shall mean with respect to any entity, an entity, whether directly or indirectly, that controls, is controlled by, or is under common control with that entity. The term “applicable laws” or similar terms shall mean any law, statute, order, decree, rule, injunction, license, consent, approval, agreement, guideline, circular or regulation of a government authority.

17.5 Compliance; Transaction Screening. The Customer shall comply with all applicable laws and the Bank’s policies notified to the Customer. The Bank is required to act in accordance with Bank policies, the laws of various jurisdictions relating to the prevention of money laundering and the implementation of sanctions, including economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State. The Bank is not obligated to execute payment orders or effect any other transaction where a party to the transaction is a person or entity with whom the Bank is prohibited from doing business by any law applicable to the Bank, or in any case where compliance would, in the Bank’s opinion, conflict with applicable law or banking practice or its own policies and procedures. Where the Bank does not execute a payment order or effect a transaction for such reasons, the Bank may take any action required by any law applicable to the Bank including freezing or blocking funds. Transaction screening may result in delays in the posting of transactions and/or funds availability. The Bank may direct the Customer (a) to make changes to the activity in the Customer’s Accounts, including to cease and desist from using the Accounts for particular types of transactions or for transactions involving particular parties from time to time, and (b) not to use the Accounts to send payments with certain characteristics. The Customer agrees to comply with such directions.

17.6 Amendments; Supplements; Waivers. The Account Terms may be amended or supplemented on notice to the Customer, including by terms contained in any Service Terms or Account Documentation. The Service Terms may be amended or supplemented on notice to the Customer. These amendments or supplements may impose restrictions on the Accounts and in any forum, venue or jurisdiction, including objections arising from the Bank’s role or acquiescence in the destruction of the originals.

The Bank may waive any of provision of these Account Terms, the Account Documentation or the Service Terms, but such waiver shall apply only on that occasion. Such waiver shall not constitute a waiver of any other provision of the Account Terms, the Account Documentation or the Service Terms. Any such waiver shall not affect the Bank’s ability to enforce any of its rights with respect to other customers or to enforce any of its rights with respect to later transactions with a Customer and is not sufficient to modify the terms and conditions of the Account Terms, the Account Documentation or the Service Terms. The rights and remedies in the Account Terms, the Service Terms and any Account Documentation are cumulative and are not exclusive of any other rights or remedies provided by applicable law.

17.7 Waiver of Immunity. To the extent that the Customer has or hereafter may acquire any immunity (including sovereign, crown or similar immunity) from jurisdiction of any court, such as legal process (whether from service of notice, injunction, attachment, execution or enforcement of any judgment or otherwise), the Customer irrevocably waives and agrees not to claim such immunity as against the Bank or its affiliates.

17.8 Internet Services; Notice of Claims. The Customer agrees at its sole expense: (i) to advise each of its employees, officers, agents or other persons accessing any Service by or on behalf of Customer ("Users") of their obligations under the Account Terms, Account Documentation or any Service Terms; (ii) to cooperate with the Service in response to any claim by or on behalf of any person or entity; (iii) to provide the Bank with all information reasonably necessary to setup and provide Services for the Customer, including advising the Bank of the countries from which Users will access any Service via the Internet.

17.9 Recordings. The Bank or the Customer, at its sole discretion, may make and retain recordings of telephone conversations between the Customer and the Bank.

17.10 Instructions. All Instructions, whether Items, payment orders or otherwise, are subject to applicable laws, and rules, policies, operations and practices of the applicable clearing or settlement systems or payment networks.

17.11 Electronic Copies. The Bank may retain copies (paper, electronic or otherwise) of any documents or Items relating to the Accounts and Services in a form preserving an image of any such documents or Items, including signatures, or a regular business record and discard the original documents or Items. The Customer hereby waives any objection to the use of such records in lieu of their paper equivalents for any purpose and in any forum, venue or jurisdiction, including objections arising from the Bank’s role or acquiescence in the destruction of the originals.

17.12 Intellectual Property. All intellectual property rights in or relating to a Service, including any trademarks, service marks, logos, and trade names used in conjunction with a Service are the property of the Bank or its licensors and are protected by applicable copyright, patent, trademark and other intellectual property law. Except as provided herein, the Customer shall not reproduce, transmit, sell, display, distribute, establish any hyperlink to, provide access to, modify, or commercially exploit in whole or in part any part of a Service, without the prior written consent of the Bank.
17.13 Know Your Customer. To assist in the prevention of the funding of terrorism and money laundering activities, applicable law may require financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for the Customer: when the Customer opens an Account, the Bank may ask for the Customer’s name, address, date of birth (for natural persons), and/or other information and documents that will allow the Bank to identify the Customer. The Bank may also request and obtain certain information from third parties regarding the Customer. For purposes of this provision, the Customer, to the extent required by applicable law, shall include any Authorized Person or signatory on an Account.

Information. To fulfill the Bank’s “know your customer” responsibilities, the Bank will request information from the Customer from time to time, inter alia, regarding the Customer’s organization, business, Third Parties and, to the extent applicable, Authorized Persons and beneficial owner(s) of the Customer, the Customer’s customers, and their beneficial owners, including relevant natural or legal persons, and the Customer shall procure and furnish the same to the Bank in a timely manner. The Bank may also request further information and/or documentation in connection with the provision of the Services. Any information and/or documentation furnished by the Customer is the sole responsibility of the Customer and the Bank is entitled to rely on the information and/or documentation without making any verification whatsoever (except for the authentication under the security procedures, as applicable). The Customer represents and warrants that all such information and/or documentation is true, correct and not misleading and shall advise the Bank promptly of any changes and, except as prohibited by applicable law, the Customer agrees to provide complete responses to the Bank’s requests within the timeframes specified. The Customer will notify the Bank in writing if any Accounts or monies it holds or places with the Bank are subject to restrictions or otherwise held or received by the Customer in a capacity other than previously disclosed to the Bank, including but not limited to monies being held for the benefit of third parties, whether as fiduciary or otherwise, monies subject to encumbrances, monies received as intermediary, processor or payment service provider, or arising from undisclosed business or similar sources. The Bank may, at its sole discretion and subject to such further conditions as it may impose, including, without limitation, execution of further documentation in form and manner acceptable to the Bank, permit the holding of such Accounts or deposits or receipt of funds. Unless prohibited by applicable law, the Customer agrees to promptly disclose to the Bank activity in the Customer’s Accounts that is suspicious or violates applicable laws or sanctions.

If the Customer fails to provide or consent to the provision of any information required by this Section, the Bank may close any Account or suspend or discontinue providing any Service without further notice.

17.14 Click-Thru. The Bank may deliver, make available and/or make accessible terms and conditions applicable to Accounts and Services to the Customer via electronic means and channels (including by posting such terms on a Bank website). The Bank may request that an Authorized Person “click” its approval of such terms. Subject to applicable law, the Customer agrees that the act of “clicking” its approval (or any similar act which has the same effect) with respect to any such terms will be evidence of Customer’s acceptance of the applicable terms and conditions, to the same extent, and with the same force and effect, as if Customer had manually executed a written version of such terms and conditions.

18. Interpleader; Reimbursement.

If the Bank determines that there is a dispute regarding the ownership or entitlement to funds held by the Bank for the account of the Customer, the Bank may apply to an appropriate court for a determination of the dispute and may pay the funds into the court pending resolution. The Customer agrees to reimburse the Bank for any related expenses, including its attorneys’ fees and costs incurred in connection with the resolution of such disputes or in connection with the bank’s responses to any legal process, including subpoenas, interrogatories and other written questions, garnishments, attachments, levies, writs, restraining notices, court orders, civil investigative demands, requests or demands from regulators or law enforcement, or summonses, complaints or petitions relating to an Account.

19. Provisional Recredit.

In connection with any dispute regarding an Account, the Bank may choose to credit the Account pending completion of the Bank’s investigation of the dispute. If the Bank determines that the Customer is not entitled to such credit, then, the Bank may reverse the provisional recredit to the Account, even if that reversal results in an overdraft.
ADDENDUM TO ACCOUNT TERMS
United States of America

Accounts maintained by the Customer with the Bank are subject to the Bank’s Account Terms. This addendum ("Addendum") amends or supplements the Account Terms with respect to Accounts maintained in the United States of America ("U.S.") and to Services provided in connection with such U.S. Accounts, regardless of the location where Services are provided. Capitalized terms used in this Addendum, and not otherwise defined, have the meanings set forth in the Account Terms. By using any Account maintained in the U.S., the Customer acknowledges receipt of, and agrees to be bound by, the Account Terms which includes this Addendum, each as may be amended or supplemented from time to time.

Section 2 of the Account Terms (Instructions; Security Procedures) is amended by adding the following provision:

2.3 The Customer represents and warrants to the Bank that the Customer has not requested funds transfer security procedures other than those expressly agreed by the Customer and the Bank.

Section 3 of the Account Terms (Deposits) is amended by adding the following provisions:

3.4 Verification; Adjustments. Receipts issued by the Bank for deposits are based solely on the amounts stated in the deposit ticket. Credits for items received for deposit or collection (whether or not accompanied by a deposit ticket) are subject to verification and the Bank’s receipt of final payment of deposited items. The Bank may make adjustments to the Account for any errors appearing on deposit tickets or occurring during processing or otherwise, but the Bank has no obligation to do so for de minimis discrepancies.

3.5 Foreign Currency Items. The Bank may handle items drawn on a non-U.S. bank or items payable in a foreign currency on a collection basis, not for deposit, even if the Bank has received the items in a deposit. The Customer may not receive provisional credit for such items or, if provisional credit has been given, the Bank may revoke it. Credit for items payable in a foreign currency will be converted into U.S. dollars at a foreign exchange rate and spread, and at such date, time, as the Bank determines in its discretion.

3.6 Endorsements. An endorsement must be placed on the back of Items only in the area within 1.5 inches from the trailing edge of the Item. The trailing edge of the Item is defined as the left-hand edge of the check looking at it from the front. If the Customer is authorized in writing to endorse Items on the Bank’s behalf, the Customer agrees to comply with the endorsement standards of the Bank.

3.7 Encoding. If the Customer encodes information on an Item, the Customer warrants to the Bank and to all other collecting and paying banks that it is properly encoded and the Customer is liable for losses related to encoding errors, including any loss due to delay in processing caused by an encoding error.

3.8 Return or Charge Back. The Customer should not use carrier documents (Items placed inside envelopes) in either high-speed forward or return cash letters. The Bank may charge the Account for Items returned unpaid to the Bank or for claims based on asserted unauthorized signatures, endorsements, alterations, etc.

3.9 Collections. The Customer agrees that the Bank may collect any Item deposited to Customer’s Account by electronic means. The Bank has no duty to inspect such Item during the deposit and collection process.

3.10 Variance. The Bank may agree with other banks and clearing houses to vary procedures regarding the collection or return of Items, and to vary applicable deadlines, to the maximum extent permitted by applicable laws, and rules, policies, operations and practices of the applicable clearing or settlement systems or payment networks (collectively “Rules & Regulations”).

3.11 Substitute Checks. The Customer will not deposit any substitute checks (that are not returned Items) unless the Bank expressly agrees to accept such items for deposit. In the absence of the Bank’s express agreement, the Customer will be solely responsible for any loss or claim in connection with its use of substitute checks.

3.12 Night Depository Deposits. The Bank is not liable for any deposit made through the use of the Bank’s night depositories until the Bank issues a written acknowledgement of the deposit. The Bank’s count of the amount deposited in a night depository will be conclusive. The Customer is solely responsible for any loss that may be incurred before the Bank verifies the contents of the deposit.

3.13 Remotely Created Checks. If the Customer deposits a remotely created check (“RCC”), as such term is defined in Federal Reserve Regulation CC, the Customer warrants to the Bank, with respect to each RCC, that the person on whose account the RCC is drawn, authorized the issuance of such RCC in the amount and to the payee stated on the RCC. The Customer authorizes the Bank to debit the Customer’s account for any claim or return based upon an unauthorized RCC and the Customer agrees to indemnify and hold the Bank harmless from and against any claims, liabilities, costs and expenses (including attorneys’ fees) resulting directly or indirectly from any breach of the foregoing warranty.
3.14 **Electronically-Created Items.** The Customer should not deposit electronically-created items (ECIs) to its account, as such term is defined in Federal Reserve Regulation CC. ECIs are included in the definition of an Item. If the Customer does deposit an ECI, the Customer authorizes the Bank to debit the Customer's account for any claim, return or adjustment related to the ECI, and the Customer agrees to indemnify and hold the Bank harmless from and against any claims, liabilities, costs and expenses (including attorneys' fees) resulting directly or indirectly from the Customer's deposit of the ECI.

3.15 **ATM Cards.** The Bank may issue one or more automated teller machine ("ATM") cards ("Cards") and personal identification numbers ("PINs") to Customer's employees or agents for use in initiating certain Account transactions at Bank owned ATMs. Unless otherwise agreed by Bank, Customer agrees that Cards will be used only at ATMs owned by the Bank and Customer shall be liable for any transactions and fees resulting from the use of such Cards. The Customer agrees that the types of transactions offered through the use of any Card may be limited by the Bank, in its sole discretion. The Bank may cancel any Card at any time and for any reason, and will notify Customer of such cancellation. The Customer agrees to obtain possession of and return to the Bank or destroy all cancelled Cards. If the Customer believes a Card or PIN has been lost or stolen, the Customer shall immediately contact the Bank's ATM call center. All ATM transactions are subject to verification. Any deposit transaction through an ATM that is not made on a business day or made after the Bank's designated cut-off time will be processed on the Bank's next business day.

3.16 **Internet Gambling.** The Customer agrees not to conduct any transactions through the Account that are directly or indirectly related to unlawful Internet gambling, including the acceptance or receipt of any funds or deposits in connection therewith. The term "unlawful Internet gambling," as used in this section, shall have its meaning set forth in 12 C.F.R. Section 233.27(b).

Section 4 of the Account Terms (Payment of Items) is hereby amended by adding the following provisions:

4.5 **Cashing Items.** The Bank may, in its discretion, cash Items drawn on an Account when presented by the holder. If a holder who is not a deposit customer of the Bank presents an Item drawn on the Account for cash, the Bank may refuse to cash the Item, or may charge the holder a fee for cashing the Item.

4.6 **Signatures.** If the Customer establishes an Account which purports to require two or more signatures on Items drawn on the Account, or (ii) limits the amount for which an Item can be issued, the Customer acknowledges that any such requirements are solely for the Customer's own internal control purposes. The Customer agrees that, provided that the Bank follows its usual and customary procedures for processing and paying Items, the Bank will not be liable for paying any Item (a) failing to include the required number of signatures, or (b) in an amount exceeding the applicable limit.

4.7 **Fraudulent Items.** The Bank provides Services to which the Customer may subscribe, such as Positive Pay and Reverse Positive Pay, which are reasonably designed to prevent payment of unauthorized or altered Items. Customer agrees that failure to use such Services will constitute Customer negligence contributing to the filing of a unauthorized signature or the alteration of an Item, and the Customer will assume the risk that Items paid against the Account may be unauthorized or altered. In that event, the Customer will be precluded from asserting any claims against the Bank for any unauthorized, altered, counterfeit or other fraudulent Items. The Bank shall not be required to re-credit Customer's Account or otherwise have any liability for paying such Items to the extent such Services would likely have prevented such loss.

4.8 **Obscured Endorsements.** The Customer assumes responsibility for losses that the Customer or the Bank may incur as the result of processing delays caused by the Customer: (i) issuance of an Item in such a manner that information, marks or bands on the back of the Item obscure endorsements; or (ii) placement of an endorsement on the back of the Item which obscures other endorsements.

4.9 **Negotiation Outside of U.S.** If an Item is transferred or negotiated outside of the U.S. and is subsequently sent to the Bank for deposit, collection or payment in the U.S., the Customer shall be deemed to make, to the Bank, the transfer and presentment warranties under the Rules & Regulations, as if such Item were negotiated or otherwise transferred in the U.S.

4.10 **Stop Payments.** A stop payment instruction from the Customer will be effective with respect to an Item if: (i) the Bank has a reasonable opportunity to act on such Instruction prior to its payment or encashment, which shall be at least one (1) full Business Day following the Business Day on which the Bank received the Instruction; and (ii) the Instruction is in the form required by the Bank, the information is complete and is delivered to the location designated by the Bank. For purposes of this Section, "Business Day" means a day on which the Bank is generally open for business in the jurisdiction where the Account is maintained. Stop payment Instructions, unless otherwise provided, will be valid for one (1) year and will automatically renew up to six (6) additional years unless the Bank receives Customer's revocation of a stop payment instruction. The Customer may request, through the Bank's call center or other authorized representative, a non-renewable stop payment, which will be effective for a 180-day period. The Bank shall not be liable for any Item properly paid or cashed prior to the effective time of a stop payment request. The Customer acknowledges that a stop payment instruction does not limit or vary its obligation to pay the subject Item and, notwithstanding a stop payment instruction, the Bank may properly pay such an Item to a person entitled to enforce it.
4.11 **Standard of Care.** Any item issued by the Customer drawn on its Account shall be deemed to be endorsed in the name of the payee if: the item is endorsed or deposited into an account in a name that is substantially similar to that of the payee; the payee is a fictitious person; the Customer was wrongfully or erroneously induced to issue the item payable to the stated payee; the deposit of the item was accomplished by an employee entrusted with responsibility for the item or person working in concert with such an employee; or the Customer or payee failed to act with ordinary care with respect to the item. The Bank shall not be liable for any loss caused by the alteration or unauthorized signature or endorsement on any item issued by the Customer, unless the Customer establishes that the Bank failed to handle the item with ordinary care, and that such failure substantially contributed to the loss. If the Bank’s failure to act with ordinary care substantially contributed to the loss on the item, the loss shall be allocated between the Customer and the Bank based upon the extent to which their respective failures to exercise ordinary care contributed to the loss. The Bank may process any item by electronic means and is not required to inspect the item payed by automated payment processing.

Section 5 of the Account Terms (Funds Transfer Instructions) is amended by adding the following provisions:

5.6 **Funds Transfer by Check.** If the Customer, through the Bank’s funds transfer services, requests that payment be made by check, the Customer authorizes the Bank to debit the Customer’s Account on receipt of the Instruction and to issue a check as agent for the Customer in accordance with the Instruction. If the Customer requests the Bank to place a stop payment on the check before the check has been presented for payment, such request must be clearly identified as a stop payment request, including the reference number given for the transaction, and it must be received by the Bank at a time and in a manner designated by the Bank from time to time. If the check is not presented for payment within one hundred eighty (180) days after issuance, the Bank may place a stop payment on the check and transfer the funds back to the Account.

5.7 **Credit Entries Received Through Automated Clearing House (ACH) System.** Credit given by the Bank to the Customer for an ACH credit entry shall be provisional, until the Bank receives final payment. If the Bank does not receive final payment, the Bank may revoke the provisional credit and charge back the amount of the entry to the Account, or obtain a refund from the Customer, in which case the originator of the credit entry shall not be deemed to have paid the Customer the amount of such entry. The Bank shall not be obligated to notify the Customer of the receipt of a payment order or ACH entry for credit to Customer’s Account.

5.8 **Same Day Amend and Cancel.** The Customer may subscribe to a service to enable same day amendment and cancellation of payment orders. All cancellation or amendment messages sent to the Bank shall be in the format specified by the Bank and must be received by the Bank no later than such time as may be established by the Bank and notice to the Customer.

5.9 **Priority/Timed.** The Bank will determine the order in which it processes payment orders. If the Customer’s payment order bears the codeword “PRIORITY” in such field as the Bank specifies, the Bank will use reasonable efforts to execute such payment order in advance of the Customer’s standard payment orders. If the Customer’s payment order bears the codeword “TIMED” in such field as the Bank specifies, the Bank will endeavor, but shall not be obligated to process the payment order by the time requested by the Customer within the payment order. For “TIMED” payment orders, funds in the Customer’s Account are reserved by the Bank on the payment value date until processed. For the avoidance of doubt, “TIMED” payment orders are subject to the Bank’s acceptance, and the Bank will have no liability for failure to process payments before the time requested by the Customer.

5.10 **Real Time Payments.** Payments received through the Real Time Payment System operated by The Clearing House Payments Company LLC (“RTP System”) will be processed pursuant to the RTP Operating Rules and any other applicable Rules & Regulations, to which the Customer agrees to be bound. If the Customer receives a payment through the RTP System on behalf of another person or entity, such other person or entity must be a resident of, or otherwise domiciled in the United States. In the further transmission of any such payments, the Customer agrees to comply with all applicable US laws and regulations, including, without limitation, those administered by the US Office of Foreign Assets Control.

5.11 **Messaging Standards.** To the extent there is any inconsistency between a fund transfer financial messaging standard and the governing law set forth in Section 16.1, the governing law set forth in Section 16.1 will govern.

Section 7 of the Account Terms (Account Statements) is amended by adding the following provisions:

7.2 **Images Sufficient.** The Customer acknowledges that Account Statements and images of paid Items are available to it and are sufficient to allow it to make all examinations and reports of Account activity including errors, as required in this Section. The Bank is not required to return paid or cancelled Items with the Account Statement.

7.3 **Obligation to Inspect.** The Customer must notify the Bank in writing, within a reasonable period of time not to exceed 60 calendar days of the date of an Account Statement, of (i) the failure to receive the Account Statement, or (ii) any errors, unauthorized payments, charges, alterations, discrepancies or irregularities reported on the Account Statement ("Errors"). The Customer must notify the Bank in writing of any unauthorized, improper, or missing endorsements within six (6) months after the date of the Account Statement on which the item was reported to have been paid. The Customer must provide the Bank with all information necessary for the Bank to investigate any claim based upon an endorsement or Error, and must provide all supporting evidence that the Bank requests. Failure to comply with the time frames set forth above shall be deemed conclusive proof that the Customer failed to exercise reasonable care and promptness in examining Account Statements and paid Items or identifying Errors and that such failure may cause subsequent loss to the Bank. If the Customer fails to comply with the notice requirements set forth above, the Bank is not required to reimburse the Customer for the Customer’s claimed loss and the Customer shall be barred from bringing any action against the Bank.
Section 15 of the Account Terms (Account Disclosures) is amended by adding the following provisions:

15.5 Withdrawal Limitations on Certain Account Types. U.S. federal regulations limit the number of pre-authorized or automatic transfers or withdrawals or telephonic/electronic instructions (including check, draft, debit card or similar order payable to third parties) that can be made from a savings account (including a savings sub-account as described below) and a money market deposit account to a total of six (6) per calendar month or statement cycle or similar period. The Customer agrees to comply at all times with such restrictions. Exceeding these withdrawal limits may result in the Bank converting the savings account into a non-interest bearing demand deposit account, with any attendant changes in pricing and account terms and conditions. Further, the Bank is required by U.S. law to reserve the right to require at least seven (7) days' notice prior to a withdrawal from a savings account (including a savings sub-account) or an interest-bearing negotiable order of withdrawal account ("NOW Account").

15.6 NOW Accounts. The Customer, if eligible, may open a NOW Account. There is no limit on the number of withdrawals that the Customer may make from the demand deposit or NOW sub-account.

15.7 Administrative Subaccounts. The Bank is authorized, for regulatory reporting and internal accounting purposes, to divide an Account: (i) in the case of a demand deposit checking Account, into a non-interest bearing demand deposit sub-account and a non-interest bearing savings sub-account; (ii) in the case of a NOW Account, into a non-interest bearing NOW sub-account and an interest bearing savings sub-account, and, in both cases, to transfer funds on a daily basis between these sub-accounts in accordance with U.S. law at no cost to the Customer. The Bank will record the sub-accounts and any transfers between them on the Bank's books and records only. The sub-accounts and any transfers between them will not affect the Account number, balance requirement or use of the Account, except as described herein.

15.8 Savings Subaccounts. The Bank will establish a target balance for the Customer's demand deposit or NOW sub-account, which it may change at any time. To the extent funds in the demand deposit or NOW sub-account exceed the target balance, the excess will be transferred to the Customer's savings sub-account, unless the maximum number of transfers from the savings sub-account for that calendar month or statement cycle have already occurred. If withdrawals from the demand deposit or NOW sub-account exceed the available balance in the demand deposit or NOW sub-account, and the Customer's savings sub-account will be transferred to the demand deposit or NOW sub-account up to the entire balance of available funds in the savings sub-account to cover the shortfall and to replenish any target balance that the Bank has established for the demand deposit or NOW sub-account. If a sixth transfer is needed during a calendar month or statement cycle, it will be for the entire balance in the Customer's savings sub-account, and such funds will remain in the demand deposit or NOW sub-account for the remainder of the calendar month or statement cycle.

15.9 Branch Designation. The Bank, for administrative purposes may designate a branch of the Bank as the branch of record of an Account which may be different from the branch at which the Account is opened. This designation requires no action on the part of the Customer and will not change the Bank's operations or customer support.

15.10 No Fiduciary Relationship. Bank's relationship with Customer concerning the Accounts is that of a debtor and creditor. No fiduciary, quasi-fiduciary or other special relationship exists between Bank and Customer or any third parties regarding the Accounts.

Section 16 of the Account Terms (Governing Law) is amended by replacing Section 16.1 with the following provision:

16.1 Except as otherwise agreed in writing by the Bank and the Customer, the rights and obligations of the Customer and the Bank in respect of each Account maintained in the U.S. shall be governed by and construed in accordance with the laws of the State of New York (without regard to its conflict of laws rules). Each of the Customer and the Bank irrevocably and unconditionally submits to the exclusive jurisdiction and venue of any State or Federal court sitting in the City of New York, New York over any action, suit, proceeding, claim or controversy arising out of or relating to the Account Terms which includes this Addendum. The rights and remedies of the Bank under this Addendum, the Account Terms, the Account Documentation, the Service Terms, and any other agreement by the Customer in favor of the Bank are in addition to the rights and remedies of the Bank under applicable law (as provided above in this Section), are cumulative and may be exercised successively or concurrently, and are retained by the Bank.

Section 16 of the Account Terms (Governing Law) is amended by adding the following provision:
Section 17 of the Account Terms (Miscellaneous) is amended by adding the following provisions:

17.15 When the Customer provides the Bank any information requested by the Bank under its "Know Your Customer" or Anti-Money Laundering or other compliance policies pertaining to any natural or other persons, the Customer represents and warrants to the Bank that the Customer has obtained that person's consent that the Bank may make continued use of that person's information in order for the Bank to discharge any of its responsibilities in connection with "Know Your Customer" or Anti-Money Laundering, or other compliance purposes.

17.16 Beneficial Ownership. Customer agrees to adhere to the FinCEN Customer Due Diligence documentation in form and manner acceptable to the Bank, permit the holding of such Accounts or deposits or receipt of funds. The Bank is required to collect and validate certain information (e.g. Name, Address, DOB, SSN or Passport # for non US individuals) for new accounts impacted by the rule. If an entity is exempt from rule, the Bank may require documentation to support the exemption.

17.17 Payable Through Accounts. If the Customer is a bank or financial institution and is not organized under the laws of the U.S., it shall not permit its customers to conduct banking transactions in the U.S. through the Customer's Account, and shall not provide its customers with check stock, drafts, wire transfer capabilities or any other means which would enable its customers to draw on the Customer's Account. These types of arrangements are typically called "payable through accounts" and are prohibited under these Account Terms. The Customer acknowledges that the sale of U.S. dollar checks or drafts to third parties is prohibited without the express written approval of the Bank.

17.18 No Advice. The Customer acknowledges and agrees that the Bank has not provided and will not provide any investment, tax or accounting advice or recommendation in relation to the Accounts or any investments made under any Service.

17.19 ERISA Status. The Customer will notify the Bank in writing, reasonably in advance of the Account opening, if any Accounts or monies it holds or places with the Bank are subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), together with all the rules promulgated thereunder, or Section 4975 of the Internal Revenue Code, together with all the rules promulgated thereunder. The Bank may, in its sole discretion and subject to such further conditions as it may impose, including, without limitation, execution of further documentation in form and manner acceptable to the Bank, suspend the holding of such Accounts or deposits or receipt of funds.

17.20 Additional Representation for ERISA Benefit Plans.

(i) If the Customer is or represents a "benefit plan", defined in Section 3(42) of ERISA, and U.S. Department of Labor Regulations Section 2510.3-101, as modified by Section 3(42) of ERISA, together with the "Plan Asset Rules" and each such benefit plan investor, a "Benefit Plan", or is acting on behalf of one or more Benefit Plans, the Customer represents and warrants that:

(1) the Bank has not or will not provide advice with respect to the services obtained by the Benefit Plan.

(2) the Benefit Plan fiduciary (the "Plan Fiduciary") is independent of the Bank, and is not an individual acting for his or her own Individual Retirement Account and such Plan Fiduciary is either (a) a bank as defined in Section 202 of the Investment Advisers Act of 1940 (the "Advisers Act"), or similar institution that is regulated and supervised and subject to periodic examination by a State or Federal agency; (b) an insurance carrier which is qualified under the laws of more than one state to perform the services of managing, acquiring or disposing of assets of a Benefit Plan; (c) an investment adviser registered under the Advisers Act or, if not registered as an investment adviser under the Advisers Act by reason of paragraph (a)(1) of Section 203A of the Advisers Act, is registered as an investment adviser under the Advisers Act by reason of any other provision of Section 203A of the Advisers Act; (d) a broker-dealer registered under the Securities Exchange Act of 1934, as amended; or (e) has, and will at all times have, total assets of at least U.S. $50,000,000 under its management or control;

(3) the Plan Fiduciary is capable of evaluating investment risks independently, both in general and with respect to the Accounts and Services;

(4) the Plan Fiduciary is a "fiduciary" with respect to the Benefit Plan within the meaning of Section 3(21) of ERISA, Section 4975 of the Code, or both, and is responsible for exercising independent judgment in evaluating the receipt of Services by the Benefit Plan;

(5) the Bank has not exercised any authority to cause the Benefit Plan to agree to these Account Terms; and

(6) the Plan Fiduciary has been informed (a) that the Bank is not undertaking to provide impartial investment advice or to give advice in a fiduciary capacity in connection with the Services; and (b) of the existence and nature of the financial interests of the Bank, as disclosed in the Account Terms and Service Terms.

(ii) The representations and covenants in the above clauses are intended to comply with the U.S. Department of Labor's Reg. Sections 29 C.F.R. 2510.3-21(a) and (c)(1) as promulgated on April 8, 2016 (81 Fed. Reg. 20,997). If these regulations are revoked or repealed, these representations shall be deemed no longer in effect.
AVAILABILITY POLICY - FOR ACCOUNTS MAINTAINED IN THE U.S.

The Bank's policy is to make funds available to the Customer on the same, next or second business day after the day of deposit depending on the type of deposit and when the deposit is made as described below. If the Customer will need the funds from a deposit immediately, the Customer should ask the Bank when the funds will be available.

A. Determining the Day of a Deposit. If a deposit is made to an account on a business day before the Bank's cutoff time established for that location (which will be no earlier than 2 p.m. local time), then the Bank will consider that day to be the day of deposit. However, if a deposit is made after the cutoff time or on a day that is not a business day, then the Bank will consider the deposit to have been made no later than the next business day. For determining the availability of deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. Availability with respect to any deposit will be determined by the location of the banking center or other facility where the deposit was received. For deposits made at the Bank's automated teller machines (ATMs) the cutoff time is 11 p.m. Eastern Time unless otherwise noted on the ATM screen.

B. Same Day Availability. Funds from the following deposits made at a banking center or at an ATM that do not require deposit envelopes will be available on the business day the Bank determines the deposit is made:
   - Cash;
   - Wire transfers; and
   - Electronic direct deposits to an account.

C. Next Day Availability. Funds from the following deposits are available on the first business day after the business day the Bank determines the deposit is made:
   - U.S. Treasury checks that are payable to the Customer;
   - Checks drawn on a Bank affiliate that holds the applicable account (including a Controlled Disbursement site); and
   - At least, the first $200 from a day's total deposits.

If the deposit is made in person to a Bank employee, funds from the following deposits are also available on the first business day after the business day the Bank determines the deposit is made:
   - State and local government checks that are payable to the Customer, if a special deposit slip, available upon request at any Bank banking center is used;
   - Cashier's, certified, and teller's checks that are payable to the Customer, if a special deposit slip, available upon request at any Bank banking center, is used; and
   - Federal Reserve Bank checks, negotiable order of bank checks, and postal money orders, if these items are payable to the Customer.

If a special deposit slip is not used, availability of funds from these deposits will follow the schedule identified in the Availability of Other Check Deposits section below.

D. Availability of Other Check Deposits. Generally, funds from all other deposits of checks drawn on banks (as defined in Federal Reserve Regulation CC) will be available no later than the second business day after the day of deposit. Checks that require special handling may receive delayed availability. The amount of funds available to the Customer will be reduced by the amount of any deposited check that is returned unpaid. If the Bank reprocesses the check, the funds will become available no later than the second business day after the business day in which the check is reprocessed.

E. Longer Delays May Apply. In some cases the Bank may not make all of the funds that are deposited by check available. Depending on the type of check deposited, funds may not be available as set forth above. However, the first $200 of the aggregate deposit will be available on the first business day after the day of deposit.

If the Bank is not going to make all of the funds from a deposit available at the times shown above, it will notify the Customer and specify when the funds will be available. If a deposit is not made directly to a Bank employee, or if the Bank decides to take this action after the Customer has left the premises, the Bank will mail or otherwise send the notice to the Customer by the business day after the day of deposit.

Funds deposited by check may be delayed for a longer period under the following circumstances:
   - The Bank believes a deposited check will not be paid;
   - Deposited checks for all of the Customer's accounts total more than $5,000 in any one day;
   - The Customer redeposited a check that has been returned unpaid;
   - The Customer has overdrawn one or more of its accounts repeatedly in the last six months; or
   - There is an emergency, such as failure of communications or computer equipment.
In such circumstances, funds will generally be available no later than the seventh business day after the day of deposit. Inclement weather or transportation problems may lead to additional delays under certain availability schedules. Customer may have specific availability schedules related to a banking service.

F. Special Rules for New Accounts. If the account is a new account, the following special rules may apply during the first thirty days the account is open:

- Funds from deposits of the first $5,000 of that day’s total deposits of cashier’s, certified, teller’s, traveler’s and federal, state and local government checks payable to the Customer will be available on the first business day after the day of deposit. The excess over $5,000 will be available no later than the ninth business day after the day of deposit. If the deposit of checks (other than U.S. Treasury checks) is not made in person to one of the Bank’s employees, the first $5,000 may not be made available until the second business day after the day of deposit; and
- Funds from all other check deposits will be made available no later than the fifteenth business day after the day of deposit.

G. Large Dollar Deposits. The U.S. Federal Reserve Banks will not forward process any item over $99,999,999.99 and considers such items as “non-cash items.” Such items should not be deposited in the Account. If Customer does deposit such an item, the Bank may refuse to process such item or handle it as a collection item. If handled as a collection item, Customer credit and availability will be deferred accordingly.

This Availability Policy and availability schedules may be changed without notice.

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Consolidated Service Terms

J.P. Morgan Chase provides an array of treasury services to meet your business needs. This booklet contains important information about J.P. Morgan Chase solutions that we provide. If you would like to add a service that is covered in this booklet, please contact your Commercial Banking Representative.

TREASURY SERVICES (United States)
Commercial Bank
Welcome to JPMorgan Chase Bank, National Association ("J.P. Morgan", "Chase", or "Bank"). We are pleased that you have decided to maintain a banking relationship with us. This Consolidated Service Terms booklet ("Booklet") contains the terms and conditions for certain cash management services ("Service Terms") J.P. Morgan may provide to you. By executing the Account Terms Acceptance Letter, Certificate Regarding Accounts, Business Signature Card, service implementation form or similar document, or by using or continuing to use any of the services referenced herein after receipt of this Booklet, you agree that the Service Terms included in this Booklet, in addition to the Account Terms and such supplements, amendments, notices and additional service terms provided to you from time to time will govern your existing and future deposit accounts maintained with us, in addition to those services that the Bank provides to you, as applicable.

This Booklet includes Treasury Services Service Terms applicable to all Commercial Banking customers. All Service Terms are subject to the Bank’s Account Terms. Any modifications to this Booklet, including but not limited to any changes, amendments, deletions, and/or additions, will not be binding upon the Bank unless such modifications are acknowledged and agreed to in writing by an officer of JPMorgan Chase.

We look forward to serving your business needs and thank you again for choosing Chase.

SERVICES FOR CUSTOMERS

A. ACH Origination
B. ACH Transaction Blocking & ACH Transaction Review
C. Lockbox
D. Coin & Currency
E. Positive Pay, Reverse Positive Pay and Payee Verification
F. Controlled Disbursements
G. Image Cash Letter
H. Check Print
I. ACH Tax Payment
J. Virtual Remit Service Terms
K. Client Access
The services described herein (each a "Service") are subject to the Bank's Account Terms (as may be amended from time to time), which are hereby incorporated by reference into each Service Terms. By using any of the Services described hereunder, the Customer acknowledges that it has received and agreed to the Account Terms, as supplemented by these Service Terms. Capitalized terms in the Service Terms, unless otherwise defined herein, shall have the meanings set forth in the Account Terms.

A. ACH Origination

The Automated Clearing House (ACH) is a batch processing payment system that U.S. banks use to exchange and settle credit and debit transactions on behalf of their clients or themselves. The origination of ACH Entries and the transmission and issuance of related transactions and information will be pursuant to these terms and the Operating Rules and Guidelines (collectively the "Rules") of the National Automated Clearing House Association. Capitalized terms used in this subpart, unless otherwise defined in this subpart shall have the same meanings as set forth in the Rules. The Customer and the Bank agree to comply with and be bound by the Rules as in effect from time to time, including without limitation, the provision making payment of a Credit Entry by an RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Credit Entry and the Customer acknowledges that it has received notice of such rule and of the fact that if such settlement is not received, the RDFI will be entitled to a refund from the Receiver of the amount credited and the Customer will not be deemed to have paid the Receiver the amount of such Credit Entry.

1. Service. Bank provides automated clearing house ("ACH") origination services that will enable Customer to do one or more of the following:
   - originate ACH Debit Entries;
   - originate ACH Credit Entries; and
   - instruct the Bank to issue or transmit prenotifications, reversals, requests for return, notifications of change or other information pertaining to the Entries.

Origination of ACH Credit Entries and origination of ACH Debit Entries are separate services and approval or set up for one ACH service does not automatically create the ability to utilize the other. The Rules and these Service Terms shall apply to all Entries, whether or not transmitted through an ACH Operator.

It is Customer's responsibility to provide Entries and instructions to Bank with all the necessary information to complete Customer's requested transactions. Customer agrees to transmit Entries to Bank at the times and in accordance with approved media, content and format as agreed by Bank and Customer. Bank may reject Entry processing transactions or information if instructions are not complete or are inaccurate, contain an inactive Company ID or otherwise do not meet the criteria Bank specifies for acceptance. All requests to Bank must be received by Bank before Bank's established cut-off time, and entry processing to commence on that ACH processing day. Any request that is incomplete or that Bank finishes receiving after the relevant cut-off time will be processed by Bank on the next day Bank processes ACH transactions. All transactions are subject to acceptance by Bank. Bank will notify Customer of any transactions or other transmissions that are rejected or returned.

If Customer wants Bank to re-process those transactions or transmissions, Customer must correct them and re-submit them. Customer agrees to furnish Bank with copies of any authorizations or notifications, if requested, as well as any other information reasonably requested by Bank relating to Entries originated by the Customer. Customer shall provide Bank's auditors and other personnel with reasonable access at all reasonable times to the Customer's facilities, data and records relating to the initiation of Entries for the purpose of auditing Customer's compliance with these Service Terms and the Rules.

2. Security and Data Protection Procedures. All instructions received by Bank in Customer's name are subject to verification pursuant to mutually agreed security procedures. If Bank follows those procedures, Bank may process and transmit transactions or information in Customer's name. Unless Customer and Bank both otherwise agree, transactions to Bank will be authenticated and/or encrypted using commercially reasonable security technologies meeting standards acceptable to Bank. If Customer uses a security procedure other than as described above, Customer acknowledges that Customer refused Bank's security procedure and chose another and Customer agrees to be bound by any transaction, whether or not authorized, issued in Customer's name and accepted by Bank in compliance with the security procedure Customer chose. If Customer elects not to utilize recommended message authentication and/or encryption technology, Customer assumes all responsibility for unauthorized disclosure or unauthorized access to Customer's data that occurs during transmission or while such data is in storage. Customer shall not disclose any Receiver's account number or routing number to any third party for such third party's use, directly or indirectly, in initiating a separate Debit.

3. Settlement and Exposure Limits. On the settlement date, Bank will credit Customer's account with Bank that Customer specifies for the total of:
   - Customer's Debit Entries that Bank processed for settlement that day;
   - RCCs issued for deposit to Customer's account on that day; and
   - any returned or reversed Credit Entries.
Bank may delay the availability of funds deposited into Customer's account by Debit Entry or RCC until those transactions cannot be reversed in accordance with the Rules or applicable law.

Bank will debit Customer's account with Bank that Customer specifies for the total of Credit Entries processed in Customer's name and for any returned Debit Entries and RCCs. Bank may require Customer to pay Bank the amount of any Credit Entries on the date of transmission to Bank or otherwise prior to the settlement date. Bank also may require Customer to maintain collateral with Bank in an amount Bank specifies.

Bank may from time to time establish or revise maximum dollar limits for the total value of all outstanding files of Credit Entries and/or Debit Entries and RCCs that Bank will release on Customer's behalf. Bank may change or cancel the limits at any time without prior notice to Customer; although Bank will try to notify Customer before Bank does that.

4. Warranties; Indemnity. Except as specified below, Customer will be deemed to make the same warranties to Bank as Bank makes pursuant to the Rules. In the case of an Entry to another account with Bank, warranties will be deemed to be given as of the time Bank first processes the Entry. Customer will not be deemed to warrant the power of the Bank under applicable law to comply with the requirements of the Rules or the conformity of Entries and other data Bank transmits to the file specifications contained in the Rules. The Customer further represents, warrants and covenants that (a) each Entry and RCC it originates will comply with all applicable U.S. laws and regulations and acknowledges that Entries may not be initiated that violate the laws of the United States, (b) unless Customer has identified itself to Bank as a Third Party Sender (as defined in Section 7) and obtained Bank's express consent to originate Entries, Customer will not originate any Entries, or use any of its Company IDs to originate Entries, on behalf of third parties (including, without limitation, any affiliate of Customer), and (c) Customer will not permit a third party to originate Entries using a Customer account as the offset account unless Customer obtains Bank's express consent to do so.

Customer agrees to indemnify Bank and Bank's employees, officers, directors and agents, and hold all of them harmless from and against any and all claims, demands, losses, liabilities or expenses (including attorneys' fees and costs) resulting directly or indirectly from (a) Customer's breach of any warranty made under these Service Terms and (b) compliance by Bank and the RDFI with any request Customer makes for a cancellation, stop payment, reversal or recall of any Entry or any RCC created by Bank under Section 1 hereof.

Customer agrees to indemnify Bank and Bank's employees, officers, directors and agents, and hold all of them harmless from and against any and all claims, demands, losses, liabilities or expenses (including attorneys' fees and costs) resulting directly or indirectly from (a) Customer's breach of any warranty made under these Service Terms and (b) compliance by Bank and the RDFI with any request Customer makes for a cancellation, stop payment, reversal or recall of any Entry or any RCC created by Bank under Section 1 hereof.

Bank shall have no responsibility for any delay by any ACH Operator or RDFI in processing any Entry the Bank transmits to the ACH Operator or failure to process or credit or debit any such Entry.

5. Stop Payments; Reversals and Recalls; Rejections. Customer's direction to cancel, stop payment of, reverse or recall one or more Entries must be received by Bank in such time and manner as Bank specifies. Bank will process these transactions in accordance with Bank's procedures advised to Customer. Any reversal or recall initiated by Bank is subject to acceptance by the RDFI. Instructions to reverse or recall an ACH Credit Entry that are not initiated by Customer in time to meet the prescribed ACH deadline for reversals may be originated by Bank as a Debit Entry; Customer shall obtain authorization from the Receiver in accordance with the Rules for any such Debit Entry and all other terms of these Service Terms applicable to Debit Entries shall apply. Rules or other instructions may not be amended or modified.

If Customer originates Debit Entries to an account with a financial institution that is not a Participating Depository Financial Institution in the ACH system (such account hereafter called a "Non-ACH Eligible Account"), all such Debit Entries will be rejected unless Customer subscribes to a service, subject to Bank's prior consent, pursuant to which Bank will process each such Debit Entry to a Non-ACH Eligible Account by preparing a remotely created check, as such term is defined in Federal Reserve Regulation CC (an "RCC"), on the Customer's behalf. The RCC will be drawn in the amount and on the Non-ACH Eligible Account of the individual or entity specified as the receiver in the Customer's instructions and will be deposited to the Customer's designated account with Bank. Such RCC will thereafter be processed through the check clearing system. If the Customer is using such service, the Customer hereby authorizes the Bank to debit the account on whose account the RCC is drawn authorized the issuance of such RCC in the amount and to the payee stated in the RCC. The Customer authorizes the Bank to debit the Customer's account for any claim or return based upon an unauthorized RCC. All other terms herein related to Entries shall also apply to RCCs created under this Section. The Bank shall not create or process RCCs or other paper drafts in lieu of ACH Debits under any circumstances other than for Non-ACH Eligible Accounts and only when the Bank has consented to provide such service, even if the Customer includes an instruction in its file for the Bank to otherwise originate an RCC or paper draft.

6. Third Party Service Providers. Customer may choose to use a third party service provider or service bureau to issue Entries or other instructions, handle returned Entries or perform other functions for and on Customer's behalf. If Bank accepts such Entries or other instructions, Customer will be bound by them. Customer is responsible for all actions taken or not taken by Customer's provider and Customer is responsible for all costs and expenses of Customer's provider.

7. Third Party Sender. If Customer is a Third Party Sender, as such term is hereafter defined, (a) Customer warrants that the Originator has agreed to be bound by the Rules and has satisfied the obligations of an Originator under the Rules; (b) in any case where the Originator fails to perform its obligations under the Rules as an Originator, Customer shall indemnify, defend and hold Bank harmless from and against any and all claims, demands, losses, liabilities or expenses, including attorneys' fees and costs, that result directly or indirectly from the failure of the Originator to perform its obligations as an Originator under the Rules; (c) Customer agrees to cooperate with Bank regarding any request for information concerning the identity of any Originator; and (d) Customer represents, warrants and covenants that neither these Service Terms nor anything related to the ACH Origination Services violates, contravenes or is inconsistent with any of the terms, conditions or provisions of any agreement, understanding or arrangement between Customer and the Originator. Further, Bank will rely on Customer to evaluate the legitimacy of the Originators and their transactions originated by Customer and for ensuring that instructions do not involve illegal activities. Customer must notify Bank immediately if Customer suspects or become aware of any activity or transaction of an Originator that Customer believes may be of an illegal or illegitimate nature or that involves the proceeds of illegal activity or that was conducted, in part or whole, for the purpose of disguising the source of funds. Bank will be entitled at any time unupon notice to Customer to decline to provide the ACH Origination Services, or terminate the provision
of ACH Origination Services, for any Originator on whose behalf are originating Entries if Bank determines that there are excessive returns or reversals of Entries originated on behalf of such Originator or if Bank becomes aware of any information indicating suspicious, fraudulent or illegal activity related to such Originator or for any other reason. As used herein, “Third Party Sender” means an entity that is not an Originator, that has authorized an ODFI or another Third Party Sender to transmit, for the account of the Third Party Sender or another Third Party Sender, (l) a credit entry to the account of a Receiver in order to effect a payment from the Originator (i.e., the third party on whose behalf the Third Party Sender is transmitting the entry) to the Receiver, or (ii) a debit entry to the account of a Receiver in order to effect a payment from the Receiver to the Originator (i.e., the third party on whose behalf the Third Party Sender is transmitting the entry). Without limitation of the foregoing, Third Party Senders include U.S. regulated financial institutions, brokers and other financial intermediaries as well as any other regulated or unregulated payment processors that are customers of the Bank and use their accounts to process payments for third parties (including affiliates of the Customer).

8. IAT Entries. If Customer is originating Entries that are required to be formatted under the Rules as IAT Entries, Customer will comply with all applicable Rules relating thereto, and Customer will originate such Entries only through one of Bank’s ACH origination channels that support IAT origination. Some of Bank’s ACH origination channels do not accommodate IAT Entries; upon request, the Bank will advise Customer as to which of Bank’s ACH origination channels can be used for IAT origination.

If a foreign currency conversion is performed by Bank in connection with an IAT Entry, Customer acknowledges that the foreign currency exchange rates fluctuate, and accepts the risk of such fluctuation, including fluctuations in rate between the time Customer submits the Entry Data Instructions and the time the transaction is executed and/or reversed, returned or recalled. Any payment returns and/or reversals will be credited to Customer’s account in the currency in which Customer’s account is denominated, and Customer is responsible for any rate fluctuations.

In the event of an erroneous or duplicate IAT Entry originated for payment to a receiving bank outside the United States, the rights of Bank and Customer with respect to reversal or recall of such Entry are subject to the laws, regulations and payment system rules of the receiving bank’s jurisdiction.

Customer acknowledges and agrees that IAT Entries may be delayed in processing, posting due to the Bank’s or RDFI’s review of such Entries for OFAC compliance. Further, Customer understands and acknowledges that unlike PPD Credit Entries, there is no requirement under the Rules that IAT Credit Entries that are made available to an RDFI by its ACH operator by 5:00pm on the banking day prior to the Settlement Date be made available to the Receiver at the opening of business on the Settlement date; closed IAT Credit Entries must be made available no later than the Settlement Date of the Entry, but funds are not required to be available at opening of business on the Settlement Date.

9. Incorporation of Account Documentation; Termination. The provisions of the account documentation, including terms and conditions governing the operation of business accounts and services, are incorporated into these Service Terms by reference. By acknowledging or signing the applicable account documentation or by using or continuing to use the ACH Origination Services, Customer agrees to these Service Terms. In addition to Bank’s termination rights under the aforementioned documentation, Bank shall have the right to terminate or suspend these Service Terms and the Services upon notice to Customer in the event of the Customer’s breach of the Rules.

B. ACH TRANSACTION BLOCKING & ACH TRANSACTION REVIEW

ACH Transaction Blocking is a Service that allows a Customer to block and return ACH debit and credit Entries originated to the Customer’s account with the Bank. ACH Transaction Review allows the Customer to review ACH debit and credit Entries originated and posted to the Customer’s account with the Bank and to instruct the Bank to return some or all of these transactions.

1. ACH Transaction Blocking:

(a) Service. The Customer can select from a variety of authorization or blocking criteria and advise the Bank in a manner and form acceptable to the Bank. The Bank will return any blocked transaction indicating that the ACH debit was not authorized or that the ACH credit was refused.

(b) Company IDs. If the Customer elects an option that blocks or allows ACH debits or credits from specified companies, the Customer must supply the Bank with the applicable ACH Company ID of the Originator as it appears on the Company/Batch Header Record. The Company ID will be the sole criterion for blocking debit and credit Entries (unless Customer has also set maximum dollar limits) and Bank will have no obligation to take any other steps to determine the identity of the Originator. The Customer will be solely responsible for obtaining the correct Company ID for each such Originator.

The Customer understands that Company IDs are not unique and that a Company ID may identify more than one Originator, and one Originator may have multiple Company IDs. The Customer understands that Company IDs are not a perfect filter and that transactions from Originators may be blocked or allowed if the Originator uses a Company ID other than the one Customer identifies. The Bank will not be responsible for transactions blocked or allowed in accordance with the instructions the Customer provides for the Company ID.

(c) Transactions Not Affected by Blocking. ACH debit and credit blocks do not apply to certain transactions. The following types of ACH-related transactions will not be blocked:

- debits or credits to the Customer’s account to offset any ACH credit or debit Entries originated by the Customer through Bank;
• reversals of previously received ACH credit or debit Entries;
• returns or reversals by the RDFI of ACH debit or credit Entries originated by the Customer through the Bank;
• Reclamation Entries (debits);
• debits or credits to the Customer’s account initiated by the Bank or Bank’s agent or affiliate to correct processing errors, effect back valuations, make other adjustments or, with respect to debits, for fees, charges or other amounts the Customer owes the Bank or Bank’s affiliates; and
• debits or credits to the Customer’s account that the Bank posts pursuant to its internal procedures in order to comply with applicable law, regulations or payment system rules or guidance.

2. ACH Transaction Review:

(a) Service. Customer shall use filter criteria available through the service to select the types or categories of incoming ACH debit and/or credit transactions it wishes to review or the Customer may elect to review all incoming ACH transactions subject to Section 2(d) below.

(b) Review and Return Process. Based upon the filter criteria selected by the Customer, ACH transactions meeting that criteria will be made available for the Customer to review not later than a designated time on the banking day following the day on which the transactions are posted to the Customer’s account. The details provided by the Bank for each Entry will include account number, dollar amount, company ID, receiver’s name, standard entry class code and settlement date.

(c) The Customer shall advise the Bank by means of an agreed upon transmission method not later than the Bank’s designated cut-off time on the same day as transaction information is made available of those transactions, if any, that are unauthorized and that the Customer wishes to return. The Bank is entitled to rely on any instructions which it receives and which it reasonably believes to be genuine. The Bank shall return all such transactions and make corresponding adjustments to the Customer’s account to which the transactions had been posted. All transactions reported to the Customer as to which Bank does not receive a timely instruction from the Customer will remain posted or be returned based on the Transaction Review profile default decision setting established by the Customer.

(d) ACH Transactions Not Subject to Review. The following types of ACH transactions will not be made available for the Customer’s review and decisioning:
• debits or credits to the Customer’s account to offset any ACH Entries originated by the Customer through the Bank;
• reversals of previously received ACH Entries;
• returns or reversals by the RDFI of ACH Entries originated by the Customer through the Bank;
• Reclamation Entries;
• debits or credits to the Customer’s account initiated by the Bank or Bank’s agent or affiliate to correct processing errors, effect back valuations, make other adjustments or to comply with legal requirements or for fees or charges the Customer owes the Bank or Bank’s affiliates; and
• if the Customer is also subscribing to the ACH Transaction Blocking service, any transactions blocked and returned pursuant to that service.

(e) Certain Reviewed Transactions Maybe Returned/Posted Despite Instructions. Certain transactions reviewed and approved by the Customer may nevertheless be returned by the Bank. This will happen if (i) there are insufficient funds in the Customer’s account to cover the amount of an ACH debit or other charge, (ii) a stop payment was previously placed on the transaction, or (iii) the Bank determines the transaction must be returned for legal or regulatory reasons. Certain transactions that the Customer advises should be returned may nevertheless be posted by the Bank; these include ACH debits or credits to the Customer’s account that the Bank posts pursuant to its internal procedures in order to comply with applicable law, regulations or payment system rules or guidance.

C. LOCKBOX

Lockbox is a remittance processing Service offered to customers to support their accounts receivables business needs. Through this service, the Customer’s remittance deposits are sent to a Post Office Box and picked up by the Bank and delivered to or via courier for further processing and posting to the Customer’s deposit account.
1. Service. The Bank will maintain the Post Office Box for the Customer's remittances and will have unrestricted and exclusive access to the Post Office Box while providing the Lockbox service. Customers requiring Caller Service or Business Reply Mail Service for remittance collection must obtain prior approval from the Bank. Upon approval, the Customer will secure such services directly with the United States Postal Service (the "USPS") and ensure the Bank is authorized to collect the mail. The Bank shall not be responsible for delays in processing due to the Customer's failure to pay the USPS for such services or any other action taken or not taken by USPS. The Bank may direct clients to include specific codes or formats within their assigned address in order to ensure mail is identified correctly. The Customer is responsible for ensuring their customers' remittances are properly addressed in order to prevent delays in processing.

2. Deposit; Endorsement. The Bank will collect all mail delivered to the designated Post Office Box, and will open the mail, process the checks eligible for this service (the "Items") and credit the funds to the Customer account or process for collection the items received, except: i) Items which the Customer has instructed the Bank in writing, and the Bank has agreed not to process; ii) Items which the Bank believes should receive the Customer's special attention; iii) Items for which the Customer is not the payee, unless the Customer has provided proper authorization to process for credit or collection of such items; and iv) any other matter or merchandise received. The Bank will not process such excepted items or other matters or merchandise, but will forward them to the Customer unprocessed. The Bank assumes no responsibility for the inadvertent processing of Items excepted from processing. The Bank will process credit card payments as point of sale transactions, obtaining authorization as required by applicable card rules; provided, however, the Bank will not place phone calls for authorization of referrals or process credit transactions. The Bank shall not be deemed a merchant processor and shall not be liable for any data entry errors or any chargeback. The Bank assumes no liability for any matter or merchandise received through the Post Office which is not a depositable Item, including cash. Any failure by the Bank to process an Item other than as provided herein does not constitute a failure by the Bank to exercise ordinary care. The Customer shall be liable to the Bank as a general endorser on all Items processed by the Bank.

3. Differing Amounts. If the amount of an Item written in words and figures differ, the Item will be processed for amount written in words. If the Item is accompanied by an invoice or statement and the amount on the statement matches the amount written in figures, and the Customer has requested, and the Bank has agreed, to process such Item for the amount written in figures, the Item may be processed for the amount written in figures. In the event the Bank processes the Item for the amount written in figures, the Customer indemnifies the Bank for any claim which may arise from that action.

4. Foreign Items. This Service is limited to Items drawn on domestic banks so the extent the Bank notices that any Items drawn on foreign banks have been deposited, such Items shall be forwarded to Customer as unprocessable.

5. Returned Items; Re-present. If any Item is returned to the Bank for any reason or there is a claim involving an Item deposited to the Customer Account, the Bank will charge back that Item, together with all fees and other amounts allowed on such claims or for returned Items, against the Customer Account, regardless of whether such debit is a return of overpayment to the Customer Account. If, however, the Bank has been instructed in writing by the Customer to re-present Items which have been dishonored or returned to the Bank unpaid for reasons other than account closed, the Bank may do so automatically and without notice to the Customer, and the Bank reserves the same rights to debit the Customer Account should any such Items remain unpaid after the re-presentation.

6. Security for Imaged Items. The Bank has special Security Procedures for receiving and accessing imaged Items, Imaged Documents and lockbox transaction data. The Bank is not obligated to send any images or data or allow access through the Delivery Media to any images or data which are not requested or accessed in accordance with the Security Procedures. The Customer acknowledges that once a CD-ROM is received, or it has accessed images by an Delivery Media person having access to the Customer's computers and image archives may have access to the imaged Items, Imaged Documents and lockbox transaction data.

7. Image Option. If the Customer elects and this image option is available at the designated Bank processing location, the Bank will provide images of the Items ("Imaged Items") received, together with Images of related documents ("Imaged Documents"), through the media ("Delivery Media") and at the intervals agreed upon between the Bank and the Customer. The Customer may receive additional service material, including user guides, software licenses and other terms in connection with the selection of this option.

8. Original Documents; Image Storage. Unless the Bank has agreed otherwise, the Bank will image all Items and associated remittances and retain original documents on site for no longer than 14 days. All original documents will be destroyed 14 days after processing. If the Customer uses the Bank's Regional Retail Lockbox product, associated original documents are retained on site no longer than 7 days. The Bank will store imaged Items for a period of seven (7) years from the date of the applicable transaction regardless of any additional imaging service requested by the Customer. If the Customer elects storage of Imaged Documents, the Bank will store Imaged Documents for a period of thirty (30) days (Short Term Storage) to ten (10) years (Long Term Storage) from the processing date of the applicable transaction, per the Customer's selection. If the Customer elects to image and not store Imaged Documents with the Bank, such Images will be delivered to the Customer via daily Direct Image Transmission.

9. Accuracy; Legibility. The information delivered to the Customer through the Delivery Media will be the same as the information in the data entry file provided to the Customer for the applicable time period. If the data entry file contains errors, those errors will also occur on the Delivery Media. The Bank will provide Images that are as legible as possible given the legibility of the underlying remittance documents and the selected Delivery Media. The Bank has no liability or responsibility for the condition of the original remittance items provided to the Bank, and it reserves the right to review and approve sample remittance items for legibility prior to providing this service. The Customer is responsible for reviewing Images obtained through the Delivery Media and to promptly notify the Bank of any Images that are not clear.

10. Disclosures. As between the Customer and the Customer's clients, if applicable, certain payments collected hereunder may be subject to various cut-off times and payment deadlines (the "Disclosures"). The Customer acknowledges and agrees that the Bank has no duty to inquire as to the content of any such Disclosures, is not bound by them, and makes no representations or warranties, explicit or implicitly, regarding same. The Customer is responsible for ensuring that the processing and payment cut-off times established by the Bank are in compliance with the Disclosures.
and Customer’s responsibilities under applicable laws and regulations. The Customer further acknowledges and agrees that the data processed by the Bank belongs to the Customer or the Customer’s clients.

D. **COIN & CURRENCY**

Coin and Currency Services, also referred to as Cash Vault Services, provides coin and currency delivery and deposit services to companies that use large quantities of cash. With a nationwide vault network, Customers can place orders for coin and currency, make deposits and track activity by location through electronic reporting options.

1. **Cash Orders**

1.1. Placement of Cash Orders. The Customer may issue written instructions for the Bank to release United States coin and currency ("Cash") to an armored courier service (the "Courier") as designated by the Customer in accordance with the Bank’s guidelines ("Cash Order"). The Customer acknowledges that Cash Orders may be transmitted to the Bank only during such times as set forth in the guidelines. The Bank is authorized to debit the account of the Customer designated in the Cash Order for the amount set forth in the Cash Order. If the Bank has agreed to such an arrangement, the Customer may also place a Cash Order directly at one of the Bank’s branch locations by issuing a check to debit the Customer’s account at the Bank or as a "cash for cash" exchange. If there are insufficient funds in the designated account, the Bank is authorized to refuse the Cash Order, to fill a partial Cash Order or to debit the designated account even if such debit causes an overdraft, or to debit any other account of the Customer at the Bank.

1.2. Cash Order Limits. The Bank and the Customer may agree to limit the amount of Cash that may be delivered pursuant to a Cash Order ("Cash Limit").

1.3. Discrepancies for Cash Orders. All Cash Orders must be validated by the Customer within 24 hours of receipt. If a currency strap, coin bag or wrapped coin discrepancy is identified, the Customer may contact Cash Services Customer Support at 888-872-0517 to request a Cash Order Claim Form. The completed form and proper documentation must be sent to the Bank and post marked within 48 hours of receipt of the Cash Order. Any claims post marked after the 48 hour period may be denied and the Customer will have no right to refuse or receive an adjustment after such time period.

1.4. Cancellations and Amendments. A Cash Order may be cancelled by the Customer telephonically, electronically or in writing by a person the Bank reasonably believes to be authorized to act on behalf of the Customer and only if the cancellation is received within a reasonable time before the Cash is delivered to the Courier. Cancellation of a Cash Order may only be amended telephonically and the Bank will not be responsible for any change in a Cash Order after it has been received. An attempt to amend a Cash Order electronically may result in duplicate Cash being delivered.

1.5. Notice of Rejection/Execution. If the Bank rejects a Cash Order, it will promptly notify the Customer of the reason. If the Bank has executed a Cash Order, it will notify the Customer when it has executed a Cash Order. Unless, within three (3) business days after receipt of notification of the execution of a Cash Order the Customer notifies the Bank in writing that a Cash Order was unauthorized or otherwise unenforceable against the Customer, the Bank shall not be liable for executing the Cash Order as notified, including any loss of interest.

1.6. Security Procedure. The Bank must receive a Cash Order using a touch-tone telephone, or other electronic communications device mutually agreed upon by the Customer and the Bank. The Bank must also be in possession of codes assigned by the Bank to the Customer that identify the Customer and the location (collectively, "Codes"). The Customer agrees that use of the Codes constitutes a security procedure for verifying the authenticity of the Cash Order as being that of the Customer ("Security Procedure")...

1.7. Geographical Limitations. The Customer represents and warrants that all Cash Orders will be used by Customer in its normal course of business at the Customer’s store/office locations in the United States.

2. **Cash Deposits**

2.1. Standard Courier Service. The Customer may deliver and pick up shipments of Cash or checks to or from the Bank by using the services of a Courier that has been authorized by the Bank, who will act solely as the Customer’s agent. The Courier must comply with the Bank’s guidelines, as amended from time to time, and must maintain all licenses and permits required by law in addition to adequate insurance to cover its liabilities in providing courier services to the Customer. The Bank may refuse to permit any courier to enter its premises with or without cause, in which case the Bank will use reasonable efforts to promptly notify the Customer. With regard to Customer’s Courier, Customer is responsible for any individual’s actions while at the Bank’s facilities including theft, property damage, intentional crimes and any other act or omission even if such actions would be considered outside the scope of their employment and whether the individual is impersonating an employee of the courier if the Bank has followed its customary procedures for identifying the individual.
2.2 Deposit Presentment and Processing for Standard Courier Service. With regard to deposits delivered to one of the Bank's vault locations, the Customer's Courier must deliver deposits in sealed tamper-proof plastic security deposit bags that meet the standards described in the Bank's guidelines and contain only Cash and checks. The bags may also contain food stamps if the Customer provides proof satisfactory to the Bank of the Customer's authority to redeem food stamps. The Bank will open the bags and process the deposits.

(a) Delivery to Vault. If the Bank agrees to accept the Customer deposits at a vault location, the Bank will provide a receipt indicating the number of bags it has received. This receipt is not an acknowledgment of the contents of any bag, nor is any telephonic or other acknowledgment of a deposit of which the Customer notifies the Bank by telephone or by electronic means.

(b) Delivery to Branch for Delayed Processing. If the Bank agrees to accept the Customer deposits at a branch location, the Bank will not verify the amount of the deposits at the time of receipt but will provide the Customer with a receipt showing the amount indicated in the Customer's deposit slip. This receipt is not an acknowledgment of the contents of any bag.

2.3 Courier Service through the use of a Smart Safe or Recycler Machine. The Customer may use the services of a courier that has been authorized by the Bank, who will act solely as the Customer's agent. The courier must comply with the Bank's guidelines, as amended from time to time, and must maintain all licenses and permits required by law in addition to adequate insurance to cover its liabilities in providing courier services. The Bank may refuse to permit any courier to enter its premises with or without cause, in which case the Bank will use reasonable efforts to promptly notify the Customer. The Customer will receive Advance Credit only for Cash placed in Deposit Cassette (as defined below) component of the machine at the Customer's expense. The Customer assumes all risks of using any unattended facilities, including risks of theft, robbery and personal injury; the Bank is not responsible if a facility fails to operate properly in any way, including failing to open, close, lock or unlock. It is the Customer's responsibility to verify that its bags have dropped down completely into the facility, and the Customer agrees that it will not leave any bags in any facility that does not appear to be operating properly. The Bank will not be liable to the Customer if any unattended facility, tele-entry or online system is closed or otherwise unavailable for use at any time.

2.4 Deposit Presentment and Processing through the use of a Smart Safe or Recycler Machine. The Customer agrees that once the Cash is in the Deposit Cassette component of the machine, the Customer no longer has any ownership, control or rights with regard to the physical Cash and that the Bank is authorized to rely upon the transmitted information from the Customer's courier with regard to deposits or adjustments to the Customer's deposit account with the Bank. Once the Customer's courier has completed the verification of the Cash from the Deposit Cassette component of the machine and has transmitted the deposit adjustment information to the Bank, the Cash is then placed into the Bank's inventory at the courier's location. In the event of a discrepancy between the amount credited to the Customer's deposit account, the Customer will file a claim and request for an investigation with the Customer's agent.

2.5 Discrepancies. All deposits are subject to verification. If there are differences between the amount credited by the Bank and the amount shown on the deposit slip prepared by the Customer, the receipt provided to the Customer's courier with regard to the Customer's deposit account will be adjusted and an adjustment fee will be charged. If the discrepancy is in the Threshold amount or less, the Bank will not adjust the Customer's account, the Bank will retain the discrepancy amount, and no adjustment fee will be charged. The Bank's determination and records as to its receipt of any bag and as to the contents of any bag is conclusive and binding on the Customer.

2.6 Relationship upon Delivery of Bags. Upon delivery and as to the contents of the bags to the Bank, the Bank shall bear no responsibility or liability if there is any other property included or claimed to have been included in a bag...

2.7 Delivery to Unattended Facility. If the Bank agrees to allow the Customer to use one of the Bank's unattended facilities (including but not limited to a night depository or commercial ATM), the Bank may provide the Customer with an access device (such as a key or card that may require a personal identification number ("PIN")). The Customer must return all access devices to the Bank upon request. The Bank will process any deposits delivered to an unattended facility as provided for in the Bank's guidelines. The Bank will not be liable to the Customer if any unattended facility, tele-entry or online system is closed or otherwise unavailable for use at any time.

2.8 Liability at Unattended Facility. The Customer assumes all risks of using any unattended facilities, including risks of theft, robbery and personal injury; the Bank is not responsible if a facility fails to operate properly in any way, including failing to open, close, lock or unlock. It is the Customer's responsibility to verify that its bags have dropped down completely into the facility, and the Customer agrees that it will not leave any bags in any facility that does not appear to be operating properly. The Bank will not be liable to the Customer if any unattended facility, tele-entry or online system is closed or otherwise unavailable for use at any time.

2.9 Geographical Limitations of Cash Deposits. Cash Deposits must be delivered to the Bank by Customer's courier and from Customer's physical store/office locations in the United States. Cross-border cash deposits (i.e., cash brought into the United States from outside the United States) are strictly prohibited.
E. POSITIVE PAY, REVERSE POSITIVE PAY AND PAYEE VERIFICATION

Positive Pay, Reverse Positive Pay and Payee Verification services help prevent check fraud on Customers accounts by identifying discrepancies between checks presented to the Bank for payment and those checks issued by Customers. With Positive Pay, the Customer sends check issuance information to the Bank and the Bank compares such information to checks being presented for payment. With Reverse Positive Pay, the Bank sends the check information on checks being presented for payment and the Customer does its own comparison. Payee Verification is an enhanced feature for Positive Pay whereby the Customer includes payee name information and the Bank compares such information against the payee names on checks being presented. As a condition precedent for receiving Payee Verification, the Customer must be receiving Positive Pay in connection with the same Account.

1. Issuance Information. The following information is defined as "Issuance Information" for each Item: i) Account number; ii) Item serial number; iii) dollar amount; iv) issue date (for Positive Pay and Payee Verification only); and v) the payee name (for Payee Verification only). For Positive Pay and Payee Verification, the Customer will provide the Bank the Issuance Information by the banking day on which the Customer issues Items, by means of a mutually agreed upon transmission method the Issuance Information. The Bank will compare the Issuance Information with the Items presented to the Bank for payment against the Account. For Reverse Positive Pay, the Bank will send the Customer the Issuance Information and the Customer will compare such information with the checks they have issued.

2. Discrepancies. For Positive Pay and Payee Verification, if Items are presented to the Bank for which it has not received timely Issuance Information or that contains information different from the Issuance Information for that Item, the Bank is entitled to notify the Customer by means of a mutually agreed upon method, by the designated time of the Banking Day following the Banking Day the Item is presented. The Customer shall advise the Bank by means of a mutually agreed upon method by the designated time on that same Banking Day whether any such Item is authorized for payment ("Presentment Decision"). In the event that the Customer fails to timely inform the Bank about any Item for which a Presentment Decision is requested, as required above, the Bank is authorized to return such Item unless otherwise agreed by the Customer and the Bank. For Reverse Positive Pay, the Bank will provide Issuance Information to the Customer of Items presented for payment; the Customer shall advise the Bank by means of a mutually agreed upon method by the designated time on that same Banking Day whether any such Item is authorized for payment, and in the event that the Customer fails to timely inform the Bank as required, the Bank is authorized to pay such Item(s) unless otherwise agreed by the Customer and the Bank. The Bank is entitled to rely on any instructions it receives and reasonably believes to be genuine. If a Customer attempts to change an instruction previously given by sending an email or other message to the Bank, the Bank may, but has no obligation to, act upon such change request.

3. Payee Verification Additional Terms. For Payee Verification, Customer acknowledges that Items that have been converted to ACH transactions prior to being presented for payment will not be eligible for this service and the payee name information will not be compared to the Issuance Information for Items that have been converted to ACH transactions. In the event the Customer fails to provide the Issuance Information in the file format required by the Bank, the Bank will not be liable for any discrepancy between the Item and the Issuance Information for processing such Item. The Bank reserves the right to set a threshold amount for Items (as may be revised by the Bank from time to time) to be reviewed under the Payee Verification service (the "Threshold Amount"). If the amount of an Item falls below the Threshold Amount, the Bank will compare the Issuance Information to the payee name information contained in the block identified on the Item (presented as provided for in the Bank's setup requirements) and will be limited to those parameters specifically agreed to by the Customer and Bank.

4. Reverse Positive Pay Additional Terms. For Reverse Positive Pay, Customer acknowledges that Items presented for encashment at any of the Bank's branch locations will be refused unless Customer has requested that Bank allow encashment of such Items. If Customer authorizes Bank to pay Items presented for encashment at the Bank's branch locations, Bank shall follow its usual and customary over-the-counter encashment procedures (as may be in effect from time to time) and Customer assumes the risk of any loss that would have been prevented through the use of Positive Pay or Payee Verification services. Customer acknowledges that the Bank may charge a person who cashes an Item drawn on the Customer's Account a fee if that person is not a customer of the Bank. Customer agrees to unconditionally release, indemnify and hold harmless the Bank against any and all liability loss or claim relating to an Item being cashed or returned over-the-counter.

5. Voided Items. The Customer agrees to place a void on an Item in the Issuance Information only with respect to Items that are not in circulation. If the Customer wants to stop pay on a check that has been issued, the Customer is required to issue any Stop Payment request pursuant to the relevant terms of the Account Documentation, outside of these services.

6. Item Payment. The Bank is not obligated to maintain signature cards for the Account and whether or not the Bank does maintain such signature cards, in no event shall the Bank be obligated to inspect any check for the presence or authenticity of any signature or to determine whether any signature is authorized. The Customer acknowledges that the Bank's adherence to these procedures in these terms, in lieu of signature examination, will constitute the exercise of good faith and ordinary care by the Bank in handling Items presented for payment against the Account.

7. Over the Counter Presentment. The Bank may, without liability to the Customer, refuse to pay any Item presented for encashment at any of the Bank's branch locations. If an Item is presented for encashment at one of the Bank's branch locations at the teller line, the Customer authorizes the Bank to pay such Item based upon the Positive Pay information at the teller line. The Bank may charge a person who cashes an Item drawn on the Customer's Account a fee at the time of encashment.
F. CONTROLLED DISBURSEMENTS

Controlled Disbursement Accounts help customers effectively manage the disbursement process to gain control over idle balances and automate funding transfers and is designed to provide disbursement totals early each business day.

1. Controlled Disbursement Account. Each controlled disbursement account ("Controlled Disbursement Account"), except as set forth herein, shall be opened and maintained in accordance with the Account Documentation. Customer agrees that if it fails to utilize one of the Bank’s positive pay services on the Controlled Disbursement Account, that failure will constitute Customer negligence contributing to the making of any unauthorized signature and Customer assumes the risk that checks or drafts ("Items") presented against the Controlled Disbursement Account may be forged or altered, to the extent that the positive pay services the Bank offers may have prevented any loss. The Bank will have no liability for any loss related to an Item presented against the Controlled Disbursement Account which would otherwise generally have been returned under such positive pay services.

2. Payment of Items. Bank, on each banking day, will advise Customer of the total amount of Items drawn against the Controlled Disbursement Accounts that are presented for payment, on that day, to the Bank by a Federal Reserve Bank or another depository institution pursuant to a same-day settlement arrangement. Bank will honor Items which are properly payable, but shall have no obligation to pay any Item should sufficient immediately available funds to cover such Items not be transferred to the Controlled Disbursement Account in accordance with these Service Terms and the Account Documentation.

3. Over-the-Counter Presentment. Bank may, without liability to Customer, refuse to pay any Item presented for encashment at any of the Bank’s branch locations.

4. Funding Account for Controlled Disbursement. Customer will maintain with Bank a designated account for purposes of funding the Controlled Disbursement Account, or the funding account may be maintained by the Customer at an affiliated or other financial institution (the "Funding Account"). Customer authorizes Bank to debit the Funding Account for the total amount of the Item presented and any funds transfers against the Controlled Disbursement Account, and to promptly transfer such amount to the Controlled Disbursement Account even though such a debit may bring about or increase an overdraft. All funds transfers from the Funding Account to the Controlled Disbursement Account shall be in immediately available funds. Customer will maintain sufficient available funds in the Funding Account to cover Items and funds transfers presented against the Controlled Disbursement Account, and the Bank shall have no obligation to transfer funds, process Items for payment or complete any funds transfers unless there are sufficient available funds in the Funding Account. The Bank is authorized to debit the Funding Account for any obligations owed directly or indirectly on the Controlled Disbursement Account. The Bank shall not be liable for failure to pay any Item presented for payment against any Controlled Disbursement Account due to insufficient funds in the Funding Account.

5. Media. Bank will transmit to Customer by the transmission method or media agreed to by Customer and Bank information regarding Customer's Controlled Disbursement Account.

6. Routing Transit Number. Customer agrees to use the designated controlled disbursement account routing transit number on the Item it issues from the Controlled Disbursement Account. Customer acknowledges that if it fails to use such designated controlled disbursement account routing transit number the Bank is authorized to terminate this Service or any Service feature upon notice to the Customer.

7. Financial Condition. In the event of the deterioration of the financial condition of the Customer, as determined in the Bank’s sole discretion, the Bank may immediately terminate this Service, any Service feature, and/or may convert any Controlled Disbursement Account to a stand-alone demand deposit account without prior notice to the Customer.

8. Third Party Usage. Customer agrees that Bank will not permit a third party to write checks on or otherwise issue payment transactions or instructions on Customer’s Controlled Disbursement Account. Customer agrees to indemnify and hold Bank harmless from and against any and all actions, claims, demands, losses, liabilities or expenses whatsoever, including attorney’s fees and costs, resulting directly or indirectly from Customer’s breach of this Section 8. This indemnity shall survive the termination of these Service Terms. Notwithstanding anything to the contrary, Customer acknowledges that, if Customer breaches this Section 8, Bank may immediately terminate this Service or any Service feature upon notice to the Customer.

G. IMAGE CASH LETTER

1. Service.

These terms govern the image cash letter service (the "Service") which allows image-enabled check customers to prepare and transmit electronic deposit information and check images instead of preparing and physically depositing paper cash letters and associated original check.

2. Transmission and Processing.

Customer shall provide through its own methods or devices the captured check images and check data from the Check, including the magnetic ink character recognition formatting (MICR) information through electronic transmissions (the "Transmissions") in the format and specifications required by the Bank’s File Standards and within the cut-off times provided by the Bank. Customer authorizes Bank to process the Transmissions as substitute checks, electronic images or photos in lieu, as may be applicable for further clearing through any other financial institution, clearinghouse
or Federal Reserve Bank. If the Customer is eligible and has chosen to have Checks processed as ACH transactions, Bank will convert eligible Checks to ARC or POP entries, as defined and provided for in the ACH Origination Service Terms. Customer agrees that it is solely responsible for the creation and transmission of these Transmissions to the Bank. If any Transmission (including any source document for purposes of these Service Terms) does not meet the Bank’s or any transferee’s standard requirements for processing, Customer assumes all risk of loss or delay in processing such Transmission and authorizes the Bank to either (a) return the Transmission to the Customer without further processing, (b) process the Transmission as sent from the Customer, (c) process the Checks as photocopies in lieu of the originals, or (d) repair or attempt to repair the Transmission for further processing. Under this Service, “Checks” shall mean checks and drafts drawn in US dollars on, or payable through, banks located in the United States (including Puerto Rico, Guam and the US Virgin Islands), endorsed for deposit to Customer’s account at the Bank.


The Transmissions must be sent to Bank prior to the deposit deadline. Any Transmission will be deemed to have been received by Bank when the entire file has been written onto Bank’s system and made available for Bank to validate. Based upon the size of the Transmission file, there may be a significant delay between the time Customer begins to send the file and the completion of the transfer as stated above. As a result, Customer will make every effort to send the Transmission file as early as possible. Files that are received after a deposit deadline will be considered deposited as of the next deposit deadline. Processing fees and funds availability will be assessed based on the deposit deadline that is met.


Customer shall be solely responsible if any Transmission for which Customer has been given provisional credit is returned or reversed, and neither Bank nor its subcontractors shall be liable or responsible for same. Customer acknowledges that all credits received for deposit are provisional, subject to verification, final settlement or return. Information and data reported hereunder: (a) may be received prior to final posting and confirmation and is subject to correction and (b) is for informational purposes only and may not be relied upon. Customer agrees that Bank shall have no liability for the content of payment-related information as received from the Customer. Customer shall be solely responsible for the original Checks, including storage and retrieval. Customer agrees to provide a legible copy of the image of the original Check if requested by the Bank within five (5) business days of such request. If Customer is unable to provide the original or legible copy, Customer shall be liable for any associated loss or claim involving the Check. Customer will not present a Transmission or the original Check or substitute check more than once to the Bank if the initial Transmission was processed as an ACH transaction and shall be responsible for any and all losses or claims resulting from the Customer presenting such Check or Transmission for payment more than once through any method.

5. Suspension/Cancellation of Service.

Bank reserves the right to suspend or terminate the Service, in whole or in part if Bank believes Customer is in breach of these Service Terms or is otherwise using or accessing the Service in a manner inconsistent with the rules and regulations relating to the Service being provided and such breach, use or access is not cured within three business days after notice to Customer. Further, this Service will automatically terminate if the Customer’s account with the Bank is closed for any reason. Either party may terminate the Service upon thirty (30) days’ prior written notice to the other party; provided, however, that the terms of Section 12 shall apply to any termination prior to the time period set forth in the Pricing Schedule.


Neither these Service Terms nor the provision of Service transfer to Customer any ownership or proprietary rights in the Bank’s technology or any work or any part thereof, and all right, title and interest in and to the Bank’s technology will remain solely with Bank or its subcontractors.

7. WARRANTIES AND DISCLAIMERS.

7.1. CUSTOMER WARRANTY. CUSTOMER WARRANTS AND REPRESENTS TO THE BANK THAT: (A) EACH TRANSMISSION CONTAINS ACCURATE AND LEGIBLE IMAGES OF ALL OF THE INFORMATION ON THE FRONT AND BACK OF THE ORIGINAL CHECKS AT THE TIME EACH CHECK WAS TRUNCATED; (B) EACH TRANSMISSION ALSO CONTAINS A RECORD OF ALL APPLICABLE MICROLINE INFORMATION REQUIRED FOR A SUBSTITUTE CHECK AND THE ACCURATE AMOUNT OF THE CHECK; (C) EACH TRANSMISSION CONFORMS TO THE TECHNICAL STANDARDS FOR AN ELECTRONIC ITEM SET FORTH IN REGULATION J AND FEDERAL RESERVE BANK OPERATING CIRCULARS AND FOR A SUBSTITUTE CHECK SET FORTH IN REGULATION CC; (D) NO PERSON WILL RECEIVE A TRANSFER, PRESENTMENT OR RETURN OF, OR OTHERWISE BE CHARGED FOR, THE CHECK (EITHER THE ORIGINAL CHECK, OR A PAPER OR ELECTRONIC REPRESENTATION OF THE ORIGINAL CHECK) SUCH THAT THE PERSON WILL BE ASKED TO MAKE PAYMENT BASED UPON A CHECK IT HAS ALREADY PAID; (E) CUSTOMER WILL NOT REDEPOSIT THROUGH THIS SERVICE ANY TRANSMISSION REPRESENTING A CHECK PREVIOUSLY DEPOSITED AND RETURNED TO THE CUSTOMER; (F) CUSTOMER WILL EMPLOY COMMERCIALLY REASONABLE SECURITY MEASURES AND FIREWALLS SUFFICIENT TO PROTECT THE TRANSMISSIONS AND STORAGE TO ENSURE NO UNAUTHORIZED ACCESS OR DUPLICATE PRESENTMENT; (G) CUSTOMER WILL ONLY CREATE TRANSMISSIONS FOR CHECKS THAT ORIGINATED AS PAPER CHECKS; (H) CUSTOMER HAS ESTABLISHED AN ANTI-MONEY LAUNDERING PROGRAM IN COMPLIANCE WITH ANTI-MONEY LAUNDERING LAWS AND REGULATIONS APPLICABLE TO IT AND SUCH ANTI-MONEY LAUNDERING PROGRAM INCLUDES POLICIES, PROCEDURES AND CONTROLS DESIGNED TO DETECT AND PREVENT MONEY LAUNDERING WHICH CUSTOMER BELIEVES EFFECTIVELY PREVENTS THE USE OF CUSTOMER’S OPERATIONS, PERSONNEL OR FACILITIES FOR MONEY LAUNDERING PURPOSES; AND (I) CUSTOMER WILL ONLY ACCESS THE SERVICE AND SEND TRANSMISSIONS TO THE BANK FROM LOCATIONS WITHIN THE UNITED STATES; (J) CUSTOMER IS IN COMPLIANCE WITH ALL LOCAL LAWS AND REGULATIONS APPLICABLE TO IT IN THE USE OF THIS SERVICE.
7.2. DISCLAIMER. BANK AND ITS SUBCONTRACTORS MAKE NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY REGARDING OR RELATING TO ANY OF THE TECHNOLOGY OR SERVICE AND/OR ACCESS TO OR USE OF THE SERVICE OR TECHNOLOGY PROVIDED TO CUSTOMER HEREUNDER, BANK AND ITS SUBCONTRACTORS SPECIFICALLY DISCLAIM ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET, AND CUSTOMER ASSUMES ALL SUCH RISKS. CUSTOMER SHALL MAKE AN INDEPENDENT ASSESSMENT OF THE ADEQUACY OF THE INTERNET IN USE OF THE SERVICE PURSUANT TO THE BANK'S PROCEDURES. CUSTOMER FURTHER ACKNOWLEDGES THAT THE SELECTION AND USE BY IT OF ANY THIRD PARTY SECURITY AND COMMUNICATIONS SOFTWARE AND THIRD PARTY SERVICE PROVIDERS IS THE SOLE RESPONSIBILITY OF CUSTOMER, AND BANK DISCLAIMS ALL RISKS RELATED THERETO, NOTWITHSTANDING THAT THE BANK MAY RECOMMEND CERTAIN SECURITY AND/OR COMMUNICATIONS SOFTWARE AND SERVICES. CUSTOMER AGREES TO, AT ITS SOLE EXPENSE, PROCURE AND MAINTAIN ALL HARDWARE, BROWSERS, SOFTWARE AND TELECOMMUNICATIONS EQUIPMENT NECESSARY TO ACCESS THE SERVICE IN ACCORDANCE WITH THE BANK'S RECOMMENDED SYSTEM CONFIGURATION.

8. INDEMNIFICATION.

IN ADDITION TO ITS INDEMNIFICATION OBLIGATIONS IN THE ACCOUNT TERMS, AND EXCEPT FOR LOSSES OR EXPENSES CAUSED BY BANK'S FAILURE TO EXERCISE ORDINARY CARE OR WILLFUL MISCONDUCT, CUSTOMER AGREES TO INDEMNIFY BANK FOR ANY LOSS OR EXPENSE SUSTAINED (INCLUDING ATTORNEY'S FEES AND EXPENSES OF LITIGATION) RESULTING FROM (I) CUSTOMER'S LACK OF AUTHORITY TO MAKE THE WARRANTIES PROVIDED HEREIN; (II) ANY ACTION TAKEN OR NOT TAKEN BY BANK WITHIN THE SCOPE OF ITS AUTHORITY UNDER THESE SERVICE TERMS OR HANDLING A CHECK; AND (III) ANY WARRANTY OR INDEMNITY REQUIRED TO BE MADE BY BANK WITH RESPECT TO A CHECK UNDER APPLICABLE LAW OR REGULATION.


Bank and Customer agree to the terms of the Pricing Schedule which are incorporated herein by reference, including the length of time the Service will be provided, the charges/fees and the volumes, as may be stated in the Pricing Schedule. If Customer terminates the Service or the Service is otherwise terminated without fault of the Bank prior to the period of time set forth in the Pricing Schedule, Customer shall pay the Bank a termination fee equal to twelve (12) times the average monthly transaction fee for the Service for the period of time the Service was provided to Customer. Such termination fee shall be paid within thirty (30) days after the Service terminated date.

10. Audit.

Customer authorizes the Bank to audit its facilities where the Checks are imaged, stored and destroyed as well as where the Transmissions are processed under this Service upon reasonable notice written notice from the Bank.

11. Online Adjustments Services.

If Bank and Customer agree, Customer will submit its adjustment requests through the web-based SVPCO Online Adjustment Service ("Online Adjustment") based on the following terms:

For Customers choosing the deposit account option where they settle for the items through the Customer's deposit account at Bank ("Deposit Account") option, Customer agrees to comply by the SVPCO Electronic Adjustment Exchange Rules, as may be amended from time to time ("SVPCO Rules"). Bank will assist the Customer in implementing and registering for Online Adjustment. Customer will designate at least one Administrator by submitting the Secure ID Token Form for Online Adjustments ("Form"). After the initial registration, Customer will be able to update its designated users directly through SVPCO. Bank may conclusively rely upon any information or instructions purported to be sent by the Customer through Online Adjustment. Notwithstanding anything to the contrary in these Service Terms or the Account Documentation, Online Adjustment will automatically terminate upon the termination or expiration of the agreement covering the SVPCO online adjustment service between Bank and The Clearing House.

H. CHECK PRINT

The Check Print Service enables the Customer instruct the Bank to create and mail checks and/or documents on behalf of the Customer.

1. Print Orders. The Bank will execute each print order requested by the Customer which is received by the Bank in a manner described in these Service Terms or as otherwise provided by the Bank (the "Print Order"). Print Order information shall include payee names and addresses. Customer agrees that it will not include any other personally identifiable information or any protected health information in its Print Orders. Print Orders may include printing of non-payment documents ("Documents") if agreed to by the Bank based upon these Service Terms.

2. Check Pull Requests. For any Print Order received by the Bank, the Customer may request the Bank to pull a check(s) from processing by completing the Bank's manual check pull request form ("Check Pull Request"); provided, however, that a Check Pull Request will not be effective unless and until it is received by the Bank in the form required and the Bank has had a reasonable time to act upon such request. A Print Order may not be amended or modified. The Bank has no obligation to adjust or stop the payment or posting of a Print Order it has accepted.
3. Receipt of Print Orders. The Customer shall transmit Print Orders to Bank to the location and in compliance with the formatting and other requirements of the Bank set forth in its operating procedures. Bank may reject any Print Order that does not comply with these Service Terms.

4. Issuance of Checks/Documents. For each Print Order accepted by the Bank, the Bank will: (a) cause a check to be printed and completed; (b) cause a laser facsimile signature authorized by the Customer to be placed on the check; (c) if agreed upon, cause other documents to be completed and included with the check issuance ("Documents"); and (d) mail or send the check by courier along with any Documents as agreed upon (collectively, the "Issuance"). The Customer expressly grants the Bank the authority to create and process such issuances.

5. Notice of Rejection. The Bank will promptly notify the Customer if a Print Order is rejected by the Bank and will advise the Customer as to the reason. The notice or advice shall be deemed commercially reasonable if made available through the Check Print Service or given electronically, orally, by telephone or facsimile transmission.

6. Control. The Bank is not responsible or liable for the detection of errors contained in any Print Order as received from the Customer and is entitled to rely on the information contained therein.

7. Reliance Upon Instructions. The Customer is responsible for, and the Bank may rely upon, the contents of any notice or instructions that Bank believes in good faith to be from the Customer without any independent investigation. The Bank shall have no duty to inquire into the authority of the individual giving such notice or instruction. In the event the Bank receives conflicting notices or instructions, the Bank is authorized to act on either the notice or instruction, or it can refuse to act. No restriction on the Bank's acceptance of any Print Order shall be binding on the Bank, except as set forth in these Service Terms unless agreed to in writing by the Bank and the Bank has had a reasonable opportunity to act upon such change.

8. Limitation of Liability.

The Bank’s liability shall be limited to direct damages caused by the Bank’s failure to use reasonable care. Reasonable care in providing the Check Print Service shall be measured by the relevant provisions of any service levels or business requirements and the standard of reasonableness of the procedures established for the transaction involved. Mere inadvertence or honest mistake of judgment shall not constitute a failure to perform such obligations or a failure to exercise reasonable care and in no case will Bank be deemed wrongful.

9. Cashier’s Checks. If the Bank creates cashier’s checks under the Check Print Service, the following additional terms will apply: (a) Customer will send the cashier’s check print file information ("File Information") to Bank by the Bank’s cut-off time on a given day ("Day One"); (b) the Customer authorizes the Bank to debit the Customer’s designated account ("Funding Account") for the amounts shown on the File Information on Day One; (c) as the cashier’s checks from the File Information are being processed, the account reconciliation issue file ("ARP File") must match the date of funding found in the File Information of the next bank day ("Day Two"); (d) for any cashier’s check for which there is insufficient funds in the Funding Account on Day One to fund the purchase of the cashier’s check, the Bank is authorized to reject the creation of such cashier’s check; (e) if the Customer is using one of the Bank’s online services, Customer will be able to view information regarding the cashier’s check which was funded and created and those that were rejected; (g) any information from the File Information which cannot be used to create a cashier’s check will be communicated to the Customer for further research and reconciliation; (h) if any cashier’s check is returned as undeliverable, the cashier’s check will remain outstanding in the Bank’s cashier’s check account and escheated according to applicable laws and regulations of the state in which the check checks claims that the cashier’s check was lost, stolen or destroyed before the funds are escheated, such claim will be handled in accordance with the Bank’s procedures.

I. ACH TAX PAYMENT

1. Service. Bank will provide a service (the "Service") whereby Customer can direct Bank, via touchtone telephone or internet platform, to make tax payments through the automated clearing house (ACH) system from an account with Bank that Customer specifies. Customer may use the service to pay:

- any federal taxes covered by the Federal Tax Deposit Coupons (Form 8109) that Customer has executed and delivered to Bank from time to time;
- certain state taxes; and
- certain municipal taxes.

Bank may pay taxes from Customer’s account in accordance with any instructions issued in Customer’s name that Bank verifies pursuant to the security procedures specified in these Service Terms. In using the Service, Customer agrees to comply with and be bound by the Operating Rules of the National Automated Clearing House Association ("NACHA Rules").

2. Receipt of Instructions and Cancellations. Customer may issue instructions and cancellations only during service hours that Bank specifies, and Customer acknowledges that Bank may change such service hours upon prior notice to Customer. Bank must receive instructions, including but not limited to payment cancellation instructions, not later than 8:00 p.m. ET (or such other time as Bank specifies) on the Business Day prior to the day on which the tax payment is due. For purposes of this Section, "Business Day" means a day on which the Bank is open for business in its New York office. Instructions received after such time shall not be processed until the following business day and Customer shall be liable for any
charges, fees or costs associated with such payment. Bank may reject or delay processing of a tax payment if the request is not complete or is inaccurate or otherwise does not meet the criteria Bank specifies for acceptance herein or in the User Guide (as hereafter defined).

The Service is not designed or intended to be used for any ACH tax payment that is required to be formatted as an "International ACH Transaction" (or IAT) under the NACHA Rules. Customer agrees not to use or attempt to use the Service to originate any ACH tax payment that is required to be formatted under the NACHA Rules as an "International ACH Transaction" (or IAT). Customer shall indemnify and hold Bank harmless from and against any and all claims, demands, losses, fines, penalties, damages, liabilities and expenses, including, without limitation, legal fees and expenses, resulting directly or indirectly from any ACH tax payment processed or requested to be processed by Customer via the Service which should have been formatted under the NACHA Rules as an IAT.


(a) A Bank-issued or approved access code and PIN and/or other security device ("Security Device") is required to access the Service. The Customer shall be bound by and adhere to the security procedures and other procedures for use of the Service advised to it in writing through any medium by the Bank, as may be revised from time to time upon notice to the Customer (the "Service Guide"). The Customer shall notify the Bank immediately of loss or theft of a Security Device, any unauthorized use of a Security Device or any other breach of security. The Bank may dishonor or disable any Security Device at any time and will inform the Customer of the same. The Customer agrees that any use of the Service with a Security Device is deemed to be carried out directly and on behalf of the Customer. The Customer agrees to safeguard all Security Devices and to instruct each Authorized User (as defined below) to do the same.

(b) This Section 3(b) applies to use of the Service through the designated internet platform, but does not apply to touchtone telephone access. Customer shall designate an administrator (the "Administrator") who shall have authority in accordance with the operational instructions for the Service provided to Customer in the User Guide. Customer agrees to notify Bank of a change in Administrator in the manner and form designated by Bank. Any such changes shall be effective at such time as Bank has received and noticed the same. The Administrator shall be responsible for (i) designating individuals as users ("Authorized Users"); (ii) identifying the functions of the Service; (iii) requesting, creating, controlling, disseminating, and/or canceling user entitlements; (iv) receiving and distributing materials, notices, documents and correspondence relating to the security procedures; and (v) advising each Authorized User of his/her obligations and responsibilities under the User Guide. The Administrator shall provide to the Bank, upon the Bank's request, a list of Authorized Users.

4. Open Network Access. The Customer acknowledges that there are certain security, corruption, transmission error and access availability risks associated with using open networks such as the internet, and the Customer assumes all such risks. The Customer shall make an independent assessment of the adequacy of the internet and the Bank's security procedures. The Customer further acknowledges that the selection and use by it of any third party security and communications software and third party service providers is the sole responsibility of the Customer, and the Bank disclaims all risks related thereto, notwithstanding that the Bank may recommend certain security and/or communications software and services. The Customer agrees to, at its sole expense, procure and maintain all hardware, browsers, software and telecommunications equipment necessary to access the Service in accordance with the then recommended system configuration.

5. Funding. Customer authorizes Bank to use Customer's applicable account for the amount of each tax payment and for any applicable bank fees and charges when due. In the event Customer does not have sufficient funds in Customer's applicable account to cover the amount of a tax payment, Bank shall have no obligation to make a tax payment for Customer. Bank may require Customer to pay Bank the amount of each tax payment on the date of transmission of the tax payment instruction or otherwise prior to the tax payment due date. Bank may from time to time establish or revise maximum dollar limits for the total value of all outstanding files of tax payments that Bank will release on customer's behalf. Bank may change or cancel the limits any time, without prior notice to Customer, although Bank will try to notify Customer before Bank does that. Funds Bank receives and holds pursuant to the Service shall be held as a deposit liability to Customer and not in trust for Customer or the taxing authority.

6. Warranties; Indemnity. Except as specified below, Customer will be deemed to make the same warranties to Bank as Bank makes pursuant to the NACHA Rules although Customer will not be deemed to warrant the power of the Bank under applicable law to comply with the requirements of the NACHA Rules or the conformity of tax payments and other data Bank transmits to the file specifications contained in the NACHA Rules. Customer further represents and warrants to Bank that: (i) Customer shall not access the Service from any jurisdiction in which the Service is not authorized; and (ii) each tax payment Customer originates shall comply with applicable U.S. laws and regulations and Customer acknowledges that payments may not be initiated that violate the laws of the United States.

Customer agrees to indemnify Bank and Bank's employees, officers, directors and agents, and hold all of them harmless from and against any and all claims, demands, losses, liabilities or expenses (including attorney's fees and costs) resulting directly or indirectly from: (a) Customer's breach of any warranty made under this Section and (b) compliance by Bank with any request Customer makes for a cancellation, stop payment, reversal or recall of any tax payment.

Bank shall have no responsibility for any delay by any ACH Operator (as such term is defined in the NACHA Rules) or taxing authority in processing any tax payment Bank transmits to such entity or failure by such entity to process or apply any tax payment.

7. Stop Payments; Reversals and Recalls. Customer's instruction to stop payment of, reverse or recall one or more tax payments must be received by Bank in such time and manner as Bank specifies. Bank will process these transactions in accordance with Bank's procedures advised to Customer. Any reversal or recall initiated by Bank is subject to acceptance by the relevant taxing authority. Tax payment instructions may not be amended or modified.
8. Payment Limits. Bank may from time to time establish or revise (a) maximum dollar limits for each payment to be made by the Customer to a specified taxing authority, and (b) aggregate limits for all payments to be made by the Customer to a specified taxing authority within a 24-hour period. Bank may change or cancel the limits at any time without prior notice to Customer, although Bank will endeavor to give prior notice to Customer. Bank may require Customer to pay Bank the amount of any tax payment on the date of transmission to Bank or otherwise prior to the settlement date. Bank also may require Customer to maintain collateral with Bank in an amount Bank specifies.

9. Limitation of Liability. Bank's maximum aggregate liability in connection with the Service shall be limited as provided in the Account Documentation (as defined in Section 9 below) and shall be further limited to the lesser of the amount of any penalty or interest actually imposed by the applicable taxing authority or the total fees Customer paid Bank during the prior 12 months.

10. Incorporation of Account Documentation; Termination. The Bank's terms governing the operation of business accounts and services ("Account Documentation") are incorporated herein, as the same may be amended from time to time. If and to the extent that there is a conflict between the Account Documentation and these Service Terms, the provisions of these Service Terms shall prevail. In addition to Bank's termination rights under the Account Documentation, Bank shall have the right to terminate or suspend these Service Terms and the Service upon notice to Customer in the event of Customer's breach of the NACHA Rules.

J. VIRTUAL REMIT SERVICE TERMS

Virtual Remit is a remote scanning service that processes remittances and promotes Customer efficiency in their businesses. Through this service, the Customer's remittance deposits can be imaged and transferred to the Bank via a Bank supplied data platform for further processing and posting to the Customer's deposit account.

1. Service

The Bank, which may include designated agents of the Bank, will provide Customer with Virtual Remit services for domestic transactions (the "Service") in accordance with the provisions set forth in this document (the "Service Terms"). The Service allows Customer to electronically transmit deposits of eligible checks and items (eligible checks and items are limited to personal checks, money orders, business checks, cashier's checks, traveler's checks payable in U.S. Dollars and drawn on U.S. banks or U.S. Postal Service Money Orders, payable to the Customer) by using a capture device, including a desktop scanner or mobile device (the "Scanner"), to create an electronic image of an original paper check or item and other paper source documents (collectively, "Item Image"). Customer must have in place policies and procedures for the secure storage and destruction of the original Item.

a. Customer agrees that after the Item Images have been created and transmitted to the Bank for deposit, Customer shall not otherwise transfer or negotiate the original Item, substitute check or any other image of the Item. Customer further agrees that Customer shall be solely responsible for the original Items, including storage, retrieval and destruction. Customer must have in place policies and procedures for the secure storage and destruction of the original Items.

b. Customer agrees that a copy made from the Item Image or substitute check of the Item, as defined by federal law, will become the legal representation of the Item for all purposes, including return item processing.

c. Subpart B of Federal Regulation CC (availability of funds) does not apply when electronic images of Items are transmitted to Bank. Funds from deposits made via this Service will be available in accordance with the availability schedule for the Service. However, Bank may apply additional delays on the availability of funds based on any other factors as determined in the Bank's sole discretion.

2. Processing

Customer shall provide through Bank approved devices, including a desktop scanner or mobile device, the Item Images in the format and specifications and in accordance with the procedures required by the Bank. The Bank may process the Items as substitute checks, electronic images or photos-in-lieu, as may be applicable for further clearing through another financial institution, clearinghouse or the Federal Reserve. Customer assumes sole responsibility for the creation of these images and their subsequent provision to the Bank. If any Item Image does not meet the Bank's or any transferee's standard processing requirements, in processing such Items, Customer assumes all risk of loss or delay and authorizes the Bank to either (a) return the Item to the Customer without further processing, (b) process the Item as sent from the Customer, (c) process the Items as photos-in-lieu of the originals, or (d) repair or attempt to repair the Items for further processing. Access to the Item Images and the use of a mobile device in conjunction with the Service are governed by the Client Access Service Terms, as may be amended from time to time.

3. Deposit Time

Item Images are deemed received by the Bank when the Item Images have been transferred onto the Bank's system and validated by the Bank. Based upon the size of the batch of items, there may be a significant delay between the time Customer begins to send the items and the completion of the transfer as stated above. If Bank receives and validates the submitted deposit transmission no later than the Bank's designated cut off time (the "Cutoff Time") on a day that the Bank is generally open for business, i.e., Monday through Friday excluding weekends and state or federal holidays.
holidays ("Business Day"), Bank will consider that Business Day to be the day of deposit (i.e., the date deposit is credited). If Bank receives and validates the submitted deposit transmission after the Cutoff Time or on a non-Business Day, the deposit will be considered to be made on the next Business Day. Whether the Cutoff Time has been met will be determined by the time displayed on the Bank's internal system clocks which may not necessarily be synchronized with the internal clock displayed on Customer's computer or device. For this reason, Bank suggests that Customer submit its deposit transmissions to Bank sufficiently in advance of the Cutoff Time to avoid the possibility of missing the Cutoff Time.

4. Foreign Items

The Service only accepts and processes Items drawn on U.S. chartered banks.

5. Warranties.

5.1 Customer represents and warrants to Bank that:

• Customer will capture and transmit all Item Images using Bank approved hardware and software applicable to the Service's function;

• Any image Bank receives accurately and legibly represents all of the information on the front and back of the Item as of the time the Item was truncated;

• The information Customer transmits to Bank corresponding to an Item contains a record of all applicable MICR-line information required for a substitute check and the accurate amount of the Item;

• The Item Image conforms to the technical standards for an electronic Item set forth in Regulation J or Federal Reserve Bank Operating Circular 3, and for a substitute check set forth in Regulation CC;

• No person will receive a transfer, presentment, or return of, or otherwise be charged for, the Item (either the original Item, or a paper or electronic representation of the original Item) such that the person will be asked to make payment based on an Item it has already paid;

• Customer will not redeposit through this Service any Item previously deposited and returned to Customer;

• Customer will employ commercially reasonable security measures, including firewalls, sufficient to protect against unauthorized access or duplicate presentment;

• Customer will only transmit Items that originated as paper checks;

• Customer will comply with all applicable laws and regulations;

• Customer will not use the Service for any purpose prohibited by foreign exchange regulations, postal regulations or any other treaty, statute, regulation or authority; and

• If the Customer is depositing Items on behalf of third parties, the Customer also represents and warrants to the Bank that with respect to each Item deposited through the Service, the owner of the Item has authorized the electronic transmittal of the Item and guarantees all prior endorsements; Customer has established an anti-money laundering program in compliance with anti-money laundering laws and regulations applicable to it and such anti-money laundering program includes policies, procedures and controls designed to detect and prevent money laundering, including "know-your-customer" policies and procedures, monitoring of transactions for suspicious activities and reporting of suspicious activities, which Customer believes effectively prevents the use of Customer's operations, personnel or facilities for money laundering purposes.

6. New Features. Bank may, from time to time, introduce new features to the Service or modify or delete existing features in its sole discretion. Bank shall notify Customer of any of these changes to features if Bank is legally required to do so. By using any new or modified features when they become available, Customer agrees to be bound by the rules concerning these features.

7. Disclaimer.

Bank makes no representations or warranties, whether express, implied or statutory regarding or relating to any of the software, capture devices or other hardware and/or access to or use of them or the related materials and the Service. Bank specifically disclaims any and all implied warranties of merchantability and fitness for a particular purpose and non-infringement. Bank and its subcontractors also do not guarantee that Customer's access to the Services will be uninterrupted, error free or secure.

8. Indemnification.

Customer agrees to indemnify and hold the Bank harmless for any loss or expense (including attorney's fees and expenses of litigation) resulting from: breach of any of the warranties made by Customer pursuant to these Service Terms or the Lockbox Service Terms; any claim pertaining to
any warranty or indemnity that Bank makes with respect to an Item under the Check Clearing for the 21st Century Act, Federal Reserve Board Regulations CC and J and all other laws, regulations and industry and clearing house rules applicable to Items as either the bank of first deposit, truncating or reconverting bank.


Customer shall be solely responsible if any item for which Customer has been given provisional credit is returned or reversed, and neither Bank nor its subcontractors shall be liable or responsible for same. Customer acknowledges that all credits received for deposit are provisional, subject to verification, final settlement, warranty claims or return. Information and data reported under these Service Terms: (a) may be received prior to final posting and confirmation and are subject to correction and (b) are for informational purposes only and may not be relied upon. Customer agrees that Bank shall have no liability for the content of payment-related information as received from the Customer. Customer shall be solely responsible for the original Items, including storage, retrieval and destruction. Customer agrees to provide a legible copy of an image or the original item if requested by the Bank. If Customer is unable to provide the original or legible copy, Customer shall be liable for any associated loss or claim involving the Item.

10. Suspension/Cancellation of Service.

Bank reserves the right to suspend or terminate the Service, in whole or in part if Bank believes Customer is in breach of these Service Terms or is otherwise using or accessing the Service in a manner inconsistent with the rules and regulations relating to the Service being provided and such breach, use or access is not cured within three business days after notice to Customer. Further, this Service will automatically terminate if the Customer’s account with the Bank is closed for any reason. Either party may terminate the Service upon thirty (30) days’ prior written notice to the other party.


Neither these Service Terms nor the provision of the Service transfer to Customer and ownership or proprietary rights in the Bank’s technology or any work or any part thereof, and all right, title and interest in and to the Bank’s technology will remain solely with Bank or its subcontractors.

12. Audits. Customer agrees that the Bank shall have the right to audit Customer’s books, records, processes and procedures for managing and maintaining the security and safety of the scanners, transmissions and original Items, including the right to audit Customer’s and Customer’s agents, if any, physical locations where Customer scans original Items and processes electronic check images and data related to the Service. Customer agrees that the use of scanners, including mobile devices, in conjunction with the Service is limited to the United States.

K. CLIENT ACCESS

1. Service

The Bank will provide a service (the “Service”) for electronic access to the Customer’s account information, reports and data (collectively, “Data”) and for the electronic transmission by the Bank of messages, service requests, and payment and non-payment instructions (each an “Instruction”) and from the Bank of messages, notifications and alerts, via the online (including mobile) and host-to-host/file transfer channels. The Bank reserves the right to modify the applications and products (each an “Application”) available via the Service, upon notice to the Customer.

2. Security Procedures and Other Controls

2.1. Security Procedures. The security procedures for each channel are as set forth below, as may be modified on notice to the Customer through any medium (each, a “Security Procedure”). Any Instruction, the authenticity of which has been verified through a Security Procedure, shall be effective as that of the Customer, whether or not authorized, and notwithstanding that the Instruction may result in an overdraft of an Account. Administrative Procedures (as defined in Section 2.2 below) and unilateral Bank controls shall not be deemed to be Security Procedures for purposes hereof unless explicitly identified as such in writing.

   a. Online Channel. The Security Procedure for verifying payment Instructions issued (released) via the online channel is validation of an identification code and confidential password of an Authorized User (as defined in Section 2.4 below) and a token code generated by a Bank issued or approved security device (“Security Device”) assigned to that Authorized User; provided that the Security Procedure for verifying payment Instructions issued (released) via the mobile application is validation of the registration of the mobile device, a biometric identifier and the private swipe key of an Authorized User.

   b. Host-to-Host/File Transfer Channel. The Security Procedure for verifying payment Instructions issued (released) via the host-to-host/file transfer channel is authentication of a digital signature using a Signature Certificate, as set forth in Section 8 below.

In addition to the Security Procedures described above, the applicable Security Procedure also includes transaction review based on various risk characteristics. The transaction reviews will be conducted in accordance with commercially reasonable protocols selected by the Bank. Additional authentication from the Customer, such as call-back verification, may be required to complete certain transactions identified by the Bank through transaction review.
The Customer shall notify the Bank immediately of loss or theft of a Security Device, any unauthorized use of a Security Device, or any other breach of security, including the compromise of a Certificate (as defined below). The Bank may dishonor or disable any Security Device at any time and will inform the Customer of the same. The Customer agrees to safeguard all Security Devices and to instruct each Authorized User to do the same. The Customer will be responsible for ensuring that the Security Devices are known to and used only by Authorized Users.

2.2. Administrative Procedures. The Bank offers numerous controls that the Customer may implement to reduce the risk of erroneous or unauthorized transactions (“Administrative Procedures”). These procedures, which may include account and transaction limits, single machine registration and IP filtering, among others, may be supplemented and modified by the Bank from time to time.

2.3. Security Administrator Designation. The Customer shall designate security administrators who shall have equal authority in accordance with the administrative control procedure for each Application and/or the authority to add, update or delete security keys in connection with the host-to-host/file transfer channels. The Customer agrees to notify the Bank of any change in security administrators in the manner and form designated by the Bank. Any such changes shall be effective at such time as the Bank has received such notice and has had a reasonable opportunity to act upon it.

2.4. Security Administrator Responsibilities. The security administrators shall be responsible for (i) designating individuals as users ("Authorized Users"); (ii) identifying the functions of the Service, including the Mobile Application (as defined in Section 7 below), that each user may access; (iii) requesting, creating, controlling, disseminating, and/or cancelling user entitlements; (iv) receiving and distributing materials, notices, documents and correspondence relating to the security procedures; and (v) advising each user of his/her obligations hereunder or under any of the applicable Account Documentation (as defined in Section 6 below). The security administrators shall provide to the Bank, upon the Bank’s request, a list of Authorized Users. The Customer will be responsible for the genuineness and accuracy, both as to content and form, of the list of Authorized Users. The Customer shall provide to the Bank, upon the Bank’s request, a list of Authorized Users. The Customer shall be liable for any loss or damage arising out of the inaccuracy of the list of Authorized Users.

2.5. Processing. The application of the Security Procedures and any unilateral controls implemented by the Bank may cause delays in processing Instructions or result in the Bank declining to execute an Instruction.

3. Open Network Access; Equipment

THE SERVICE IS PROVIDED "AS IS" AND "AS AVAILABLE" TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, ALL WARRANTIES AND REPRESENTATIONS, EXPRESS, STATUTORY OR IMPLIED, WITH REGARD TO THE SERVICE ARE HEREBY DISCLAIMED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND COURSE OF DEALING OR USAGE OF TRADE OR WARRANTIES OF NONINFRINGEMENT OR WARRANTIES AS TO ANY RESULTS TO BE OBTAINED FROM THE USE OF THE SERVICE. TO THE EXTENT THAT ANY IMPLIED WARRANTIES CANNOT BE DISCLAIMED UNDER APPLICABLE LAW, ANY SUCH IMPLIED WARRANTIES ARE LIMITED IN DURATION TO 30 DAYS FROM THE INITIAL DELIVERY DATE OF THE RELEVANT SERVICE. THE BANK AND ITS THIRD PARTY DATA AND SERVICE PROVIDERS DO NOT WARRANT OR GUARANTEE THE SECURITY, SEQUENCE, TIMELINESS, ACCURACY OR COMPLETENESS OF THE DATA OR THAT ANY PART OF THE SERVICE WILL BE ERROR-FREE OR UNINTERRUPTED.

The Customer is responsible for all its own expenses, obtaining, installing, maintaining and operating all browsers, software, hardware, telecommunications equipment or other equipment (collectively, "System") necessary for the Customer to access and use the Service in accordance with the Bank’s recommended system configuration. The Customer shall maintain current and effective anti-virus and anti-spyware software and shall take all reasonable measures to maintain the security of its System. The Customer acknowledges that there are certain security, corruption, transmission error, and access availability risks associated with using open networks such as the Internet. The Customer further acknowledges that it has made an independent assessment of the adequacy of the Internet, the System and the Security Procedures in connection with the use of the Service. The Customer assumes all risks associated with the operation, performance and security of its System and the use of open networks, and the Bank disclaims all such risks. The Bank makes no endorsement of any System or third party site, notwithstanding that the Bank may recommend certain Systems or provide a link to a third party site where the Customer may download software.

4. Instructions; Data

4.1. The Customer shall be solely responsible for the genuineness and accuracy, both as to content and form, of all Instructions properly received by the Bank.

4.2. The Customer acknowledges that Data may not have been reviewed by the Bank, may be inaccurate, and may be periodically updated and adjusted. The Bank is not obligated to assure the accuracy of Data and will not be liable for any loss or damage arising out of the inaccuracy of Data. Further, the Bank shall have no liability for the receipt or viewing by any party of Data sent to the destinations designated by the Customer, including but not limited to email addresses, fax and telephone number(s).

5. Customer Warranties

The Customer represents and warrants to the Bank that: (i) prior to submitting any document or Instruction that designates Authorized Users, the Customer shall obtain from each individual referred to in such document or Instruction all necessary consents to enable the Bank to process the data set out therein for the purposes of providing the Service; (ii) the Customer has accurately designated in writing or electronically the geographic location of its Authorized Users and shall provide all updates to such information; and (iii) the Customer shall not access the Service from any
jurisdiction which the Bank informs the Customer or where the Customer has knowledge that the Service is not authorized. The Customer hereby represents and warrants to the Bank that these Service Terms constitute its legal and binding obligations enforceable in accordance with its terms.

6. Miscellaneous

6.1. The additional jurisdiction specific provisions set forth in the attached Exhibit are applicable to the Customer based on the domicile of the Customer. Where any local laws or regulations of any jurisdiction apply as a result of the Customer’s Authorized Users accessing the Service from such jurisdiction or as a result of the location of such accounts in such jurisdiction, the jurisdictional specific provisions of that jurisdiction shall apply to the use of the Service by such Authorized Users. The Bank’s terms governing the business accounts and services, including service terms that govern the Bank’s processing of Instructions transmitted via the Service (“Account Documentation”), are incorporated herein, as the same may be amended from time to time. If and to the extent that there is a conflict between the Account Documentation and these Service Terms, the provisions of these Service Terms shall prevail.

6.2. These Service Terms shall be governed by and construed in accordance with the laws of the State of New York, USA (without reference to the conflict of laws rules thereof).

6.3. All disputes arising outside the United States relating to or in connection with these Service Terms shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The place of arbitration shall be (i) Singapore where the dispute arises in Asia and (ii) London where the dispute arises elsewhere (other than the United States) and the arbitration shall be conducted in English. With respect to any dispute, suit, action or proceedings arising in the United States relating to these Service Terms, the Customer irrevocably submits to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the borough of Manhattan in New York City.

7. Mobile Application

The Service is available via a Bank mobile application (any such application, including released modifications, updates, upgrades, successor and substitute software programs as may have been provided by the Bank to the Customer, a "Mobile Application").

7.1. Accepting use of the Bank’s SMS Text Notification Service and/or the Mobile Application service constitutes the Customer’s authorization for the Bank to send Data, message notifications and alert messages through any communication service providers, including both Internet and telecommunications providers, which shall each be deemed to be acting as the Customer’s agent. Such providers may not encrypt communications.

7.2. Authorized Users may be required to accept a mobile application agreement or license in order to download the Mobile Application. The Customer acknowledges that the Account Documentation shall in all cases govern the provision of these services.

7.3. The Customer acknowledges that the Bank shall not be liable for any delays in any Data, message notification or alert delivered via any mobile device.

8. Host-to-Host/File Transfer Services

The Service is available via host-to-host/file transfer Services. The Customer and the Bank will use the following procedures for the use of a transport certificate, which establishes secure transmission between the Bank and the Customer on the basis of the corresponding security key (the “Transport Certificate”), and a digital signature certificate, which authenticates transmitted files on the basis of the corresponding security key (the “Signature Certificate”). Each of the Signature Certificate and the Transport Certificate are referred to herein as a "Certificate" and the corresponding security key as a "Security Key".

8.1. Customer Requests. The Customer shall comply with the Bank’s procedures notified to the Customer for any request that the Bank add, update or delete a Security Key. The Customer may contact the Customer’s customer service office (or other designated Bank representative as the Bank may direct) for assistance with any such request. Any request to add or update a Security Key shall include the applicable Certificate, a text file or other physical representation of the public Security Key of such Certificate and the requested date and time for the action to be taken, which shall be no earlier than two U.S. banking days after the Bank’s receipt of the request.

8.2. Security Key Updates. The Bank shall have the right to rely on any request that the Bank believes in good faith to have been sent by the designated security administrator, notwithstanding that such security administrator may be a third party agent acting on behalf of the Customer. Upon successful validation of a Customer’s request, the Bank will reply confirming receipt of the Security Key file and the scheduled date and time for the action to take place. Requests for security key additions, updates or deletions will be actioned during the course of normal business hours, Monday through Friday, 8:30 AM – 5:30 PM Eastern Time (United States).

8.3. Administrative Procedures: Certificate Requirements. The Customer agrees to comply with Bank’s Administrative Procedures for Certificates, including the following:

(i) Certificates must have a finite validity period, the maximum length of which is determined by the combined use of a Transport Certificate and a Signature Certificate.
• If digital-signature is applied to the file/payload, then the following applies:
  
  o The Signature Certificate validity period is limited to five years, provided that the Transport Certificate validity period is two years or less; OR
  
  o The Transport Certificate validity period is limited to five years, provided that the Signature Certificate validity period is three years or less.

• If no digital-signature is used, then the Transport Certificate validity period is limited to two years.

(ii) No Certificate shall be accepted unless it adheres to the following cryptographic specification:

  • Message digest: SHA-1, SHA-2, AES256
  
  • Asymmetric algorithm: RSA, DSS
  
  • Asymmetric algorithm key length: 2048 bits or more

8.4 Certificate Expiration. Notwithstanding any courtesy notifications from the Bank regarding the Customer's impending Certificate expiration, the Customer acknowledges that it is the Customer's sole responsibility to update the Certificate prior to its expiration date. The Bank shall have no liability for any loss or damage (including, for the avoidance of doubt, any indirect, special, punitive or consequential damages or losses) arising from the Customer's failure to timely update its Certificate. To allow for proper execution of administrative procedures, and to prevent any lapse in service or emergency procedures, the Customer must request a Certificate change at least 30 days prior to actual Certificate expiration.

Jurisdiction Specific Provisions Exhibit

A. Australia & New Zealand

To the extent that any supply made by the Bank under these Service Terms is a taxable supply for the purposes of the Australian Goods and Services Tax, or that goods and services tax under the New Zealand Goods and Services Tax Act 1985 is payable in respect of any supply under this License Agreement, ("GST"), the fees payable in respect of the taxable supply ("original amount") will be increased by the amount of GST payable in respect of that taxable supply. Customer must pay the increased amount at the same time and in the same manner as the original amount.

B. Peoples Republic of China

Any dispute arising from or in connection with these Service Terms shall be submitted to the China International Economic and Trade Arbitration Commission ("CIETAC") for arbitration which shall be conducted in accordance with its arbitration rules in effect at the time of applying for arbitration. The hearing place shall be Beijing. The arbitral award is final and binding upon both parties.

C. Indonesia

The Bank and the Customer agree that, for the effectiveness of any termination of these Service Terms or the Services provided hereunder, they hereby waive any provisions, procedures and operation of any applicable law to the extent a court order is required for the termination of these Service Terms and the Account Documentation as applicable to the services provided under these Service Terms.

Section 7.3 shall be replaced by "Except for losses directly resulting from errors or delay caused by the Bank's gross negligence or willful misconduct, the Customer acknowledges that the Bank shall not be liable for any delays in any Data, message notification or alert delivered via any mobile device."

D. Malaysia/Labuan –

(i) The following terms shall apply in relation to the Service where it is provided in relation to accounts in Malaysia/Labuan and/or where the Service is provided in Malaysia/Labuan:

(a) Any references in the Service Terms to the term "Bank," shall mean J.P. Morgan Chase Bank Berhad (for Malaysia) and J.P. Morgan Chase Bank, N.A., Labuan Branch (for Labuan).

(b) The Customer acknowledges that it may, through its security administrators, create maximum limits (at a user entitlement level) in relation to funds transfers that may be conducted using the Service, to limit the Customer's risks. Notwithstanding anything to the contrary in these terms, the Customer shall not be liable for any loss which is not attributable to or contributed to by the Customer.
(ii) If the Service is to be accessed by a Customer (1) who is domiciled or incorporated in Malaysia (other than Labuan), or (2) in Malaysia (other than Labuan), that Customer undertakes not to access or utilize or attempt to access or utilize the Service provided by J.P. Morgan Chase Bank Berhad through any JPMorgan website other than http://www.jpmorganaccess.com.my.

E. Republic of China (Taiwan)

Section 7.3 shall be replaced by "Except for losses directly resulting from errors or delay caused by the Bank's gross negligence or willful misconduct, the Customer acknowledges that the Bank shall not be liable for any delays in any Data, message notification or alert delivered via any mobile device."

The Customer acknowledges that it will take steps to ensure it enters into the correct website before attempting to access the Service.

Notwithstanding anything to the contrary contained in these Service Terms and the Account Documentation as applicable to the services provided under these Service Terms, the Bank shall have the right to proceed against the Customer in any other competent court in any other jurisdiction where the Customer's assets are situated from time to time and the Customer agrees to submit to the jurisdiction of any court so chosen by the Bank. The Customer further agrees to waive any objections on the ground of venue or forum non coveniens or any similar ground. The taking of proceedings in any jurisdiction shall not preclude the taking of proceedings in any other jurisdiction whether concurrently or not. The Customer irrevocably and unconditionally waives any objection it may now or subsequently have to the choice of venue of any legal action arising out of or relating to these Service Terms and the Account Documentation as applicable to the services provided under these Service Terms. The Customer also agrees that a final judgment against it in any such legal action shall be final and conclusive.

F. European Union.

The Customer acknowledges that it is not a "consumer" for the purpose of the European Union's Electronic Commerce Directive ("ECD") (i.e. that it is not an individual) and agrees that the Bank shall not be required to make any disclosures or do any other thing which a non-consumer may agree not to require under the UK rules and legislation implementing the ECD. For further information on the Bank, please see "Notice regarding EU e-commerce information" in the Terms & Conditions on http://www.jpmorgan.com.

(i) The Bank will collect information about the Customer and the Customer's employees and agents (such as, without limitation, authorized signatory details) which may constitute personal data for the purposes of the Data Protection Act 1998 (the "Act") and other relevant data protection legislation. Such personal data may be collected by or on behalf of the Bank in a number of ways (the "Collection Methods"), including via documentation relating to the provision to or use by the Customer of electronic banking services, or via the Customer's use of such electronic banking services, and via other corresponding communications between the Customer and the Bank.

(ii) The Bank will use personal data collected by it or on its behalf via the Collection Methods for the following purposes (the "Purposes"), namely for the purpose of providing the services in accordance with these Terms and the Product Terms, for the Bank's internal administrative purposes, for contacting the Customer about products and services which the Bank or other members of the Bank's group offer which the Bank believes may be of interest to the Customer, and as may be otherwise required by law or applicable regulatory or governmental authorities, and such purposes may include transfer of such personal data outside of the European Economic Area to the Bank's subsidiaries or other connected organizations as may be required by law or other applicable regulatory or governmental authorities.

(iii) The Customer shall ensure that any disclosure of personal data made by it or by its employees or agents via the Collection Methods which relate to the Customer's employees or agents is only made following notification by the Customer to data subjects of the Purposes for which their personal data may be processed or on behalf of the Bank, and is otherwise fair and lawful.
EXHIBIT D

Pledge and Security Agreement to Collateralize Public Fund Deposits
PLEDGE AND SECURITY AGREEMENT TO COLLATERALIZE PUBLIC FUND DEPOSITS

THIS PLEDGE AND SECURITY AGREEMENT ("Agreement") is entered into as of __________, 20__, by and between __________ (the "Customer"), and JPMorgan Chase Bank, N.A. (the "Bank").

RECITALS

A. The Customer has designated the Bank as depository for certain of its funds and from time to time the Customer may make deposits of public funds with the Bank, and the Bank has agreed to act as the depository of those public funds; and

B. Although such deposits are generally eligible for Federal Deposit Insurance Corporation ("FDIC") insurance coverage, such coverage is limited to a maximum deposit insurance amount as described in applicable law; and

C. In consideration of and to secure the deposits made by the Customer with the Bank, the Customer and the Bank desire to enter this Agreement granting the Customer a security interest in certain Collateral (hereinafter defined) to secure the deposited public funds in accordance with applicable law.

NOW, THEREFORE, in consideration of the mutual agreements set forth hereafter and for other good and valuable consideration, the parties agree as follows:

1. PUBLIC FUNDS. The deposits subject to this Agreement, hereinafter referred to as "Public Funds", are the deposited public funds of the Customer held in accounts at the Bank, inclusive of accrued interest.

2. GRANT OF SECURITY INTEREST. To secure the Public Funds, the Bank hereby grants to the Customer a security interest in, and assigns and pledges to the Customer certain collateral of the type permitted under applicable law (including, without limitation, securities and letters of credit) hereinafter referred to as the "Collateral", inclusive of instruments in substitution for or in addition to any or all of the then existing Collateral.

3. LOCATION OF COLLATERAL. The Bank agrees to deliver and pledge the Collateral with the Federal Reserve Bank as a book entry item for the benefit of the Customer, and the Customer consents to a use of such custodian, hereinafter referred to as the "Custodian". The Customer shall provide such documents or other information as the Custodian may reasonably require to establish an account. Until such documentation is received the Bank shall pledge the Collateral to its account at the Custodian in the name of the Customer as shown on Bank's books and records. If a letter of credit is included in the Collateral, the Customer or its agent shall be named as the beneficiary thereof, and acceptance and approval by the Customer of such letter of credit shall be evidenced by the beneficiary's receipt of the letter of credit.

4. BANK REPRESENTATIONS AND WARRANTIES. The Bank further represents and warrants, as follows:

a) The Bank is a national banking association organized under the laws of the United States and has full power and authority to enter into this Agreement.

b) The Collateral is free and clear of all liens and claims, pledged pursuant to this Agreement, and, except to the extent that the Collateral is comprised of letters of credit, the Bank is the legal owner of the Collateral.

c) The Bank agrees that the total aggregate market value of the Collateral pledged to the Customer, pursuant to this Agreement, shall be in an amount not less than the amount described in applicable law, and if no amount is described will be in an amount not less than the Public Funds which exceed the sum of FDIC and any other applicable insurance coverage (the "Collateral Ratio"). The Bank utilizes an independent, third-party pricing information service in order to provide market values hereunder. The market value of the letter of credit shall be deemed to equal the undrawn balance of the face amount thereof. The Customer shall notify Bank in advance of anticipated and significant increases in, or withdrawals or payments from, the Customer's deposits, at which time Bank will pledge additional Collateral or seek the release of excess Collateral, as applicable. The Bank will monitor the market value of pledged Collateral on business days and pledge and deliver Collateral as needed to maintain the Collateral Ratio or as otherwise instructed or agreed to by the parties.

d) If the aggregate market value of pledged Collateral exceeds the Collateral Ratio, the Bank may withdraw such excess Collateral provided that following the withdrawal of any such excess Collateral the remaining Collateral would equal or exceed the Collateral Ratio. In addition, the Bank may substitute Collateral for such Collateral previously provided pursuant to this Agreement; provided, however, that the aggregate market value of all pledged Collateral hereunder following such substitution shall equal or exceed the Collateral Ratio. The Customer agrees, if needed, to promptly furnish the Custodian with any needed withdrawal approval.

e) The Bank shall be entitled to income and other payments on the pledged Collateral held by the Custodian, and the Custodian may provide such income and other payments as directed by the Bank, provided an event of default under this Agreement does not exist.

f) The Bank shall furnish to the Customer or its agent a collateral statement which lists the pledged Collateral and market value thereof, with such frequency as described in applicable law, or monthly, if not otherwise provided by law.

g) The Bank's Board of Directors has passed a resolution authorizing and approving the execution and delivery of contracts with the United States, individual states, and any political subdivisions thereof, the District of Columbia, possessions and territories of the United States and...
Indian Tribes or agencies thereof having official custody of tribal funds ("Public Units") providing for the deposit of public funds with the Bank and the pledge of collateral by the Bank to the Public Units or their agents and further authorizing and approving the Bank's execution and delivery of all related contracts between the Public Units or their agents and the Bank, including without limitation, assignments, pledge agreements and security agreements. Such resolution is reflected in the minutes of the Bank's Board of Directors.

h) This Agreement will continuously, from the time of its execution, remain part of the official records of the Bank.

5. EVENTS OF BANK DEFAULT. The Bank shall be in default under this Agreement upon the occurrence of any one or more of the following events or conditions. For clause a) only, an event of default will occur ten (10) business days after the Customer has provided the Bank with a notice generally describing said default.

a) The Bank shall, without cause, refuse to pay to the Customer the Public Funds when due.

b) The Bank has been closed, seized or declared insolvent by a federal regulator having jurisdiction over the Bank.

c) The Bank has had a receiver, conservator or other such official appointed to conduct the affairs of the Bank.

6. RIGHT OF CUSTOMER UPON BANK'S DEFAULT. In the event of a Bank default, in addition to all the rights and remedies provided in Article 9 of the Uniform Commercial Code and any other applicable law pursuant to which the Customer is a secured party, the Public Funds shall become due and payable and the Customer or its agent will have the right to, in the case of Collateral that are securities, demand delivery of the Collateral and liquidate same, or sell, assign and deliver the whole, or any part of the Collateral or any substitutes thereof or additions thereto, in a commercially reasonable manner and with a right to purchase the Collateral at public or private sale; or (b) in the case of Collateral consisting of a letter of credit, draw upon such letter of credit in the amount necessary to cover the Public Funds. The Customer shall apply the proceeds of the sale of Collateral, net of its reasonable costs and expenses incurred in such sale, and the amount paid on the letter of credit, if any, to the Public Funds in a corresponding amount. If applicable, the Customer or its agent shall remit to Bank, its receiver or conservator the remainder, if any, of such sale proceeds or Collateral remaining unsold or unused. Should the Customer obtain Collateral or, in the case of a letter of credit, draw upon such letter of credit, when the Bank is not in default as described in Section 5, the Bank may exercise any rights available to it under law and following such sale of Collateral or draw upon letter of credit and payment thereon by the issuer, the Public Funds may be correspondingly reduced by the amount of the sales proceeds or the value of returned Collateral, if any, or, in the case of letter of credit draws, the amount paid under the letter of credit.

7. CUSTOMER REPRESENTATIONS AND WARRANTIES. The Customer further represents and warrants, which representations and warranties shall be deemed to be continuing, as follows:

a) The Customer has full power and authority to execute this Agreement.

b) This Agreement has been legally and validly entered into, does not and will not violate any law or regulation applicable to it, and is enforceable against the Customer in accordance with its terms.

c) The Bank has been designated a depository for the Customer's funds in the manner required by applicable law.

d) The Customer will comply with the applicable account agreements it may have with the Bank which govern the Public Funds.

e) The Customer or its agent shall promptly respond to requests by the Bank to release Collateral, up to the amount that the aggregate market value thereof exceeds the Collateral Ratio (the “Release Amount”). If the Customer fails to provide Bank or Custodian its written consent to release of the Collateral in the Release Amount within ten (10) business days after Bank's request, Bank will have the right to charge the Customer an excess collateral fee at a rate determined by the Bank at the time the Bank requested the release, based on all unreleased Collateral covered by the Release Amount.

f) All acts, conditions, and things required to exist, happen or to be performed on its part precedent to and in the execution and delivery of the Agreement exist or have happened or have been performed.

8. LAW GOVERNING. This Agreement and the rights and obligations of the parties hereunder, shall be construed and interpreted in accordance with the laws of the State of , without regard to its conflicts of laws principles. The Customer and Bank consent to jurisdiction of a state or federal court located in such state in connection with a dispute arising hereunder.

9. TERMINATION OF THE AGREEMENT. This Agreement shall continue in full force and effect for as long as the Bank holds the Customer's Public Funds that are required to be collateralized under applicable law. Notwithstanding the foregoing, the Customer or the Bank may terminate this Agreement by giving at least thirty (30) days written notice of termination to the other party. Such notice shall not affect or terminate the Customer's security interest in the Collateral, or entitlement to draw upon any unexpired letter of credits that comprise the Collateral and the rights and liabilities of the parties under this Agreement shall survive any termination of the Agreement until all Public Funds have been satisfied in full and Collateral returned.
10. MISCELLANEOUS.

a) All notices and other communications shall be sent to the:

CUSTOMER:
Name: ____________________________
Address: ____________________________
City/State: ____________________________
Attn: ____________________________

BANK:
Name: JPMorgan Chase Bank, N.A.
Address: ____________________________
City/State: ____________________________
Attn: Government Banking

With a copy to:
Name: JPMorgan Chase Bank, N.A.
Address: 1111 Polaris Parkway, Mail Code: OHI-0138
City/State: Columbus, Ohio 43240
Attn: National Collateral Management Group

or such other address as shall be designated by a party to the other party.

b) This Agreement and all rights and liabilities hereunder and in and to any and all Collateral shall inure to the benefit of the Customer and the Bank and their respective permitted successors and assigns, subject to any limitations upon assignability contained within letters of credit that may comprise the Collateral. No portion of this Agreement may be assigned without the express written consent of the other party.

c) The Public Funds are subject to the applicable account agreements in effect from time to time.

d) It is the express purpose of this Agreement to comply with the provisions of applicable law, including 12 USC 1823(e).

e) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

f) In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement, which shall be given effect without the conflicting provision. To this end the provisions of this Agreement are declared to be severable.

[Signature page follows]
IN WITNESS WHEREOF the parties have signed this Agreement as of this day and year first above written.

CUSTOMER:

By: __________________________
Name: _________________________
Title: __________________________

BANK:
JPMorgan Chase Bank, N.A.

By: __________________________
Name: _________________________
Title: __________________________
EXHIBIT E

City of San Antonio, Texas Ordinance No. 75686
Exhibit E
On File with SAWS
EXHIBIT F
SAWS Investment Policy
EXHIBIT G

JPMorgan Chase Bank, N.A. Approving Resolution, Incumbency Certificate, and FIRREA Compliant Resolution
Exhibit G
On File with SAWS
EXHIBIT H
SAWS Standard Insurance Specifications and Certificate of Liability Insurance Requirements
Exhibit H

On File with SAWS
CUSTODY AGREEMENT

(Public Finance)

AGREEMENT, dated as of __________, between ____________________ ("Customer") and The Bank of New York Mellon Trust Company, N.A., as custodian ("Custodian").

ARTICLE I
DEFINITIONS

Whenever used in this Agreement, the following words shall have the meanings set forth below:

1. "Authorized Person" shall be any person, whether or not an officer or employee of Customer, duly authorized by Customer to give Written Instructions on behalf of Customer with respect to one or more accounts, such persons to be designated in a Certificate of Authorized Persons which contains a specimen signature of such person.

2. "BNYM Affiliate" shall mean any office, branch or subsidiary of The Bank of New York Mellon Corporation.


4. "Business Day" shall mean any day on which Custodian and relevant Depositories are open for business.

5. "Depository" shall mean the Book-Entry System, the Depository Trust Company, and any other book-entry system, securities depository or clearing agency (and their respective successors and nominees) authorized to act as a book-entry system, securities depository or clearing agency pursuant to applicable law and identified to Customer from time to time.

6. "Electronic Means" shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Custodian, or another method or system specified by the Custodian as available for use in connection with its services hereunder.

7. "Securities" shall include, without limitation, common stock and other equity securities, mutual funds, bonds, debentures and other debt securities, notes, mortgages or other obligations, and any instruments representing rights to receive, purchase, or subscribe for the same, or representing any other rights or interests therein (whether represented by a certificate or held in a Depository or on the books of the issuer).

8. "Written Instructions" shall mean written communications actually received by Custodian by letter or Electronic Means.
ARTICLE II
APPOINTMENT OF CUSTODIAN; ACCOUNTS; REPRESENTATION AND WARRANTIES

1. Customer hereby appoints Custodian as custodian of all Securities and cash at any time delivered to Custodian during the term of this Agreement, and authorizes Custodian to hold Securities in registered form in its name or the name of its nominees. Custodian hereby accepts such appointment and agrees to establish and maintain one or more securities accounts and cash accounts in the name of Customer in which it will hold Securities and cash as provided herein. Such accounts (each, an "Account"; collectively, the "Accounts") shall be in the name of Customer.

2. Customer hereby represents and warrants, which representations and warranties shall be continuing and shall be deemed to be reaffirmed upon Written Instruction given by Customer, that:
(a) Customer is duly organized and existing under the laws of the jurisdiction of its organization, with full power to carry on its business as now conducted, to enter into this Agreement and to perform its obligations hereunder;
(b) This Agreement has been duly authorized, executed and delivered by Customer, constitutes a valid and legally binding obligation of Customer, enforceable in accordance with its terms, and no statute, regulation, rule, order, judgment or contract binding on Customer prohibits Customer's execution or performance of this Agreement; and
(c) Either Customer owns the Securities in the Account free and clear of all liens, claims, security interests and encumbrances (except those granted herein) or, if the Securities are owned beneficially by others, Customer has the right to pledge such Securities to the extent necessary to secure Customer's obligations hereunder, free of any right of redemption, prior claim by the beneficial owner. Custodian's security interest pursuant to Article V hereof shall be a first lien and security interest subject to no setoffs, counterclaims or other liens prior to or on a parity with it in favor of any other party (other than specific liens granted preferred status by statute), and Customer shall take any and all additional steps which are required to assure Custodian of such priority and status, including (i) notifying third parties or obtaining their consent to Custodian's security interest, (ii) prohibiting transfer of any interest in a Security from the nominee name in which such investment is registered without the express written consent of Custodian and (iii) insuring it does not take any other action that would cause Custodian's first lien and security interest hereunder to be adversely affected.

ARTICLE III
CUSTODY AND RELATED SERVICES

1. Subject to the terms hereof, Customer hereby authorizes Custodian to hold any Securities received by it from time to time for Customer's account. Custodian shall be entitled to utilize Depositories to the extent possible in connection with its performance hereunder. Securities and cash deposited by Custodian in a Depository will be held subject to the rules, terms and conditions of such Depository.

2. Custodian shall furnish Customer with a monthly summary of all account transfers and activity. Although Customer recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, Customer hereby agrees that confirmations of investments are not required to be issued by Custodian for each month in which a monthly statement is rendered. No statement need be rendered for an Account if no activity occurred in such Account during such month. Customer may elect to receive advices, confirmations, reports or statements electronically through the Internet to an e-mail address specified by it for such purpose. By electing to use the Internet for this purpose, Customer acknowledges that such transmissions are not encrypted and therefore are insecure. Customer further acknowledges that there are other risks inherent in communicating through the Internet such as the possibility of virus contamination and disruptions in service, and agrees that Custodian shall not be responsible
for any loss, damage or expense suffered or incurred by Customer or any person claiming by or through Customer as a result of the use of such methods.

3. With respect to all Securities held in an Account, Custodian shall, unless otherwise instructed to the contrary:

(a) Receive all income and other payments and advise Customer as promptly as practicable of any such amounts due but not paid;

(b) Present for payment and receive the amount paid upon all Securities which may mature and advise Customer as promptly as practicable of any such amounts due but not paid;

(c) Forward to Customer all information or documents that it may receive from an issuer of Securities which, in the opinion of Custodian, are intended for the beneficial owners of U.S. Securities;

(d) Execute, as custodian, any certificates of ownership, affidavits, declarations or other certificates under any tax laws now or hereafter in effect in connection with the collection of bond and note coupons;

(e) Hold directly, or through a Depository, all rights and similar Securities issued with respect to any Securities credited to an Account hereunder; and

(f) Endorse for collection checks, drafts or other negotiable instruments.

4. (a) Custodian shall notify Customer of such rights or discretionary actions or of the date or dates by when such rights must be exercised or such action must be taken provided that Custodian has received, from the issuer or the relevant Depository or a nationally or internationally recognized bond or corporate action service to which Custodian subscribes, timely notice of such rights or discretionary corporate action or of the date or dates such rights must be exercised or such action must be taken. Absent actual receipt of such notice, Custodian shall have no liability for failing to so notify Customer and Custodian shall follow timely directions received in writing through one of the Communication processes so specified by the Custodian.

(b) Whenever Securities (including, but not limited to, warrants, options, tenders, options to tender or non-mandatory puts or calls) confer optional rights on Customer or provide for discretionary action or alternative courses of action by Customer, Customer shall be responsible for making any decisions relating thereto and for directing Custodian to act. In order for Custodian to act, it must receive Customer's Written Instructions at Custodian's offices, addressed as Custodian may from time to time request, not later than noon (Florida time) at least two (2) Business Days prior to the last scheduled date to act with respect to such Securities (or such earlier date or time as Custodian may notify Customer). Absent Custodian's timely receipt of such Written Instructions, Custodian shall not be liable for failure to take any action relating to or to exercise any rights conferred by such U.S. Securities.

5. Custodian will make available to Customer proxy voting services upon the request of, and for the jurisdictions selected by, Customer in accordance with terms and conditions to be mutually agreed upon by Custodian and Customer.

6. Custodian shall promptly advise Customer upon its notification of the partial redemption, partial payment or other action affecting less than all Securities of the relevant class. If Custodian or Depository holds any such Securities in which Customer has an interest as part of a fungible mass, Custodian, such Depository may select the Securities to participate in such partial redemption, partial payment or other action in any non-discriminatory manner that it customarily uses to make such selection.
7. Custodian shall not under any circumstances accept bearer interest coupons which have been stripped from United States federal, state or local government or agency securities unless explicitly agreed to by Custodian in writing.

8. Customer shall be liable for all taxes, assessments, duties and other governmental charges, including any interest or penalty with respect thereto ("Taxes"), with respect to any cash or Securities held on behalf of Customer or any transaction related thereto. Customer shall indemnify Custodian for the amount of any Tax that Custodian or any other withholding agent is required under applicable laws (whether by assessment or otherwise) to pay on behalf of, or in respect of income earned by or payments or distributions made to or for the account of Customer (including any payment of Tax required by reason of an earlier failure to withhold). Custodian shall withhold the amount of any Tax which is required to be withheld under applicable law upon collection of any dividend, interest or other distribution made with respect to any Security and any proceeds or income from the sale, loan or other transfer of any Security. In the event that Custodian is required under applicable law to pay any Tax on behalf of Customer, Custodian is hereby authorized to withdraw cash from any cash account in the amount required to pay such Tax and to use such cash for the timely payment of such Tax in the manner required by applicable law. If the aggregate amount of cash in all cash accounts is not sufficient to pay such Tax, Custodian shall promptly notify Customer of the additional amount of cash (in the appropriate currency) required, and Customer shall directly deposit such additional amount in the appropriate cash account promptly after receipt of such notice, for use by Custodian as specified herein. In the event that Custodian reasonably believes that Customer is eligible, pursuant to applicable law or to the provisions of any tax treaty, for a reduced rate of, or exemption from, any Tax which is otherwise required to be withheld or paid on behalf of Customer under any applicable law, Custodian shall either withhold or pay such Tax at such reduced rate or refrain from withholding or paying such Tax, as appropriate; provided that Custodian shall have received from Customer all documentary evidence of residence or other qualification for such reduced rate or exemption required to be received under such applicable law or treaty. In the event that Custodian reasonably believes that a reduced rate of, or exemption from, any Tax is obtainable only by means of an application for refund, Custodian shall have no responsibility for the accuracy or validity of any forms or documentation provided by Customer to Custodian hereunder. Customer hereby agrees to indemnify and hold harmless Custodian in respect of any liability arising from any underwithholding or underpayment of any Tax which results from the inaccuracy or invalidity of any such forms or other documentation, and such obligation to indemnify shall be a continuing obligation of Customer, its successors and assigns, notwithstanding the termination of this Agreement.

9. (a) For the purpose of settling Securities and foreign exchange transactions, Customer shall provide Custodian with sufficient immediately available funds for all transactions by such time and date as conditions in the relevant market dictate. As used herein, "sufficient immediately available funds" shall mean either (i) sufficient cash denominated in the currency of Customer's home jurisdiction to purchase the necessary foreign currency, or (ii) sufficient applicable foreign currency to settle the transaction. Custodian shall provide Customer with immediately available funds each day which result from the actual settlement of all sale transactions, based upon advices received by Custodian from its Depositories. Such funds shall be in the currency of Customer's home jurisdiction or such other currency as Customer may specify to Custodian.

10. Any foreign exchange transaction effected by Custodian in connection with this Agreement may be entered with Custodian or a BNY Affiliate acting as principal or otherwise through customary banking channels. Customer may issue standing Written Instructions with respect to foreign exchange transactions but Custodian may establish rules or limitations concerning any foreign exchange facility made available to Customer. Customer shall bear all risks of holding cash denominated in a foreign currency. Without limiting the foregoing, Customer shall bear the risks that rules or procedures imposed by Depositories, exchange controls, asset freezes or other laws, rules, regulations or orders shall prohibit or impose burdens or costs on the transfer to, by or for the account of Customer of property held outside Customer's jurisdiction or denominated in a currency other than its home jurisdiction or the conversion of cash from one currency into another currency. Custodian shall not be obligated to substitute another currency for a currency whose transferability, convertibility or availability has been affected by such law, regulation, rule or procedure. Custodian shall not be liable to Customer for any loss resulting from any of the foregoing events.
11. To the extent that Custodian has agreed to provide pricing or other information services in connection with this Agreement, Custodian is authorized to utilize any vendor (including brokers and dealers of Securities) reasonably believed by Custodian to be reliable to provide such information. Customer understands that certain pricing information with respect to complex financial instruments (e.g., derivatives) may be based on calculated amounts rather than actual market transactions and may not reflect actual market values, and that the variance between such calculated amounts and actual market values may or may not be material. Where vendors do not provide information for particular Securities or other property, an Authorized Person may advise Custodian regarding the fair market value of, or provide other information with respect to, such Securities or property as determined by it in good faith. Custodian shall not be liable for any loss, damage or expense incurred as a result of errors or omissions with respect to any pricing or other information utilized by Custodian hereunder.

12. As an accommodation to Customer, Custodian may provide consolidated recordkeeping services pursuant to which Custodian reflects on Account statements Securities not held in Custodian's vault or for which Custodian or its nominee is not the registered owner ("Non-Custody Securities"). Non-Custody Securities shall be designated on Custodian's books as "shares not held" or by other similar characterization. Customer acknowledges and agrees that it shall have no security entitlement against Custodian with respect to Non-Custody Securities, that Custodian shall rely, without independent verification, on information provided by Customer regarding Non-Custody Securities (including but not limited to positions and market valuations) and that Custodian shall have no responsibility whatsoever with respect to Non-Custody Securities or the accuracy of any information maintained on Custodian's books or set forth on account statements concerning Non-Custody Securities.

13. With respect to Securities issued in the United States, the Shareholders Communications Act of 1985 (the "Act") requires Custodian to disclose to the issuer, upon their request, the name, address and securities position of its customers who are (a) the "beneficial owners" (as defined in the Act) of the issuer's Securities, if the beneficial owner does not object to such disclosure, or (b) acting as a "respondent bank" (as defined in the Act) with respect to the Securities. (Under the Act, "respondent banks" do not have the option of objecting to such disclosure upon the issuer's request.) The Act defines a "beneficial owner" as any person who has, or shares, the power to vote a security (pursuant to an agreement or otherwise), or who directs the voting of a security. The Act defines a "respondent bank" as any bank, association or other entity that exercises fiduciary powers which holds securities on behalf of beneficial owners and deposits such securities for safekeeping with a bank, such as Custodian. Under the Act, Customer is either the "beneficial owner" or a "respondent bank."

[X] Customer is the "beneficial owner," as defined in the Act, of the Securities to be held by Custodian hereunder.
[ ] Customer is not the beneficial owner of the Securities to be held by Custodian, but is acting as a "respondent bank," as defined in the Act, with respect to the Securities to be held by Custodian hereunder.

IF NO BOX IS CHECKED, CUSTODIAN SHALL ASSUME THAT CUSTOMER IS THE BENEFICIAL OWNER OF THE SECURITIES.

For beneficial owners of the Securities only:

[ ] Customer objects
[ ] Customer does not object

to the disclosure of its name, address and securities position to any issuer which requests such information pursuant to the Act for the specific purpose of direct communications between such issuer and Customer.

IF NO BOX IS CHECKED, CUSTODIAN SHALL RELEASE SUCH INFORMATION UNTIL IT RECEIVES A CONTRARY WRITTEN INSTRUCTION FROM CUSTOMER.
14. The Bank of New York Mellon Corporation is a global financial organization that operates in and provides services and products to clients through its affiliates and subsidiaries located in multiple jurisdictions (the "BNY Mellon Group"). The BNY Mellon Group may (i) centralize in one or more affiliates and subsidiaries certain activities (the "Centralized Functions"), including audit, accounting, administration, risk management, legal, compliance, sales, product communication, relationship management, and the compilation and analysis of information and data regarding Customer (which, for purposes of this provision, includes the name and business contact information for the Customer's employees and representatives) and the accounts established pursuant to the Transaction Documents ("Customer Information") and (ii) use third party service providers to store, maintain and process Customer's Information ("Outsourced Functions"). Notwithstanding anything to the contrary contained elsewhere in this Fee Schedule or the Transaction Documents and solely in connection with the Centralized Functions and/or Outsourced Functions, Customer consents to the disclosure of, and authorize BNY Mellon to disclose, Customer's Information to (i) other members of the BNY Mellon Group (and their respective officers, directors and employees) and to (ii) third-party service providers (but solely in connection with Outsourced Functions) who are required to maintain the confidentiality of Customer's Information. In addition, the BNY Mellon Group may aggregate Customer Information with other data collected and/or calculated by the BNY Mellon Group, and the BNY Mellon Group will own all such aggregated data, provided that the BNY Mellon Group shall not distribute the aggregated data in a format that identifies Customer Information with Customer specifically. Customer represents that Customer is authorized to consent to the foregoing and that the disclosure of Customer's Information in connection with the Centralized Functions and/or Outsourced Functions does not violate any relevant data protection legislation. Customer also consents to the disclosure of Customer's Information to governmental and regulatory authorities in jurisdictions where the BNY Mellon Group operates and otherwise as required by law.

ARTICLE IV
PURCHASE AND SALE OF U.S. SECURITIES; CREDITS TO ACCOUNT

1. Promptly after each purchase or sale of Securities by Customer, an Authorized Person shall deliver to Custodian Written Instructions specifying all information necessary for Custodian to settle such purchase or sale. Custodian shall account for all purchases and sales of Securities on the actual settlement date unless otherwise agreed by Custodian.

2. Customer understands that when Custodian is instructed to deliver Securities against payment, delivery of such Securities and receipt of payment therefore may not be completed simultaneously. Customer assumes full responsibility for all credit risks involved in connection with Custodian's delivery of Securities pursuant to instructions of Customer.

3. Custodian may, as a matter of bookkeeping convenience or by separate agreement with Customer, credit the Account with the proceeds from the sale, redemption or other disposition of Securities or interest, dividends or other distributions payable on Securities prior to its actual receipt of final payment. All such credits shall be conditional until Custodian's actual receipt of final payment and may be reversed by Custodian to the extent that final payment is not received. Payment with respect to a transaction will not be "final" until Custodian shall have received immediately available funds which under applicable law or rule are irreversible and not subject to any security interest, levy or other encumbrance, and which are specifically applicable to such transaction.

ARTICLE V
OVERDRAFTS OR INDEBTEDNESS
1. If Custodian in its sole discretion advances funds to Customer or there shall arise for whatever reason an overdraft in the Account (including, without limitation, overdrafts incurred in connection with the settlement of securities transactions or funds transfers) or if Customer is for any other reason indebted to Custodian, Customer agrees to repay Custodian on demand the amount of the advance, overdraft or indebtedness plus accrued interest at a rate ordinarily charged by Custodian to its institutional custody customers.

2. In order to secure repayment of Customer's obligations to Custodian hereunder, Customer hereby pledges and grant to Custodian a continuing lien and security interest in, and right of set-off against, all of Customer's right, title and interest in and to the Accounts and the Securities, money and other property now or hereafter held in the Accounts (including proceeds thereof), and any other property at any time held by it for the account of Customer. In this regard, Custodian shall be entitled to all the rights and remedies of a pledgee and secured creditor under applicable laws, rules or regulations as then in effect.

ARTICLE VI
CONCERNING CUSTODIAN

1. (a) Except as otherwise expressly provided herein, Custodian shall not be liable for any costs, expenses, damages, liabilities or claims, including attorneys' and accountants' fees (collectively, "Losses"), incurred by or asserted against Customer, except those Losses arising out of the negligence or willful misconduct of Custodian. Custodian shall have no liability whatsoever for the action or inaction of any Depository or issuer of Securities. In no event shall Custodian be liable to Customer or any third party for special, indirect or consequential damages, or lost profits or loss of business, arising in connection with this Agreement.

(b) Custodian may enter into subcontracts, agreements and understandings with any BNYM Affiliate, whenever and on such terms and conditions as it deems necessary or appropriate to perform its services hereunder. No such subcontract, agreement or understanding shall discharge Custodian from its obligations hereunder.

(c) Customer agrees to indemnify, save and hold Custodian harmless from and against any and all Losses sustained or incurred by or asserted against Custodian by reason of or as a result of any action or inaction, or arising out of Custodian's performance hereunder, including reasonable fees and expenses of counsel incurred by Custodian in a successful defense of claims by Customer; provided, that Customer shall not indemnify Custodian for those Losses arising out of Custodian's negligence or willful misconduct. This indemnity shall be a continuing obligation of Customer, its successors and assigns, notwithstanding the termination of this Agreement.

2. Without limiting the generality of the foregoing, Custodian shall be under no obligation to inquire into, and shall not be liable for, any losses incurred by Customer or any other person as a result of the receipt or acceptance of fraudulent, forged or invalid U.S. Securities, or Securities which are otherwise not freely transferable or deliverable without encumbrance.

3. Custodian may, with respect to questions of law specifically regarding the Account, obtain the advice of counsel and shall be fully protected with respect to anything done or omitted by it in good faith in conformity with such advice.

4. Custodian shall be under no obligation to take action to collect any amount payable on Securities in default, or if payment is refused after due demand and presentment.

5. Custodian shall have no duty or responsibility to inquire into, make recommendations, supervise, or determine the suitability of any transactions affecting any Account.
6. Customer shall pay to Custodian the fees and charges as may be specifically agreed upon from time to time and such other fees and charges at Custodian's standard rates for such services as may be applicable. Customer shall reimburse Custodian for all costs associated with the conversion of Customer's Securities hereunder and the transfer of Securities and records kept in connection with this Agreement. Customer shall also reimburse Custodian for out of pocket expenses which are a normal incident of the services provided hereunder. Custodian may debit the Account for amounts payable hereunder which remain in arrears for over 60 days.

7. In addition to the rights of Custodian under applicable law and other agreements, at any time when Customer shall not have honored any and all of its obligations to Custodian, whether or not relating to or arising under this Agreement, Custodian shall have the right without notice to Customer to retain or set-off, against such obligations of Customer, any Securities or cash Custodian or a BNY Affiliate may directly or indirectly hold for the account of Customer, and any obligations (whether matured or unmatured) that Custodian or a BNY Affiliate may have to Customer. Any such asset of, or obligation to, Customer may be transferred to Custodian and any BNY Affiliate in order to effect the above rights.

8. (a) Subject to the terms below, Custodian shall be entitled to rely upon any Written Instructions actually received by Custodian and reasonably believed by Custodian to be duly authorized and delivered.

(b) If Custodian receives Written Instructions which appear on their face to have been transmitted by an Authorized Person via (Electronic Means, Customer understands and agrees that Custodian cannot determine the identity of the actual sender of such Written Instructions and that Custodian shall conclusively presume that such Written Instructions have been sent by an Authorized Person. Customer shall be responsible for ensuring that only Authorized Persons transmit such Written Instructions to Custodian and that all Authorized Persons treat applicable user and authorization codes, passwords and/or authentication keys with extreme care. The Custodian shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Agreement and delivered using Electronic Means; provided, however, that the Customer shall provide to the Custodian an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Persons") and containing specimen signatures of such Authorized Persons, which incumbency certificate shall be amended by the Corporation whenever a person is to be added or deleted from the listing. If the Customer elects to give the Custodian Instructions using Electronic Means and the Custodian, in its discretion elects to act upon such Instructions, the Custodian's understanding of such Instructions shall be deemed controlling. The Customer understands and agrees that the Custodian cannot determine the identity of the actual sender of such Instructions and that the Custodian shall conclusively presume that directions that purport to have been sent by an Authorized Person listed on the incumbency certificate provided to the Custodian have been sent by such Authorized Person. The Customer shall be responsible for ensuring that only Authorized Persons transmit such Instructions to the Custodian and that the Customer and all Authorized Persons are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Customer. The Custodian shall not be liable for any losses, costs or expenses arising directly or indirectly from the Custodian's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Customer agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Custodian, including without limitation the risk of the Custodian acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Custodian and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Customer; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Custodian immediately upon learning of any compromise or unauthorized use of the security procedures.

(c) Customer acknowledges and agrees that it is fully informed of the protections and risks associated with the various methods of transmitting Written Instructions to Custodian and that there may be more secure methods of transmitting Written Instructions than the method(s) selected by Customer. Customer
agrees that the security procedures (if any) to be followed in connection with its transmission of Written Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

(d) If Customer elects to transmit Written Instructions through an on-line communication system offered by Custodian, Customer's use thereof shall be subject to any terms and conditions contained in a separate written agreement. If Customer elects (with Custodian's prior consent) to transmit Written Instructions through an on-line communications service owned or operated by a third party, Customer agrees that Custodian shall not be responsible or liable for the reliability or availability of any such service.

9. Upon reasonable request and provided Custodian shall suffer no significant disruption of its normal activities, Customer shall have access to Custodian's books and records relating to the Account during Custodian's normal business hours. Upon reasonable request, copies of any such books and records shall be provided to Customer at Customer's expense.

10. It is understood that Custodian is authorized to supply any information regarding the Account which is required by any law, regulation or rule now or hereafter in effect.

11. Custodian shall not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots; interruptions, losses or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that Custodian shall use its best efforts to resume performance as soon as practicable under the circumstances.

12. Custodian shall have no duties or responsibilities whatsoever except such duties and responsibilities as are specifically set forth in this Agreement, and no covenant or obligation shall be implied against Custodian in connection with this Agreement.

ARTICLE VII
TERMINATION

Either party may terminate this Agreement by giving to the other party a notice in writing specifying the date of such termination, which shall be not less than ninety (90) days after the date of such notice. Upon termination hereof, Customer shall pay to Custodian such compensation as may be due to Custodian, and shall likewise reimburse Custodian for other amounts payable or reimbursable to Custodian hereunder. Custodian shall follow such reasonable Written Instructions concerning the transfer of custody of records, Securities and other items as Customer shall give; provided, that (a) Custodian shall have no liability for shipping and insurance costs associated therewith, and (b) full payment shall have been made to Custodian of its compensation, costs, expenses and other amounts to which it is entitled hereunder. If any Securities or cash remain in the Account, Custodian may deliver to Customer such Securities and cash. Upon termination of this Agreement, except as otherwise provided herein, all obligations of the parties to each other hereunder shall cease.

ARTICLE VIII
MISCELLANEOUS

1. Customer agrees to furnish to Custodian a new Certificate of Authorized Persons in the event of any change in the then present Authorized Persons. Until such new Certificate is received, Custodian shall be fully protected in acting upon Written Instructions of such present Authorized Persons.
2. Any notice or other instrument in writing, authorized or required by this Agreement to be given to Custodian, shall be sufficiently given if addressed to Custodian and received by it at its offices at 10161 Centurion Parkway, Jacksonville, Florida 32256 or at such other place as Custodian may from time to time designate in writing.

3. Any notice or other instrument in writing, authorized or required by this Agreement to be given to Customer shall be sufficiently given if addressed to Customer and received by it at its offices at __________________________ or at such other place as Customer may from time to time designate in writing.

4. Each and every right granted to either party hereunder or under any other document delivered hereunder or in connection herewith, or allowed it by law or equity, shall be cumulative and may be exercised from time to time. No failure on the part of either party to exercise, and no delay in exercising, any right will operate as a waiver thereof, nor will any single or partial exercise by either party of any right preclude any other or future exercise thereof or the exercise of any other right.

5. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations shall not in any way be affected thereby. This Agreement may not be amended or modified in any manner except by a written agreement executed by both parties. This Agreement shall extend to and shall be binding upon the parties hereto, and their respective successors and assigns; provided however, that this Agreement shall not be assignable by either party without the written consent of the other.

6. (a) This Agreement shall be construed in accordance with the substantive laws of the State of Florida, without regard to conflicts of laws principles thereof. Customer and Custodian hereby consent to the jurisdiction of a state or federal court situated in Florida in connection with any dispute arising hereunder. To the extent that in any jurisdiction Customer may now or hereafter be entitled to claim, for itself or its assets, immunity from suit, execution, attachment (before or after judgment) or other legal process, Customer irrevocably agrees not to claim, and it hereby waives such immunity. Customer and Custodian each hereby irrevocably waives any and all rights to trial by jury in any legal proceeding arising out of or relating to this Agreement.

(b) The parties hereto agree that the establishment and maintenance of the Account, and all interests, duties and obligations with respect thereto, shall be governed by the laws of the State of Florida.

(c) For Governmental Entities: To the extent that in any jurisdiction Customer may now or hereafter be entitled to claim, for itself or its assets, immunity from suit, execution, attachment (before or after judgment) or other legal process, Customer irrevocably agrees not to claim, and it hereby waives such immunity, to the extent permitted by applicable law.

7. The parties hereto agree that in performing hereunder, Custodian is acting solely on behalf of Customer and no contractual or service relationship shall be deemed to be established hereby between Custodian and any other person.

8. Customer hereby acknowledges that Custodian is subject to federal laws, including the Customer Identification Program (CIP) requirements under the USA PATRIOT Act and its implementing regulations, pursuant to which Custodian must obtain, verify and record information that allows Custodian to identify Customer. Accordingly, prior to opening an Account hereunder Custodian will ask Customer to provide certain information including, but not limited to, Customer’s name, physical address, tax identification number and other information that will help Custodian to identify and verify Customer’s identity such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information. Customer agrees that Custodian cannot open an Account hereunder unless and until the Custodian verifies the Customer’s Identity in accordance with its CIP. If Customer is a hedge fund or other type of collective
investment vehicle (i) Customer has established and presently maintains an anti-money laundering program (the "Program") reasonably designed to prevent Customer from being used as a conduit for money laundering or other illicit purposes or the financing of terrorist activities, (ii) it is in compliance with the Program and all anti-money laundering laws, regulations and rules now or hereafter in effect that are applicable to it, (iii) it has verified the identity of each of its investors and documented the origin of the assets funding each investor’s account with Customer, (iv) it can represent and warrant that, to the best of its knowledge, no investor has invested in Customer for money laundering or other illicit purposes; and (v) it shall promptly notify Custodian in writing if any of the foregoing representations and warranties are no longer true.

9. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument.
IN WITNESS WHEREOF, Customer and Custodian have caused this Agreement to be executed by their respective officers, thereunto duly authorized, as of the day and year first above written.

______________________________
Customer Name

______________________________
Authorized Signature

______________________________  ________________
Title                               Date

Fiscal Year End ____________

Tax Identification No.: __________________

The Bank of New York Mellon Trust Company, N.A.

______________________________
Authorized Signature

______________________________  ________________
Title                               Date
CERTIFICATE OF AUTHORIZED PERSONS
(Customer - Written Instructions)

The undersigned hereby certifies that he/she is the duly elected and acting ________________
of ________________ (the "Corporation"), and further certifies that the following officers or employees of the Corporation have been duly authorized in conformity with the Corporation's Articles of Incorporation and By-Laws to deliver Written Instructions to The Bank of New York Mellon Trust Company, N.A. ("BNYM") pursuant to the Custody Agreement between the Corporation and BNYM dated ________________, and that the signatures appearing opposite their names are true and correct:

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This certificate supersedes any certificate of authorized individuals you may currently have on file.

[corporate seal]

Name: ____________________________
Title: ____________________________
Date: ____________________________
TO: San Antonio Water System Board of Trustees

FROM: Douglas P. Evanson, Senior Vice President/Chief Financial Officer

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: RESOLUTION REQUESTING CITY COUNCIL AUTHORIZE A THIRD AMENDED AND RESTATED ORDINANCE AUTHORIZING THE CITY OF SAN ANTONO, TEXAS WATER SYSTEM COMMERCIAL PAPER NOTES

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution requests City Council authorize all actions necessary to amend and restate the ordinance authorizing the City of San Antonio, Texas Water System Commercial Paper Notes and enter into a revolving credit agreement (the “Agreement”) with JPMorgan Chase Bank, N.A. to provide credit and liquidity support to the San Antonio Water System’s (the “System”) Commercial Paper Notes, Series A.

- The System’s capital financing structure includes authorization for up to $500,000,000.00 commercial paper notes (the “CP Notes”), which provides short-term, variable rate financing for capital projects. The CP Notes provide interim financing and allows the System the flexibility of issuing debt on an as needed basis, matching construction funding with construction expenditures.

- To support the CP Notes, a revolving credit agreement is required by investors to ensure liquidity of the CP Notes. A revolving credit agreement is an agreement, typically entered into with a bank, to provide liquidity support for short-term debt instruments. The bank agrees to purchase any outstanding CP Notes should the remarketing dealers be unable to find buyers for the CP Notes in the financial markets, thus providing liquidity to the investor. CP Notes can only be issued up to the amount of the liquidity provided for under the revolving credit agreements.

- On June 2, 2015, the System’s Board of Trustees (the “Board”), by Resolution No. 15-135 authorized the First Amendment to the Revolving Credit Agreements under which Bank of Tokyo provided credit and liquidity support for $350,000,000.00 of Series A Notes expiring October 4, 2018. On October 10, 2017, the System’s Board, by Resolution No. 17-214 authorized an extension to a revolving credit agreement with Wells Fargo to provide credit and liquidity support for $100,000,000.00 of Series B Notes through January 15, 2021, together, both banks providing credit and liquidity support totaling $450,000,000.00.
• The System solicited a Request for Proposals from qualified banks to provide a revolving credit agreement for up to $400,000,000.00 in Series A Notes. Seven proposals were received. System staff, in coordination with the System’s Co-Financial Advisors of PFM Financial Advisors and Estrada Hinojosa, evaluated the proposals pursuant to the criteria established in the Request for Proposals.

• Based on the proposed terms, conditions, pricing, and credit quality of the bank, it was determined that JPMorgan Chase Bank, N.A. provided the best overall proposal.

• The Agreement with JPMorgan Chase Bank, N.A. will provide $400,000,000.00 in credit and liquidity support to the Series A Notes at a rate of 32 basis points or 0.32% annually for a period of five years, effective October 4, 2018. Together with the agreement with Wells Fargo, the total credit and liquidity support for the CP Notes is now up to the authorized amount of the program of $500,000,000.00.

• To accommodate the proposed changes and provide future flexibility for the CP Notes, the resolution also authorizes that the CP Notes could be issued in three series of notes rather than the current two series, and within each series, the ability to designate and issue subseries as the CP Notes continues to evolve. The additional series of notes provides flexibility to add another revolving credit agreement under the CP Notes and/or the issuance of certain alternative types of commercial paper, as would be approved by the Board. The combined amount of the three series of notes will not exceed $500,000,000.00.

Staff recommends that the Board approve this resolution.

**FINANCIAL IMPACT:**

The annual cost for the Revolving Credit Agreement with JPMorgan Chase Bank, N.A. will be approximately $1,273,600.00.

One-time fees associated with the amended and restated ordinance include bank counsel fees to Orrick, Herrington & Sutcliffe in an amount not to exceed $35,000.00, and the System’s co-bond counsel fees to Norton Rose Fulbright in an amount not to exceed $110,000.00 and Escamilla & Poneck in an amount not to exceed $11,000.00.

Fees for these services are included in the Other Debt Service Requirement Budget (Company: 1000; Accounting Unit: 1000001, 1000002, 1000005, 1000006, and 1000007; Account: 534400). Funds for each subsequent year will be appropriated based on the approval of the annual budget.
SUPPLEMENTAL INFORMATION:

Seven firms responded to the Request for Proposal. JPMorgan Chase Bank, N.A. was deemed to be the most qualified firm to provide the required services.

The submitting firms are as follows:

<table>
<thead>
<tr>
<th>Name of Firm</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank of America, N.A.</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>Barclays Bank PLC</td>
<td>Non-Local/Non-SMWVB</td>
</tr>
<tr>
<td>Citibank NA</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>JPMorgan Chase Bank, N.A.*</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>Morgan Stanley</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>RBC Capital Markets</td>
<td>Local/Non-SMWVB</td>
</tr>
<tr>
<td>State Street Bank and Trust Company</td>
<td>Non-Local/Non-SMWVB</td>
</tr>
</tbody>
</table>

*Selected Firms

There was no SMWVB requirement for this selection.

Douglas P. Evanson
Senior Vice President/Chief Financial Officer

APPROVED:

Robert R. Puente
President/Chief Executive Officer
A RESOLUTION BY THE BOARD OF TRUSTEES OF THE SAN ANTONIO WATER SYSTEM REQUESTING THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, TEXAS TO APPROVE A THIRD AMENDED AND RESTATEORD ORDINANCE AUTHORIZING THE CITY OF SAN ANTONIO, TEXAS WATER SYSTEM COMMERCIAL PAPER NOTES, IN MULTIPLE SERIES AND SUBSERIES AND AS TAX-EXEMPT AND TAXABLE OBLIGATIONS, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $500,000,000 AND THE EXECUTION OF ONE OR MORE CREDIT AGREEMENTS AND RELATED DOCUMENTATION IN CONNECTION THEREWITH; APPROVING AN UPDATED OFFERING MEMORANDUM RELATING TO CERTAIN OF THE COMMERCIAL PAPER NOTES; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE; AND RESOLVING OTHER MATTERS IN CONNECTION WITH THE FOREGOING

WHEREAS, pursuant to the authority contained in (i) Chapter 1502, as amended, Texas Government Code, (ii) certain ordinances (the Senior Lien Bond Ordinances) previously adopted by the City Council (the City Council) of the City of San Antonio, Texas (the City) authorizing the issuance of the currently outstanding senior lien revenue bonds (the Previously Issued Senior Lien Bonds), (iii) certain ordinances (the Junior Lien Bond Ordinances) authorizing the issuance of the currently outstanding junior lien revenue bonds (the Previously Issued Junior Lien Bonds), (iv) certain ordinances (the Subordinate Lien Bond Ordinances) previously adopted by the City Council authorizing the issuance of the subordinate lien revenue obligations outstanding from time to time (the Previously Issued Subordinate Lien Obligations and, collectively with the Previously Issued Senior Lien Bonds and the Previously Issued Junior Lien Bonds, the Bonds), and (v) certain ordinances, as amended, adopted by the City Council relating to the implementation of a commercial paper program (the Commercial Paper Ordinances) authorizing the issuance of certain currently outstanding obligations on parity with the Previously Issued Subordinate Lien Obligations (the Commercial Paper Notes), the complete management and control of the water system (the System) of the City is vested in a Board of Trustees (the Board) known as the San Antonio Water System (SAWS), during the period of time any of the Bonds are outstanding and unpaid; and

WHEREAS, pursuant to Texas law, the City Council has heretofore issued, and there are currently outstanding, two series of revenue Commercial Paper Notes designated as “City of San Antonio, Texas Water System Commercial Paper Notes, Series A” (the “Series A Notes”) and “City of San Antonio, Texas Water System Commercial Paper Notes, Series B” (the “Series B Notes” and, together with the Series A Notes, the “Commercial Paper Notes”); and

WHEREAS, the Commercial Paper Ordinances currently authorize Commercial Paper Notes to be issued in an amount not to exceed $500,000,000, provided, however, the amount outstanding at any one time cannot exceed the amount of credit and liquidity support provided for the Commercial Paper Notes; and
WHEREAS, in order to provide certain credit and liquidity support for the Commercial Paper Notes, the City Council previously entered into two revolving credit agreements in connection with the issuance of the Commercial Paper Notes (the “Series A RCA” and the “Series B RCA”, respectively, and together, the “Revolving Credit Agreements”) with MUFG Bank, Ltd., acting through its New York Branch (formerly The Bank of Tokyo-Mitsubishi UFJ, Ltd.) (“MUFG”), relating to the Series A Notes, and Wells Fargo Bank, N.A. (“Wells Fargo”), relating to the Series B Notes; and

WHEREAS, pursuant to the terms of each respective Revolving Credit Agreement, MUFG provides liquidity support for the Series A Notes in the amount of $350 million and Wells Fargo provides liquidity support for the Series B Notes in the amount of $100 million; and

WHEREAS, the Series A RCA is set to expire on October 4, 2018 (the “Series A RCA Final Date”) and the Series B RCA is set to expire on January 15, 2021 (the “Series B RCA Final Date”); and

WHEREAS, SAWS has conducted a competitive process to replace the MUFG and the expiring Series A RCA and to increase the total amount of liquidity available to the Commercial Paper Notes from an existing total of $450,000,000 to $500,000,000; and

WHEREAS, the aforementioned competitive process resulted in the selection by SAWS of JPMorgan Chase Bank, National Association (“JPM”), as the provider of liquidity support for Commercial Paper Notes in the total amount of $400,000,000, which commitment is to be allocated between a publically marketed subseries of Commercial Paper Notes and a privately placed series of Commercial Paper Notes; and

WHEREAS, to accomplish the execution of a separate credit agreements (which agreements shall have substantially similar terms) with JPM for each subseries of, as well as to provide for future flexibilities relative to prospective acquisition of liquidity support for, the Commercial Paper Notes, the Board now desires to amend and restate in their entirety the existing Commercial Paper Ordinances with the proposed City ordinance attached hereto as Exhibit A (the “Proposed Ordinance”), which ordinance will provide for the issuance of Commercial Paper Notes, in three separate series, with the allowance for subseries within a particular series, and as taxable and/or tax-exempt obligations, in a combined aggregate principal amount not to exceed $500,000,000, and under which Commercial Paper Notes are authorized to be issued and outstanding and mature from time to time (but not later than the fortieth anniversary of the date of passage of the Proposed Ordinance); and

WHEREAS, a particular credit agreement will relate to a particular series or, as applicable, subseries of Commercial Paper Notes pursuant to its terms; and

WHEREAS, the Proposed Ordinance will (i) also authorize the City’s execution of (a) a Revolving Credit Agreement, dated as September 13, 2018 (but effective as of October 4, 2018) (the “Subseries A-1 Revolving Credit Agreement”), with JPM, under which JPM provides liquidity support for those Commercial Paper Notes designated as “Subseries A-1” and (b) a Note Purchase Agreement, dated as September 13, 2018 (but effective as of October 4, 2018) (the “Subseries A-1 Revolving Credit Agreement”), with JPM, under which JPM provides
liquidity support for, in the form of a commitment to purchase, those Commercial Paper Notes
designated as “Subseries A-2” in the Proposed Ordinance, and (ii) ratify the validity and
enforceability of those existing agreements relating to Commercial Paper Notes that are to
remain outstanding after the effectiveness of the Proposed Ordinance (including the Series B
RCA); and

WHEREAS, the total amount of liquidity support provided to the Commercial Paper
Notes purchase to the Subseries A-1 Revolving Credit Agreement and the Subseries A-2 Note
Purchase Agreement totals $400,000,000 and is allocable between such two subseries of
Commercial Paper Notes at the discretion of SAWS; and

WHEREAS, upon the effectiveness of the Subseries A-1 Revolving Credit Agreement
and the Subseries A-2 Note Purchase Agreement, when combined with the liquidity available
under the Series B RCA, the total amount of liquidity support for Commercial Paper Notes will
total $500,000,000, which is the total programmatic capacity of principal amount of Commercial
Paper Notes to be at any one time outstanding; and

WHEREAS, by virtue of the authority and power vested in the Board with reference to
the expenditure and application of the revenues of the System, it is necessary and proper for the
Board to formally request the City Council to approve the Proposed Ordinance, along with any
documents related thereto to be entered into by the City; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE SAN ANTONIO
WATER SYSTEM THAT:

1. Authorization of Proposed Ordinance. The Board recommends that the City
Council approve the Proposed Ordinance, a substantially final form of which is attached to this
Resolution as Exhibit A.

2. Authorization of Credit Agreement. The Board recommends that the City
Council approve the Subseries A-1 Revolving Credit Agreement and Subseries A-2 Note
Purchase Agreement, substantially final forms of each of such agreements as attached to this
Resolution as Exhibit B.

3. Offering Memorandum. The Board delegates to the President/Chief Executive
Officer of the System and the Senior Vice President/Chief Financial Officer of the System (the
CFO) the authority to take any and all other actions consistent with the provisions of this
Resolution, which includes the preparation, finalization, and distribution of an Updated Offering
Memorandum relating to the Commercial Paper Notes.

4. Inconsistent Provisions. All resolutions, or parts thereof, which are in conflict or
inconsistent with any provision of this Resolution are hereby repealed to the extent of such
conflict, and the provisions of this Resolution shall be and remain controlling as to the matters
resolved herein.

5. Governing Law. This Resolution shall be construed and enforced in accordance
with the laws of the State of Texas and the United States of America.
6. **Severability.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

7. **Incorporation of Preamble Recitals.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals and other statements therein are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Board.

8. **Open Meeting.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

9. **Further Procedures.** The Board hereby authorizes its co-financial advisors, PFM Financial Advisors LLC and Estrada Hinojosa & Company, Inc., to coordinate these financial matters in consultation with System staff, City staff, Norton Rose Fulbright US LLP and Escamilla & Poneck, LLP (as co-bond counsel), and JPM and its legal counsel. In addition, the Board authorizes the payment of the professional fees and expenses associated with this transaction upon the approval of a written invoice by the CFO, or his designee. This Resolution is required to provide for the payment of necessary professional fees (to be determined by the CFO) incurred in connection with matters that are the subject of this Resolution (or are related thereto).

10. **Effective Date.** This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

[The remainder of this page intentionally left blank.]
PASSED AND APPROVED this the 11th day of September, 2018.

Berto Guerra, Jr., Chair

Attest:

Patricia Merritt, Assistant Secretary
EXHIBIT A

PROPOSED ORDINANCE

See Tab No. 1
EXHIBIT B
FORMS OF CREDIT AGREEMENTS
See Tab Nos. 2 and 3
TO: San Antonio Water System Board of Trustees

FROM: Douglas P. Evanson, Senior Vice President/Chief Financial Officer

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AUTHORIZED INVESTMENT REPRESENTATIVES UPDATE

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution updates the authorized representatives of the San Antonio Water System (the “System”) for TexPool, an investment pool permissible under the Texas Public Funds Investment Act.

- On December 14, 2016, the System’s Board of Trustees, by Resolution No. 16-300 authorized investments in TexPool as a permissible investment under the System’s investment policy.

- Authorized investment officers of the System include the Senior Vice President/Chief Financial Officer, Treasurer, and Manager-Treasury.

- Due to changes in staff, a resolution amending the authorized representatives is required by TexPool to update the individual names of the investment officers of the System. The current staff include the following:
  - Senior Vice President/Chief Financial Officer – Douglas P. Evanson
  - Treasurer – Phyllis Garcia
  - Manager-Treasury – Randy Cardon

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

This resolution has no financial impact to the System.

[Signature]

Douglas P. Evanson
Senior Vice President/Chief Financial Officer
APPROVED:

[Signature]

Robert R. Puente
President/Chief Executive Officer
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AMENDING AUTHORIZED REPRESENTATIVES OF THE SAN ANTONIO WATER SYSTEM FOR TEXPOOL, AN INVESTMENT POOL PERMISSIBLE UNDER THE TEXAS PUBLIC FUNDS INVESTMENT ACT AND THE SAN ANTONIO WATER SYSTEM INVESTMENT POLICY; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, by Resolution No. 16-300, approved December 14, 2016, the San Antonio Water System’s (the “System”) Board of Trustees authorized investments in TexPool as a permissible investment under the System’s investment policy; and

WHEREAS, authorized investment officers of the System include the Senior Vice President/Chief Financial Officer, Treasurer, and Manager-Treasury; and

WHEREAS, due to changes in staff, a resolution amending authorized representatives is required by TexPool to update the individual names of the investment officers of the System, as described in Attachment I; and

WHEREAS, the San Antonio Water System Board of Trustees desires to (i) approve amendments to the list of authorized representatives for the System for TexPool; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the amendments to the list of authorized representatives is hereby approved.

2. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

3. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.
4. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

________________________________
Berto Guerra, Jr., Chairman

ATTEST:

______________________________
Patricia E. Merritt, Assistant Secretary

Attachment I: Amended List of Authorized Representatives
Attachment I: Amended List of Authorized Representatives

Current staff include the following:

- Senior Vice President/Chief Financial Officer – Douglas P. Evanson
- Treasurer – Phyllis Garcia
- Manager-Treasury – Randy Cardon
TO: San Antonio Water System Board of Trustees

FROM: Tracey B. Lehmann, P.E., Director, Development, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: UTILITY SERVICE AGREEMENTS FOR WATER AND/OR WASTEWATER SERVICES TO TRACT REQUIRING THE SAN ANTONIO WATER SYSTEM FINANCIAL PARTICIPATION IN THE DEVELOPMENT OF INFRASTRUCTURE THROUGH Oversizing OR IMPACT FEE CREDITS AND/OR IS LOCATED OUTSIDE THE SAN ANTONIO WATER SYSTEM WATER AND/OR WASTEWATER CERTIFICATE OF CONVENIENCE AND NECESSITY

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution approves Utility Service Agreements (USAs) to provide water and/or wastewater services to the specified tracts of land requiring the San Antonio Water System’s (the “System”) financial participation in the development of infrastructure through oversizing or impact fee credits, and/or are located outside the System’s water and/or wastewater Certificate of Convenience and Necessity (CCN).

- This board item consists of two tracts, which total 216 acres; 1,139 water Equivalent Dwelling Units (EDUs); and 1,089 wastewater EDUs.

- Board approval is required since the tracts require the System’s financial participation in the development of infrastructure through oversizing or impact fee credits and/or is located outside the System’s water and/or wastewater CCN.

- The Dietz Elkhorn 30 Acre Tract is located inside the City of San Antonio Extra Territorial Jurisdiction, inside the System’s water CCN and inside the wastewater CCN. The USA provides 289 EDUs of water and 289 EDUs of wastewater services and consists of oversized infrastructure.

- The Langdon Tract is located inside the City of San Antonio Extra Territorial Jurisdiction, inside the System’s water CCN and inside the wastewater CCN. The USA provides 850 EDUs of water and 800 EDUs of wastewater services and consists of oversized infrastructure.

- The Developer is required to install all necessary on-site facilities in accordance with the Board’s regulations and at the Developer’s total cost.
Utility Service Agreements to the Specified Tracts Requiring Oversizing
And/or Outside the System’s Water and/or Wastewater CCN

- The Developer is responsible for the construction and engineering costs associated with all required water and/or wastewater mains to serve the tracts (on-site and off-site).

Staff recommends that the Board approve this resolution.

<table>
<thead>
<tr>
<th>No.</th>
<th>Tract Name</th>
<th>Developer</th>
<th>Acres</th>
<th>W EDUs</th>
<th>WW EDUs</th>
<th>CoSA / CoSA ETJ / Outside</th>
<th>EARZ / CZ</th>
<th>JBSA</th>
<th>Board Reason</th>
<th>W CCN</th>
<th>WW CCN</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>Del D. Baker, Jr. Family Partnership, LTD</td>
<td>30</td>
<td>289</td>
<td>289</td>
<td>COSA ETJ INSIDE</td>
<td>Y</td>
<td>OVR</td>
<td>INSIDE INSIDE</td>
<td>INSIDE</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>Continental Homes of Texas L.P.</td>
<td>186</td>
<td>850</td>
<td>800</td>
<td>COSA ETJ INSIDE</td>
<td>N</td>
<td>OVR</td>
<td>INSIDE INSIDE</td>
<td>INSIDE</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td><strong>216</strong></td>
<td><strong>1,139</strong></td>
<td><strong>1,089</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Acronyms:
- EARZ = Edwards Aquifer Recharge Zone
- OVR = Oversizing
- CCN = Certificate of Convenience and Necessity
- CZ = Edwards Aquifer Contributing Zone
- WW = Wastewater
- IFC = Impact Fee Credits
- CoSA = City of San Antonio limits
- ETJ = Extraterritorial Jurisdiction
- JBSA = Joint Base San Antonio Buffer Zone

**EXTENT AND CONDITIONS OF UTILITY SERVICE AGREEMENT:**

Upon approval by the System of this USA, the Developer Customer has 36 months to complete the required utility master plan and to start construction. If the Developer Customer fails to complete these requirements within the 36-month period, the USA will expire and a request for a new agreement must be submitted to the System. During the effective term of this USA, capacity in the System’s water and wastewater systems will be set aside. The Developer Customer is not guaranteed capacity until all required off-site infrastructure is built by the Developer, accepted by the System, and all impact fees are paid.

**FINANCIAL IMPACT:**

In compliance with the System’s Board of Trustees water extension policy, Developer Customer applicants are responsible for financing all required local benefit facilities and for payment of all applicable impact fees. The Developers will contribute all impact fees in effect at the time of plat recordation or the latest date allowable by law for each subdivision unit. The fees to be collected by the System will be recorded in the Service Recovery Account and are estimated as follows,
Utility Service Agreements to the Specified Tracts Requiring Oversizing And/or Outside the System’s Water and/or Wastewater CCN based on current charges and full build out of the tracts:

<table>
<thead>
<tr>
<th>No.</th>
<th>Tract Name</th>
<th>Water Impact Fees</th>
<th>Wastewater Impact Fees</th>
<th>Total Impact Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>$1,404,829.00</td>
<td>$955,434.00</td>
<td>$2,360,263.00</td>
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<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>$4,060,450.00</td>
<td>$2,644,800.00</td>
<td>$6,705,250.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$5,465,279.00</strong></td>
<td><strong>$3,600,234.00</strong></td>
<td><strong>$9,065,513.00</strong></td>
</tr>
</tbody>
</table>

The System is responsible for providing access to existing general benefit facilities and/or financing the construction of additional general benefit facilities.

**OVERSIZING AND/OR IMPACT FEE CREDITS:**

The following USAs have recommendations for the System’s financial participation in the development of infrastructure through oversizing or impact fee credits and/or facilities based on the System’s Master Plan.

<table>
<thead>
<tr>
<th>No.</th>
<th>Tract Name</th>
<th>Oversize SAWS</th>
<th>Oversize Developer</th>
<th>Oversize Total</th>
<th>Oversize Developer (%)</th>
<th>Oversize System (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>$87,360.00</td>
<td>$112,320.00</td>
<td>$199,680.00</td>
<td>56.25%</td>
<td>43.75%</td>
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<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>$70,200.00</td>
<td>$23,400.00</td>
<td>$93,600.00</td>
<td>25.00%</td>
<td>75.00%</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>$100,100</td>
<td>$128,700</td>
<td>$228,800*</td>
<td>56.25%</td>
<td>43.75%</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>$1,872,000</td>
<td>$0</td>
<td>$1,872,000*</td>
<td>0.00%</td>
<td>100.00%</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>$3,119,374</td>
<td>$495,926</td>
<td>$3,615,300*</td>
<td>13.72%</td>
<td>86.28%</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>$6,136,000</td>
<td>$767,000</td>
<td>$6,903,000*</td>
<td>11.11%</td>
<td>88.89%</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$11,385,034.00</strong></td>
<td><strong>$1,527,346.00</strong></td>
<td><strong>$12,912,380.00</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Note: The Developer is eligible for impact fee credits for their share of the cost for the water and wastewater infrastructure for the Langdon Tract.

The Developer is required to install all other necessary on-site facilities in accordance with the Board’s regulations at the Developer’s total cost.
Utility Service Agreements to the Specified Tracts Requiring Oversizing
And/or Outside the System’s Water and/or Wastewater CCN

Tracey B. Lehmann, P.E.
Director
Development

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

APPROVED:

Robert R. Puente
President/Chief Executive Officer

Attachments: Table 1, Tract Information
<table>
<thead>
<tr>
<th>No.</th>
<th>Tract Name</th>
<th>Developer</th>
<th>Principal</th>
<th>CoSA / CoSA ETJ / Outside</th>
<th>EARZ / CZ</th>
<th>JBSA</th>
<th>PZ</th>
<th>Acres</th>
<th>Water EDU</th>
<th>WW EDU</th>
<th>Watershed</th>
<th>Board Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>Del D. Baker, Jr. Family Partnership, LTD</td>
<td>Del D. Baker, Jr.</td>
<td>COSA ETJ</td>
<td>INSIDE</td>
<td>Y</td>
<td>12</td>
<td>30</td>
<td>289</td>
<td>289</td>
<td>Balcones Creek - Cibolo Creek</td>
<td>OVR</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>Continental Homes of Texas L.P.</td>
<td>Leslie Ostrander</td>
<td>COSA ETJ</td>
<td>INSIDE</td>
<td>N</td>
<td>10</td>
<td>186</td>
<td>850</td>
<td>800</td>
<td>Mud Creek and Clear Fork-Cibolo Creek Watersheds</td>
<td>OVR</td>
</tr>
</tbody>
</table>

**Total** 216 1,139 1,089

**Acronyms:**
EARZ = Edwards Aquifer Recharge Zone  
OVR = Oversizing  
IFC = Impact Fee Credits  
CZ = Edwards Aquifer Contributing Zone  
WW = Wastewater  
PZ = Pressure Zone  
CoSA = City of San Antonio limits  
ETJ = Extraterritorial Jurisdiction  
JBSA = Joint Base San Antonio Buffer Zone
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES APPROVING UTILITY SERVICE AGREEMENTS TO PROVIDE WATER AND/OR WASTEWATER SERVICES TO THE SPECIFIED TRACTS OF LAND REQUIRING THE SAN ANTONIO WATER SYSTEM’S FINANCIAL PARTICIPATION IN THE DEVELOPMENT OF INFRASTRUCTURE THROUGH OVERSIZING OR IMPACT FEE CREDITS AND/OR IS LOCATED OUTSIDE THE SAN ANTONIO WATER SYSTEM’S WATER AND/OR WASTEWATER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN), SUBJECT TO THE EXPIRATION OF SUCH AGREEMENTS IF NOT EXERCISED IN THIRTY-SIX MONTHS; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Developer Customer, specified in the table below, has requested the San Antonio Water System (the “System”) to provide water and/or wastewater service(s), and has satisfied the requirements of the Board’s Regulations for Developer Customer Applicant; and

<table>
<thead>
<tr>
<th>No.</th>
<th>Tract Name</th>
<th>Developer</th>
<th>Acres</th>
<th>WEDUs</th>
<th>WWEDUs</th>
<th>CoSA / ETJ</th>
<th>EARZ / CZ</th>
<th>JBSA</th>
<th>Board Reason</th>
<th>W CCN</th>
<th>WW CCN</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dietz Elkhorn 30 Acre Tract</td>
<td>Del D. Baker, Jr. Family Partnership, LTD</td>
<td>30</td>
<td>289</td>
<td>289</td>
<td>COSA ETJ</td>
<td>INSIDE</td>
<td>Y</td>
<td>OVR</td>
<td>INSIDE</td>
<td>INSIDE</td>
</tr>
<tr>
<td>2</td>
<td>Langdon Tract</td>
<td>Continental Homes of Texas L.P.</td>
<td>186</td>
<td>850</td>
<td>800</td>
<td>COSA ETJ</td>
<td>INSIDE</td>
<td>N</td>
<td>OVR</td>
<td>INSIDE</td>
<td>INSIDE</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td>216</td>
<td>1,139</td>
<td>1,089</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

WHEREAS, the Developer Customer’s provisions to acquire water and/or wastewater services within the System’s jurisdiction is generally illustrated in the attached Project Site Maps; and

WHEREAS, the Developer Customer is obligated to pay the prescribed fees and to comply with other applicable requirements as set forth in the Regulations for Water and/or Wastewater Service; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to approve the Utility Service Agreement and to provide water and/or wastewater services to a tract of land requiring the System’s financial participation in the development of infrastructure through oversizing or impact fee credits and/or is located outside the System’s water and/or wastewater
Certificate of Convenience and Necessity, and (ii) to provide that the Utility Service Agreement will be honored for a period of thirty-six months, and that if not exercised during this period, the Utility Service Agreement will expire; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That the System hereby approves the Utility Service Agreement and agrees to provide water and/or wastewater services to tracts of land requiring the System’s financial participation in the development of infrastructure through oversizing or impact fee credits and/or is located outside the System’s water and/or wastewater Certificate of Convenience and Necessity as generally illustrated in the attached Project Site Maps hereto, on a Developer Customer basis as provided for in the Board's Regulations, applicable amendments to the Regulations, and any other applicable federal, state or local regulations.

2. That the Utility Service Agreement shall be honored for a period of thirty-six months, and if not exercised during this thirty-six-month period, the Utility Service Agreement will expire.

3. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

4. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless, and effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

5. This resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_______________________________________
Berto Guerra, Jr., Chairman

ATTEST:

_______________________________
Patricia E. Merritt, Assistant Secretary

Attachments: Project Site Maps
Tract is located within:
- The Edwards Aquifer Contributing Zone
- The 5-mile Camp Bullis Awareness Zone
- The 5-mile JBSA Buffer Zone

Legend
- Existing Water Main
- USA Tract
- Parcels Update
- Proposed 12-inch Water Main
- Proposed Oversized 15-inch
- Proposed Oversized 24-inch

Project Location

Attachment III:
USA-13216
Dietz Elkhorn 30 Acre Tract
Proposed Water Infrastructure Map
30 Acres
TO: San Antonio Water System Board of Trustees

FROM: Gail Hamrick-Pigg, P.E., Director, Pipelines, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE CENTRAL SEWERSHED PACKAGE 5 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to SAK Construction, LLC, a local, non-SMWVB firm, in the amount of $2,621,988.10 in connection with the Central Sewershed Package 5 Project.

- The contract that is the subject of the attached resolution will, if approved, authorize work that is required by the Consent Decree for the Central Sewershed Package 5 Project between the San Antonio Water System (the “System”), the United States of America, and the State of Texas that was lodged in the United States District Court for the Western District of Texas on July 23, 2013.

- This contract will be used to rehabilitate sewer mains in need of repair based on condition assessment.

- This contract will be for the rehabilitation of approximately 7,100 feet of 8-inch through 24-inch sanitary sewer mains by cured in place pipe and pipe bursting methods. Additionally, the manholes will be rehabilitated.

- SAK Construction, LLC, has submitted the lowest responsible bid of $2,621,988.10.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2018 Capital Improvement Program. This project is included in the Wastewater Core Business budget line item. The amount is $2,621,988.10 for wastewater related construction work under job number 17-4556.
SUPPLEMENTARY COMMENTS:

K Friese & Associates, Inc. prepared the bid proposal and specifications for the project. The engineer’s estimated construction cost was $1,903,933.00.

A bid opening was held on July 20, 2018, at 10:00 AM. The following bids were submitted:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineer’s Estimate</td>
<td>$1,903,933.00</td>
<td></td>
</tr>
<tr>
<td>SAK Construction, LLC*</td>
<td>$2,621,988.10</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Cruz Tec, Inc.</td>
<td>$2,654,017.55</td>
<td>Local/MBE–Hispanic</td>
</tr>
<tr>
<td>PM Construction &amp; Rehab, LP</td>
<td>$3,846,279.00</td>
<td>Non–Local/Non–SMWVB</td>
</tr>
</tbody>
</table>

*Lowest Responsible Bidder

The bid amount represents a 37.7 percent increase from the Engineer’s estimated construction cost.

Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Central Sewershed Package 5 Project</th>
<th>SAK Construction, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>SMWVB Analysis – Board Award</td>
<td></td>
</tr>
<tr>
<td>SBE</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>23.49%</td>
</tr>
<tr>
<td>MBE – Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Minority</td>
<td>12.47%</td>
</tr>
<tr>
<td>WBE – Non–Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td><strong>35.96%</strong></td>
</tr>
</tbody>
</table>
Award of Construction Contract
Central Sewershed Package 5 Project

Gail Hamrick-Pigg, P.E.
Director
Pipelines

APPROVED:

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO SAK CONSTRUCTION, LLC IN THE AMOUNT OF $2,621,988.10 IN CONNECTION WITH THE CENTRAL SEWERSHED PACKAGE 5 PROJECT; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $2,621,988.10 FROM THE SYSTEM'S PROJECT FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH SAK CONSTRUCTION, LLC, AND TO PAY SAK CONSTRUCTION, LLC AN AMOUNT NOT TO EXCEED $2,621,988.10 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, this contract will be used to rehabilitate sewer mains in need of repair based on condition assessment; and

WHEREAS, the San Antonio Water System (the “System”) has solicited bids for the project work; and

WHEREAS, SAK Construction, LLC, a local, non-SMWVB firm, is declared the lowest responsible bidder and has submitted the low responsible bid of $2,621,988.10 for the project work; and

WHEREAS, System funds in the amount of $2,621,988.10 are required for the project work; and

WHEREAS, the total amount of $2,621,988.10 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to SAK Construction, LLC in the amount of $2,621,988.10 in connection with the Central Sewershed Package 5 Project, (ii) to approve the expenditure of funds and make available an amount not to exceed $2,621,988.10 from the System’s Project Fund, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with SAK Construction, LLC, and to pay SAK Construction, LLC an amount not to exceed $2,621,988.10 for the project work; now, therefore:
BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $2,621,988.10 is hereby awarded to SAK Construction, LLC in connection with the Central Sewershed Package 5 Project.

2. That the expenditure of funds in an amount not to exceed $2,621,988.10 for the project work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with SAK Construction, LLC, and to pay SAK Construction, LLC an amount not to exceed $2,621,988.10 in connection with the Central Sewershed Package 5 Project.

4. It is officially found, determined, and declared that the meeting at which this resolution is adopted was open to the public, and that the public notice of the time, place, and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase, or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

________________________________________
Berto Guerra, Jr., Chairman

ATTEST:

________________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Alissa R. Lockett, P.E., Director, Vista Ridge Integration, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE SEGMENT 5-1 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to Guy F. Atkinson Construction, LLC, a non-local, non-SMWVB contractor, in the amount of $48,050,070.00, in connection with the Central Water Integration Pipeline Segment 5-1 Project.

- The San Antonio Water System (the “System”) entered into a Water Transmission and Purchase Agreement on November 4, 2014 with Vista Ridge, LLC to provide and deliver an alternate water supply to the System through the Vista Ridge Regional Supply Project. The Central Water Integration Pipeline Project (the “Project”) will deliver water from the Vista Ridge Regional Supply Project to the water distribution system.

- The Project consists of approximately 15 miles of new and existing transmission main beginning at the Vista Ridge terminus facility in north Bexar County to the Basin Pump Station with intermediate integration points at Bitters and Maltzberger Pump Stations.

- This construction contract for the Central Water Integration Pipeline Segment 5-1 Project includes approximately 10,500 feet of 54-inch steel water transmission main that includes approximately 8,200 feet of trenchless construction in an 8-foot minimum diameter tunnel.

- The Request for Competitive Sealed Proposals (RFCSP) procurement method was used to select the construction contractor. This method allows selection of a contractor based on “best value” to the System. Best value is determined through scoring and ranking proposals using weighted evaluation criteria published in the solicitation.

- Guy F. Atkinson Construction, LLC submitted the best value proposal for $48,050,070.00.

Staff recommends that the Board approve this resolution.
FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2017 Capital Improvement Program. This additional work is included in the Water Delivery Core Business, Central Water Integration Pipeline project budget line. The amount is $48,050,070.00 for the Project work under job number 18-8612.

SUPPLEMENTARY COMMENTS:

Tetra Tech, Inc. prepared the plans and specifications for this project. The engineer’s estimated construction cost was $39,800,000.00. Competitive sealed proposals were received on August 15, 2018 at 10:00 AM. Guy F. Atkinson Construction, LLC provided the best value to the System based on the following:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Team Qualifications and Similar Prior Experience</td>
<td>30%</td>
</tr>
<tr>
<td>Project Approach, Schedule, and Resource Availability</td>
<td>30%</td>
</tr>
<tr>
<td>Price</td>
<td>30%</td>
</tr>
<tr>
<td>SMWVB</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

A bid opening was held on August 15, 2018 at 10 AM. The following bids were submitted:

<table>
<thead>
<tr>
<th>Respondent</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Renda / Southland Joint Venture</td>
<td>$31,414,484.00</td>
<td>Non-local / Non-SMWVB</td>
</tr>
<tr>
<td>Dibco Underground Limited</td>
<td>$32,479,087.05</td>
<td>Non-local / Non-SMWVB</td>
</tr>
<tr>
<td><strong>Engineer’s Estimate</strong></td>
<td><strong>$39,800,000.00</strong></td>
<td></td>
</tr>
<tr>
<td>Vadnais Trenchless Services, Inc.</td>
<td>$45,499,884.00</td>
<td>Non-local / Non-SMWVB</td>
</tr>
<tr>
<td><strong>Guy F. Atkinson Construction, LLC</strong></td>
<td><strong>$48,050,070.00</strong></td>
<td><strong>Non-local / Non-SMWVB</strong></td>
</tr>
<tr>
<td>McNally Triad Joint Venture</td>
<td>$54,533,072.36</td>
<td>Non-local / Non-SMWVB</td>
</tr>
</tbody>
</table>

* Best value proposal
** The original bid amount was $49,596,750.00. A cost decrease of $1,546,680.00 was negotiated, resulting in the bid amount shown above.

The bid amount represents a 21 percent increase from the estimated construction cost. This contract requires substantial completion of the project work by December 31, 2019. Black & Veatch, under the Program Management and Engineering Services contract for the Central Water Integration Pipeline Project, will inspect the work.
Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Central Water Integration Pipeline Segment 5-1 Project</th>
<th>Guy F. Atkinson Construction, LLC</th>
</tr>
</thead>
<tbody>
<tr>
<td>SMWVB Analysis – Board Award</td>
<td></td>
</tr>
<tr>
<td>SBE</td>
<td>3.45%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.01%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>0.71%</td>
</tr>
<tr>
<td>MBE – Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Minority</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
<td>0.27%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>4.44%</td>
</tr>
</tbody>
</table>

Alissa R. Lockett, P.E.  
Director  
Vista Ridge Integration  

Andrea L.H. Beymer, P.E.  
Vice President  
Engineering and Construction  

Robert R. Puente  
President/Chief Executive Officer  

Attachments:  
1. Project Area Map  
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO GUY F. ATKINSON CONSTRUCTION, LLC IN THE AMOUNT OF $48,050,070.00 IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE SEGMENT 5-1 PROJECT; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $48,050,070.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH GUY F. ATKINSON CONSTRUCTION, LLC, AND TO PAY GUY F. ATKINSON CONSTRUCTION, LLC AN AMOUNT NOT TO EXCEED $48,050,070.00 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, this contract includes construction of approximately 10,500 feet of 54-inch steel water transmission main; and

WHEREAS, the San Antonio Water System (the “System”) has solicited competitive sealed proposals for the project work; and

WHEREAS, Guy F. Atkinson Construction, LLC, a non-local, non-SMWVB firm, has submitted a negotiated price proposal in the amount of $48,050,070.00 for the project work, and this respondent has been determined to be the most qualified; and

WHEREAS, System funds in an amount not to exceed $48,050,070.00 are required for the project work; and

WHEREAS, the total amount of $48,050,070.00 is available from the System’ Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to Guy F. Atkinson Construction, LLC in the amount of $48,050,070.00 in connection with the Central Water Integration Pipeline Segment 5-1 Project, (ii) to approve the expenditure of funds and make available an amount not to exceed $48,050,070.00 from the System’s Project Fund for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with Guy F. Atkinson
Construction, LLC, and to pay Guy F. Atkinson Construction, LLC an amount not to exceed $48,050,070.00 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $48,050,070.00 is hereby awarded to Guy F. Atkinson Construction, LLC in connection with the Central Water Integration Pipeline Segment 5-1 Project.

2. That the expenditure of funds in an amount not to exceed $48,050,070.00 for the project work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with Guy F. Atkinson Construction, LLC, and to pay Guy F. Atkinson Construction, LLC an amount not to exceed $48,050,070.00 in connection with the Central Water Integration Pipeline Segment 5-1 Project.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_______________________________
Berto Guerra, Jr., Chairman

ATTEST:

_______________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Alissa R. Lockett, P.E., Director, Vista Ridge Integration, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE SEGMENT 5-2 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to S.J. Louis Construction of Texas, Ltd., a local, non-SMWVB firm, in the amount of $3,829,046.60 in connection with the Central Water Integration Pipeline Segment 5-2 Project.

- The San Antonio Water System (the “System”) entered into a Water Transmission and Purchase Agreement on November 4, 2014 with Vista Ridge, LLC to provide and deliver an alternate water supply to the System through the Vista Ridge Regional Supply Project. The Central Water Integration Pipeline Project (the “Project”) will deliver water from the Vista Ridge Regional Supply Project to the distribution system.

- The Project consists of approximately 15 miles of new and existing transmission main beginning at the Vista Ridge terminus facility in north Bexar County to the Basin Pump Station with intermediate integration points at Bitters and Maltsberger Pump Stations.

- This construction contract includes installation of approximately 3,460 feet of 36-inch steel water transmission pipeline from the Stone Oak Pump Station at the terminus facility to a point of connection with an existing 30-inch water main at Knights Cross Drive and Summer Knoll.

- S.J. Louis Construction of Texas, Ltd. has submitted the lowest responsible bid of $3,829,046.60.

Staff recommends that the Board approve this resolution.

FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2017 Capital Improvement Program. This additional work is included in the Water Delivery Core Business, Central Water Integration Pipeline project budget line. The amount is $3,829,046.60 for the Project work under job number 18-8615.
SUPPLEMENTARY COMMENTS:

Tetra Tech, Inc. prepared the plans and specifications for the project. The engineer’s estimated construction cost was $3,852,393.00.

A bid opening was held on August 20, 2018 at 2:00 p.m. The following bid was submitted:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.J. Louis Construction of Texas, Ltd.*</td>
<td>$3,829,046.60</td>
<td>Local/Non–SMWVB</td>
</tr>
<tr>
<td>Engineer’s Estimate</td>
<td>$3,852,393.00</td>
<td></td>
</tr>
</tbody>
</table>

*Lowest Responsible Bidder

The bid amount represents a 0.61 percent decrease from the estimated construction cost. This contract provides for 260 calendar days for substantial completion of the project work.

Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>Central Water Integration Pipeline Segment 5-2 Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>S.J. Louis Construction of Texas, Ltd.</td>
</tr>
<tr>
<td>SMWVB Analysis – Board Award</td>
</tr>
<tr>
<td>SBE</td>
</tr>
<tr>
<td>MBE – African American</td>
</tr>
<tr>
<td>MBE – Asian</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
</tr>
<tr>
<td>MBE – Other</td>
</tr>
<tr>
<td>WBE – Minority</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
</tr>
<tr>
<td>SMWVB Total</td>
</tr>
</tbody>
</table>
Alissa R. Lockett, P.E.
Director
Vista Ridge Integration

APPROVED:

Andrea L.H. Beymer, P.E.
Vice President
Engineering and Construction

Robert R. Puente
President/Chief Executive Officer

Attachments:
1. Project Area Map
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO S.J. LOUIS CONSTRUCTION OF TEXAS, LTD. IN THE AMOUNT OF $3,829,046.60 IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE SEGMENT 5-2 PROJECT; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $3,829,046.60 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH S.J. LOUIS CONSTRUCTION OF TEXAS, LTD., AND TO PAY S.J. LOUIS CONSTRUCTION OF TEXAS, LTD. AN AMOUNT NOT TO EXCEED $3,829,046.60 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, this contract will be used to construct approximately 3,460 feet of 36-inch steel water transmission pipeline; and

WHEREAS, the San Antonio Water System (the “System”) has solicited bids for the project work; and

WHEREAS, S.J. Louis Construction of Texas, Ltd. a local, non-SMWVB firm, has submitted a bid in the amount of $3,829,046.60 for the project work, and this bid has been determined to be the lowest responsible bid; and

WHEREAS, System funds in an amount not to exceed $3,829,046.60 are required for the project work; and

WHEREAS, the total amount of $3,829,046.60 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to S.J. Louis Construction of Texas, Ltd. in the amount of $3,829,046.60 in connection with the Central Water Integration Pipeline Segment 5-2 Project, (ii) to approve the expenditure of funds and make available an amount not to exceed $3,829,046.60 from the System’s Project Fund for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with S.J. Louis Construction of Texas, Ltd.
Texas, Ltd., and to pay S.J. Louis Construction of Texas, Ltd. an amount not to exceed $3,829,046.60 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $3,829,046.60 is hereby awarded to S.J. Louis Construction of Texas, Ltd. in connection with the Central Water Integration Pipeline Segment 5-2 Project.

2. That the expenditure of funds in an amount not to exceed $3,829,046.60 for the project work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with S.J. Louis Construction of Texas, Ltd., and to pay S.J. Louis Construction of Texas, Ltd. an amount not to exceed $3,829,046.60 in connection with the Central Water Integration Pipeline Segment 5-2 Project.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND ADOPTED this 11th day of September, 2018.

___________________________________
Berto Guerra, Jr., Chairman

ATTEST:

___________________________________
Patricia E. Merritt, Assistant Secretary
TO: San Antonio Water System Board of Trustees

FROM: Alissa R. Lockett, P.E., Director, Vista Ridge Integration, and Andrea L.H. Beymer, P.E., Vice President, Engineering and Construction

THROUGH: Robert R. Puente, President/Chief Executive Officer

SUBJECT: AWARD OF CONSTRUCTION CONTRACT IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE – BITTERS PUMP STATION AND SEGMENT 5-3 PROJECT

Board Action Date: September 11, 2018

SUMMARY AND RECOMMENDATION:

The attached resolution awards a construction contract to MGC Contractors, Inc., a local, non-SMWVB contractor, in the amount of $17,765,969.00, in connection with the Central Water Integration Pipeline – Bitters Pump Station and Segment 5-3 Project.

- The San Antonio Water System (the “System”) entered into a Water Transmission and Purchase Agreement on November 4, 2014 with Vista Ridge, LLC to provide and deliver an alternate water supply to the System through the Vista Ridge Regional Supply Project. The Central Water Integration Pipeline Project (the “Project”) will deliver water from the Vista Ridge Regional Supply Project to the water distribution system.

- The Project consists of approximately 15 miles of new and existing transmission main beginning at the Vista Ridge terminus facility in north Bexar County to the Basin Pump Station with intermediate integration points at Bitters and Maltsberger Pump Stations.

- This construction contract for the Central Water Integration Pipeline – Bitters Pump Station and Segment 5-3 Project includes a new booster pump station, a new five million gallon prestressed concrete ground storage tank, a new flow control valve and associated yard piping, and approximately 1,900 feet of 48-inch steel water transmission main.

- The Request for Competitive Sealed Proposals (RFCSP) procurement method was used to select the construction contractor. This method allows selection of a contractor based on “best value” to the System. Best value is determined through scoring and ranking proposals using weighted evaluation criteria published in the solicitation.

- MGC Contractors, Inc. submitted the best value proposal for $17,765,969.00.

Staff recommends that the Board approve this resolution.
FINANCIAL IMPACT:

The Project Fund will finance this expenditure included in the CY 2017 Capital Improvement Program. This additional work is included in the Water Delivery Core Business, Central Water Integration Pipeline project budget line. The amount is $17,765,969.00 for the Project work under job number 18-8613.

SUPPLEMENTARY COMMENTS:

Tetra Tech, Inc. prepared the plans and specifications for this project. The engineer’s estimated construction cost was $15,700,000.00. Competitive sealed proposals were received on August 14, 2018 at 2:00 PM. MGC Contractors, Inc. provided the best value to the System based on the following:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Team Qualifications and Similar Prior Experience</td>
<td>30%</td>
</tr>
<tr>
<td>Project Approach, Schedule, and Resource Availability</td>
<td>30%</td>
</tr>
<tr>
<td>Price</td>
<td>30%</td>
</tr>
<tr>
<td>SMWVB</td>
<td>10%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

The following proposals were submitted:

<table>
<thead>
<tr>
<th>Respondent</th>
<th>Bid Amount</th>
<th>Local/SMWVB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flatiron Constructors, Inc.</td>
<td>$14,729,000.00</td>
<td>Non–Local/Non–SMWVB</td>
</tr>
<tr>
<td>Archer Western Construction, LLC</td>
<td>$15,497,000.00</td>
<td>Non–Local/Non–SMWVB</td>
</tr>
<tr>
<td>Engineer’s Estimate</td>
<td>$15,700,000.00</td>
<td></td>
</tr>
<tr>
<td>MGC Contractors, Inc.*</td>
<td>$17,765,969.00**</td>
<td>Local /Non–SMWVB</td>
</tr>
</tbody>
</table>

* Best value proposal  
**The original bid amount was $18,855,000.00. A cost decrease of $1,089,031.00 was negotiated resulting in the bid amount shown above.

The bid amount represents a 13 percent increase from the estimated construction cost. This contract requires substantial completion of the project work by April 15, 2020 with an intermediate completion milestone of December 31, 2019. Black & Veatch, under the Program Management and Engineering Services contract for the Central Water Integration Pipeline Project, will inspect the work.
Additionally, the overall SMWVB analysis is shown in the following table:

<table>
<thead>
<tr>
<th>SMWVB Analysis – Board Award</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>SBE</td>
<td>0.11%</td>
</tr>
<tr>
<td>MBE – African American</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Asian</td>
<td>0.00%</td>
</tr>
<tr>
<td>MBE – Hispanic</td>
<td>1.73%</td>
</tr>
<tr>
<td>MBE – Other</td>
<td>0.00%</td>
</tr>
<tr>
<td>WBE – Minority</td>
<td>20.21%</td>
</tr>
<tr>
<td>WBE – Non-Minority</td>
<td>1.20%</td>
</tr>
<tr>
<td>SMWVB Total</td>
<td>23.25%</td>
</tr>
</tbody>
</table>

Alissa R. Lockett, P.E.  
Director  
Vista Ridge Integration

Andrea L.H. Beymer, P.E.  
Vice President  
Engineering and Construction

Robert R. Puente  
President/Chief Executive Officer

Attachments:
1. Project Area Map  
2. Project Site Map
RESOLUTION NO.

OF THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES AWARDING A CONSTRUCTION CONTRACT TO MGC CONTRACTORS, INC. IN THE AMOUNT OF $17,765,969.00 IN CONNECTION WITH THE CENTRAL WATER INTEGRATION PIPELINE – BITTERS PUMP STATION AND SEGMENT 5-3 PROJECT; APPROVING THE EXPENDITURE OF FUNDS AND MAKING AVAILABLE AN AMOUNT NOT TO EXCEED $17,765,969.00 FROM THE SYSTEM’S PROJECT FUND FOR THE PROJECT WORK; AUTHORIZING THE PRESIDENT/CHIEF EXECUTIVE OFFICER OR HIS DULY APPOINTED DESIGNEE TO EXECUTE A CONSTRUCTION CONTRACT WITH MGC CONTRACTORS, INC., AND TO PAY MGC CONTRACTORS, INC. AN AMOUNT NOT TO EXCEED $17,765,969.00 FOR THE PROJECT WORK; FINDING THE RESOLUTION TO HAVE BEEN CONSIDERED PURSUANT TO THE LAWS GOVERNING OPEN MEETINGS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, this construction contract includes a new booster pump station, a new five million gallon prestressed concrete ground storage tank, a new flow control valve and associated yard piping, and approximately 1,900 feet of 48-inch steel water transmission main; and

WHEREAS, the San Antonio Water System (the “System”) has solicited competitive sealed proposals for the project work; and

WHEREAS, MGC Contractors, Inc., a local, non-SWMVB firm, has submitted a negotiated price proposal in the amount of $17,765,969.00 for the project work, and this respondent has been determined to be the most qualified; and

WHEREAS, System funds in an amount not to exceed $17,765,969.00 are required for the project work; and

WHEREAS, the total amount of $17,765,969.00 is available from the System’s Project Fund for the project work; and

WHEREAS, the San Antonio Water System Board of Trustees desires (i) to award a construction contract to MGC Contractors, Inc. in the amount of $17,765,969.00 in connection with the Central Water Integration Pipeline – Bitters Pump Station and Segment 5-3 Project, (ii) to approve the expenditure of funds and make available an amount not to exceed $17,765,969.00
from the System’s Project Fund for the project work, and (iii) to authorize the President/Chief Executive Officer or his duly appointed designee to execute a construction contract with MGC Contractors, Inc., and to pay MGC Contractors, Inc. an amount not to exceed $17,765,969.00 for the project work; now, therefore:

BE IT RESOLVED BY THE SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

1. That a construction contract in the amount of $17,765,969.00 is hereby awarded to MGC Contractors, Inc. in connection with the Central Water Integration Pipeline – Bitters Pump Station and Segment 5-3 Project.

2. That the expenditure of funds in an amount not to exceed $17,765,969.00 for the project work is hereby approved and made available from the System’s Project Fund.

3. That the President/Chief Executive Officer or his duly appointed designee is hereby authorized to execute a construction contract with MGC Contractors, Inc., and to pay MGC Contractors, Inc. an amount not to exceed $17,765,969.00 in connection with the Central Water Integration Pipeline – Bitters Pump Station and Segment 5-3 Project.

4. It is officially found, determined and declared that the meeting at which this resolution is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this resolution, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

5. If any part, section, paragraph, sentence, phrase or word of this resolution is for any reason held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this resolution shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

6. This resolution becomes effective immediately upon its passage.

PASSED AND APPROVED this 11th day of September, 2018.

_______________________________
Berto Guerra, Jr., Chairman

ATTEST:

Patricia E. Merritt, Assistant Secretary