## REGULAR BOARD MEETING CANYON REGIONAL WATER AUTHORITY

Monday December 11, 2023, at 6:00 PM 850 Lakeside Pass, New Braunfels, TX 78130

This meeting is to be conducted in person only at the Canyon Regional Offices located at 850 Lakeside Pass, New Braunfels, Texas

This Notice is posted pursuant to the Texas Open Meeting Act (Chapter 551, Texas Government Code). The Board of Trustees of Canyon Regional Water Authority (CRWA) will hold a meeting in person at 6:00 P.M., Monday December 11, 2023, in the Board Room. The public may observe this meeting in person. Additional information can be obtained by calling: (830) 609-0543. The CRWA Board of Trustees may consider, discuss, and take action on any of the matters identified below.

Thomas	4	CALL TO	ODDED
Item		CALLIO	UKDEK

- Item 2 BOARD ROLL CALL
- Item 3 INVOCATION AND PLEDGE OF ALLEGIANCE
- Item 4 ACCEPTANCE OF RESIGNATION OF TRUSTEE
- Item 5 OATH AND STATEMENT OF OFFICE OF NEW TRUSTEE

## Item 6 PUBLIC COMMENTS

- A. Comments on non-agenda items no discussion from the Board, 3-minute time limit.
- B. Comments on specific items on this agenda discussion from/with the Board may be allowed; 3-minute time limit per citizen. Time may not be "shared or ceded" to another citizen.

Members of the public wishing to make public comment during the meeting must register by emailing hdiaz@crwa.com prior to the meeting. Written comments may also be submitted. If you wish to speak, please state your name.

### Item 7 CONSENT ITEMS

All items listed below are considered to be routine and non-controversial by the Board and will be considered by one motion. There will be no separate discussion of these items unless a Board member so requests, in which case the item will be removed from the consent agenda and will be considered as part of the order of business.

- A. CRWA 23-12-080 Adopt Resolution 23-12-080 approval of minutes for November 13, 2023 Board of Trustees meeting
- B. CRWA 23-12-081 Adopt Resolution 23-12-081 approval of October 2023 Financial Report and Check Register Report until audited

### Item 8 PRESENTATIONS/DISCUSSIONS

None

## Item 9 CRWA STAFF REPORTS

(Updates from written reports by staff, legal counsel, and others)

None

### Item 10 CRWA COMMITTEE AND BOARD OF MANAGERS REPORTS

- A. Budget Committee: ~ Committee Chairperson
- B. Policy and Legislative Committee: ~ Committee Chairperson
- C. Construction Committee: ~ Committee Chairperson
- D. Reports on Matters Related to CRWA Construction/Infrastructure Projects: ~ Staff, Consultants, or appropriate *Committee Chairperson*
- E. Board of Managers ~ Chairperson

## Item 11 GENERAL BUSINESS

A. <u>CRWA 23-12-082 Concerning approval of a second amendment to the ARWA Regional Water Supply Contract (*Graham Moore of ARWA*)</u>

Adopt Resolution 23-12-082 approval of Amendment No. 2 to the Regional Water Supply Contract Between Alliance Regional Water Authority, Canyon Regional Water Authority, City of San Marcos, City of Kyle, and City of Buda.

B. <u>CRWA 23-12-083 Concerning approval of a first amendment to the CRWA/SUDS Take-or-Pay Contract (*Graham Moore of ARWA*)</u>

Adopt Resolution 23-12-083 approval of Amendment No. 1 to the Canyon Regional Water Authority, Crystal Clear SUD, County Line SUD, and Green Valley SUD Take-or-Pay Contract.

C. <u>CRWA 23-12-084 Concerning Bond Anticipation Notes and other related matters (*Graham Moore of ARWA*)</u>

Adopt Resolution 23-12-084 approval of a resolution authorizing the Board of Directors of the Alliance Regional Water Authority to negotiate a short-term financing transaction with Wells Fargo Bank, N.A. through the issuance of Bond Anticipation Notes and to resolve other matters incident and related thereto on behalf of the Alliance Project Sponsoring Public Entities, including Canyon Regional Water Authority.

- D. CRWA 23-12-085 Concerning Formulation of a Policy for Managing Raw Water Supplies (*Doris Steubing*). Consider, discuss, and possibly take action directing CRWA Staff to develop a standard operating procedure for managing and tracking use of contracted raw water supplies under the contracts applicable to the Hays Caldwell project, Lake Dunlap project and Wells Ranch project to ensure that the Authority maintains an adequate supply of raw water to meet its contractual obligations to deliver specified volumes of treated water to each participant under such projects.
- E. CRWA 23-12-086 Concerning Formulation of a Policy for Annual Reporting on Water Use (*Doris Steubing*). Consider, discuss, and possibly take action directing CRWA Staff to, on an annual basis, generate a report of water use for the Hays Caldwell project, Lake Dunlap project, and Wells Ranch project identifying the allocation of raw water delivered to each project participant, the quantity of water that is "lost" (whether by non-use or otherwise), and all other information reasonably required to identify use of all raw water received by CRWA under a project.
- F. CRWA 23-11-078 Concerning approval of an Annual Overage Charge Procedure (*Doris Steubing*) Consider, discuss and possibly take action concerning Resolution 23-11-078 adopting an annual overage charge procedure developed by NewGen Strategies & Solutions, LLC to be applied when the contractual annual allocation of treated water is exceeded by a participating member of the Amended and Restated Regional (Hays/Caldwell Counties Area) Water Supply and Treatment Contract, February 9, 2021. [NOTICE: Action on this item was previously postponed to the January 2024 BOT Meeting].

## Item 12 EXECUTIVE SESSION

The Board of Trustees will meet in a closed session to discuss the following items pursuant to Chapter 551 of the Texas Government Code, including, where appropriate, Sections 551.071, 551.072, 551.074, 551.076, 551.089, and 418.183(f) of the Texas Government Code.

- A. In accordance with Section 551.074(a), Texas Government Code, the Board will meet in a closed session to deliberate the employment, evaluation, and duties of the General Manager of the Authority (<u>requested by Humberto Ramos</u>).
- B. In accordance with Section 551.074(a), Texas Government Code, the Board will meet in a closed session to deliberate the appointment, employment, and duties of a potential successor to the position of General Manager of the Authority, and formulation of a succession plan for such position (<u>requested by Humberto Ramos</u>).

## Item 13 RETURN TO OPEN MEETING

The Board may consider, deliberate, and take action on the items discussed in Executive Session, including discussion and potential adoption of the following Resolution:

A. Consider, discuss, and possibly take action accepting the General Manager's early retirement effective January 12, 2024.

## Item 14 FUTURE BOARD MEMBER AGENDA ITEMS

## Item 15 Adjourn the meeting

NOTICE: The Board of Trustees may meet in a closed session to discuss any item listed above pursuant to Chapter 551 of the Texas Government Code, including, where appropriate, sections 551.071, 551.072, 551.074, 551.076, 551.086, 551.089, and 418.183(f) of the Texas Government Code. All deliberations and formal action will occur in open session.

## CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	AGENDA NUMBER
DAIL		

12/11/2023

CONSENT AGENDA ITEM

CRWA 23-11-080

BOARD OF TRUSTEES MEETING MINUTES OF NOVEMBER 13, 2023

INITIATED BY

JOHN KAUFMAN / HANNA DIAZ

## STAFF RECOMMENDATION

Approve the Minutes of the Regular Board Meeting of the Board of Trustees held on November 13, 2023, as amended, or not amended.

## BACKGROUND INFORMATION

The minutes of the meeting are attached.

## FINANCIAL IMPACT

None

## MOTION

Motion to approve the following resolution.

## **CANYON REGIONAL WATER AUTHORITY**

## **RESOLUTION No. 23-11-080**

BEIT RESOLVED that the Minutes of the Regular Meeting of the Board of Trustees held on November 13, 2023, as amended, or not amended, are approved.

	Adopted this 11 <sup>th</sup> day o	f December 2023	
	Ayes Nays Absta	ined Absent	
	,	Approved by:	Timothy D. Fousse, CPM President
Certified and attested by:	Doris Steubing Secretary		

# MINUTES REGULAR BOARD MEETING CANYON REGIONAL WATER AUTHORITY BOARD OF TRUSTEES

Regular meeting:

The Canyon Regional Water Authority (CRWA) Board of Trustees met for a regular meeting in person on Monday, November 13, 2023, at 6:00 p.m.

The following individuals attended the meeting:

Board o	f Trustees:	CRV	VA Staff:	<b>Board of Mana</b>	agers and Others:
Timothy Fousse Ted Gibbs Martin Poore Abigaile Maberry Humberto Ramos Teresa Scheel Regina Franke Donal Bosworth Randy Schwenn	Brandon Rohan Al Suarez Steve Cooper Christina Miller Steven Fonville James Forssell Mabel Vaughn Doris Steubing Irene Moreno Clint Ellis	John Kaufman Adam Telfer David McMullen	Hanna Diaz Joan Wilkinson Fran Powers	Justin Ivicic Byron Sanderfer Louis Rosenberg Trey Wilson Mark Hall	David Kneuper Daniel Smith Graham Moore Stephanie Leibe

### Item 1 CALL TO ORDER

» President Timothy Fousse opened the meeting at approximately 6:00 p.m.

#### Item 2 BOARD ROLL CALL

» 19 Board members were present.

#### Item 3 INVOCATION AND PLEDGE OF ALLEGIANCE

## Item 4 OATH AND STATEMENT OF OFFICE OF NEW TRUSTEE

## Item 5 PUBLIC COMMENTS

- A. Comments on non-agenda items no discussion from the Board, 3-minute time limit.
- B. Comments on specific items on this agenda discussion from/with the Board may be allowed; 3-minute time limit per citizen. Time may not be "shared or ceded" to another citizen.

Members of the public wishing to make public comment during the meeting must register by emailing hdiaz@crwa.com prior to the meeting. Written comments may also be submitted. If you wish to speak, please state your name.

#### Item 6 CONSENT ITEMS

All items listed below are considered to be routine and non-controversial by the Board and will be considered by one motion. There will be no separate discussion of these items unless a Board member requests, in which case the item will be removed from the consent agenda and will be considered as part of the order of business.

- A. CRWA 23-11-068 Adopt Resolution 23-11-068 approval of Board of Trustees meeting minutes of October 11, 2023
- B. CRWA 23-11-069 Adopt Resolution 23-11-069 approval of September 2023 Financial Report and Check Register Report until audited
- » Vice President Brandon Rohan asked to make comments on the October minutes.
- » Consent Item 23-11-068 was removed from the Consent Agenda for discussion and amendment.

- » Vice President Brandon Rohan made a motion to approve Resolution 23-11-069.
- » Tracy Scheel seconded the motion.
- » President Fousse called for a vote. The Resolution passed with 19 aye votes.
- With respect to Resolution 23-11-068, Vice President Rohan asked for clarification on page 3 item I of the minutes regarding Humberto Ramos' statement made during the October meeting.
- » Humberto Ramos said his statement needed modification. The purpose of his statement was to capture the fact that Staff said they had a number of membranes that they wanted to be used at Lake Dunlap, and Mr. Ramos' point was that Garver should be calculating this independently from anything the Staff provides regarding membranes. Mr. Ramos stated that his statement about avoiding litigation was in reference to CRWA interviewing Black and Veatch. Mr. Ramos stated that he believed Black and Veatch had been interviewed for work on the Lake Dunlap project but currently serves as a consultant for Nanostone. The point was that -- so long as there is some type of potential litigation with Nanostone, why interview Black and Veatch?
- » Trey Wilson clarified with Mr. Ramos that in the first statement where the draft minutes say "independent analysis of Garver engineering," it should be changed to say, "independent analysis <u>by</u> Garver Engineering".
- » Mr. Ramos consented to his statement regarding Black and Veatch being removed from the minutes for the October meeting.
- » Vice President Rohan clarified whether the Resolution in Item 10 A was approved incorporating the changes, or if it was approved as presented with corrections to the typos.
- » Ted Gibbs clarified it was approved as presented with correction to the typos.
- » Vice President Rohan corrected the minute entry concerning Item 10 G to state the motion passed with 15 votes instead of 1.
- » Tracy Scheel made the correction to the spelling of her name in the minutes.
- » Martin Poore made a motion to accept Resolution 23-11-068 approving the October Minutes, as amended.
- » Ted Gibbs seconded the motion.
- » President Fousse called for a vote. The motion passed with 19 aye votes.

### Item 7 PRESENTATIONS/DISCUSSIONS

- A. Hays Caldwell Pipeline Alternatives for proposed route.
- B. Hays Caldwell Wheeling Agreement with Maxwell SUD.
- C. Alliance Project Construction and Financing updates

## » Hays Caldwell Pipeline Alternatives / Wheeling Agreement:

Wice President Rohan stated that he had a meeting with Mr. Ramos at County Line SUD on November 13<sup>th</sup> to discuss the delivery point. There is a discrepancy in the most recent change in the contract about the location of the delivery point to County Line SUD. There was discussion in the meeting with Mr. Ramos about how CRWA plans to move forward and find a long-term solution for getting water from the Hays Caldwell Water Treatment Plant to the County Line SUD delivery point. There was also conversation with Maxwell SUD over similar topics that led to the Wheeling Agreement. Vice President Rohan explained that Items 7 A and 7 B kind of go together. The point of Item 7 A is that there is a provision in the Hays Caldwell Wheeling Agreement with Maxwell SUD providing that a segment of pipeline in Maxwell SUD's system is wholly owned by Maxwell SUD. In the Wheeling Agreement, Canyon Regional Water Authority was allowed to take a certain amount of water through the pipeline that was owned by Maxwell SUD. A provision of this agreement allowed Maxwell SUD the ability to take the capacity back when they felt like they needed it for their own system with one year's notice. Maxwell SUD elected to send this notice in August 2023. Vice President Rohan stated that there will be meetings conducted one on one with Martindale WSC,

Crystal Clear SUD, County Line SUD, and Maxwell SUD to talk about potential alignments for the proposed Hays Caldwell Pipeline route and how it gets paid for, and similar topics.

## Alliance Project:

- Graham Moore from Alliance gave a presentation on construction and financing updates for the Alliance Project. Mr. Moore stated that as of late October 2023, at the Alliance WTP there is good progress overall, but there have been some delays with the large electrical switch gear. There are 2500-amp circuit breakers that are required to control all the equipment, this is a problem that has been going on with all the five major manufacturers of this type of electrical switch gear- they have significant delays. Mr. Moore stated that Alliance is on track to have the last gear shipped November 30th. It should be at the site by December 12, to start being installed. Mr. Moore expects the Water Treatment Plant to be online April 2024. The Maxwell Booster Pump Station is close to being finished; the contractors will be substantially complete by mid-December 2023. The last component that Alliance is waiting on is the generator which should be delivered in approximately 2 weeks. The South Inline Elevated Storage Tank's pedestal is complete, and the steel shell is complete. There was a meeting with the contractor on November 13th to discuss the coatings that will go on it. In January 2024, the bowl will be raised up. Mr. Moore expects this to be completed and online in May 2024.
- Graham Moore gave an update on the cost for the Alliance project. There has been a significant cost overrun of \$46 million. A portion of this is due to construction cost increase from initial estimates in 2016. Land acquisition cost has also increased since initial estimates. There are 3 projects comprising the rest of the Phase 1B program that have not been completed due to the \$46 million shortage and the Alliance needs to move forward with them. Those projects are the Segment C Pipeline, North Inline Elevated Storage Tank, and the Administrative Facility. Alliance is seeking \$46 million in additional financing. The Administrative Facility is about \$4 million, the North Inline Elevated Storage Tank is about \$8 million, and Segment C has some other funding that has been designated for it so there is only about \$32 million. Alliance has typically gone to the SWIFT program through the Texas Water Development Board for funding and would ultimately like to do that for this project. The program offers low interest loans, but the largest challenge with the SWIFT program is that the window only opens once per year, and the earliest to get those funds would be November 2024. These projects are vital to be able to deliver water to many of the Alliance's customers that are growing at a very quick rate. Thus, these projects need to get moving faster than the Alliance can get the funding. Alliance has identified in conjunction with Bond Counsel and Financial Advisors a bridge loan type known as a Bond Anticipation Note. This is a short-term amortization, in this case a 1-year period, that can be used as local funding when Alliance goes for the SWIFT financing in 2024. It will basically be refinanced by the SWIFT issuance. Alliance would borrow the full \$46 million to complete all three projects.
- Mr. Moore stated that what is needed by the Alliance from Canyon Regional Water Authority is action in a December Board of Trustees meeting. There will need to be an amendment to the Water Supply Contract between Alliance and Canyon Regional Water Authority to allow the use of the Bond Anticipation Notes. There will also need to be an amendment to the contract between Canyon Regional Water Authority and the Special Utility Districts to allow the use of the Bond Anticipation Notes. Alliance is still working with various financial entities that would offer the Bond Anticipation Notes. Alliance hopes to have all the information together by the end of November and speak at the December Board of Trustees meeting to seek approval of the issuance of the Bond Anticipation Note with the terms including the rate that is going to be required. Mr. Moore stated he will have the language for the proposed amendment drawn up and sent to General Manager, John Kaufman, on November 15.

#### CRWA STAFF REPORTS Item 8

(Updates from written reports by staff, legal counsel, and others)

- A. Drought Report
- B. Water Treatment, Storage, and Transmission Operations ~ Staff
  - Lake Dunlap WTP:

    - Contract for Engineering Design Services

- Hays Caldwell WTP:
  - Production
  - Pall mobile membrane filtration
- Wells Ranch WTP:
  - Production
  - Well rehabilitation and pump repairs
- Wells Ranch III Project ~ Staff
  - **Draft Water Supply and Treatment Contract**
  - Groundwater leasing and permitting
- Requests for Qualifications
  - RFQ for General Counsel
  - RFQ for Construction Administration
  - RFQ for Electrical Engineering Design Services
- E. South Texas Regional Water Planning Group Region L ~ Staff
- Groundwater Districts of Guadalupe and Gonzales Counties ~ Staff
- G. Legal and legislative matters ~ Legal Counsel and Staff
- Drought Report ~ Adam Telfer gave an update on the drought in Texas. The GBRA trigger level for Drought Stage 3 at Canyon Lake is 895 ft. above msl. GBRA then has the power to make mandatory cutbacks. Essentially they can reduce Canyon Regional's take by 15%. The first trigger level is 5% reduction, but it is voluntary. The second trigger level is a 10% reduction and is voluntary. The third trigger level is 15% and is not voluntary. If there is not significant rain by March 2024, we will go into stage 3. The cutback is based on a calculation of average flow per month from the prior year.
- Lake Dunlap Water Treatment Plant ~ Staff did not add anything to the written report.
- Hays Caldwell Water Treatment Plant ~ Staff did not add anything to the written report.
- Wells Ranch Water Treatment Plant ~ Staff did not add anything to the written report.
- Wells Ranch III Project ~ Staff did not add anything to the written report.
- Requests for Qualifications ~ John Kaufman stated the RFQ for General Counsel was completed and reviewed by President Tim Fousse, and legal counsel, and was sent to the Executive Committee for review. It is ready to be sent out unless there are more comments. The RFQ for Construction Administration Services is completed and will be sent out November 14. The RFQ for Electrical Engineering Services for Wells Ranch II will be sent out on November 14.
- South Texas Regional Water Planning Group Region L  $\sim$  Mr. Ramos asked Mr. Kaufman if he of Staff attended the November 2 Region L meeting. Mr. Kaufman stated that neither he nor a member of CRWA's Staff, attended the meeting. Mr. Ramos stated that during the Region L meeting on November 2, there was a question pertaining to hydrologic assumptions and bed and banks with regard to the Siesta project, and that this discussion was very contentious. Mr. Ramos stated that Region L asked if there was a representative from CRWA there to speak. Mr. Ramos stated that he answered the question at the meeting. Mr. Ramos asked Mr. Kaufman if he or a member of Staff attended the Region L meeting on August 3. Mr. Kaufman stated that he did not attend the meeting nor did a member of Staff. Vice-President Rohan noted that on November 2, 2023, the General Manager and he were in attendance at the mediation of CRWA's claims against Trihydro, so neither attended the Region L meeting on this day.
- Guadalupe River Habitat Conservation Plan ~ Nothing to report.
- Groundwater Districts of Guadalupe and Gonzales Counties ~ Mr. Kaufman gave an update on the preliminary hearing to determine the standing of two objectors/protestants on CRWA's contested case seeking 920 AF of additional groundwater in Gonzales County. The judge determined the two protestants have no standing and directed water counsel to write a draft of the judge's ruling in the matter. Mr. Kaufman anticipates, without any unforeseen interruptions, that there should be approval from the GCUWCD board in early 2024 for an extra 920 AF for Wells Ranch III.
- Groundwater Management Area 13 ~ Mr. Ramos stated that in the Staff Report, provided by Mr. Kaufman, it says the next meeting is in Houston, Texas, but Mr. Ramos stated the meetings are in Pleasanton, Texas. Mr. Kaufman stated if this is typed incorrectly that he will correct it.
- .Legal and Legislative Matters ~ Trey Wilson updated that he resumed communication with an attorney, that represents a large group of landowners in Gonzales County. They have circulated

counter red lines to the lease agreement and that negotiations were resuscitated. Mr. Wilson expects to have an update for the January Board of Trustees meeting.

#### CRWA COMMITTEE REPORTS Item 9

Budget Committee: Nothing to report ~ Committee Chairwoman Policy and Legislative Committee: Comments and updates on CRWA policies ~ Committee Chairman

Ted Gibbs gave an update from the Policy and Legislative Committee. The Bylaws, Investment Policy, Surplus Policy, and Procurement Policy have all been brought to the Board of Trustee's and have been passed. The Tuition Reimbursement Policy may be ready for the Board of Trustee's soon. The Personnel Policy, which was renamed to the Employee Handbook, has some minor edits before it goes for legal review. The Administrative Policy revisions are approximately 25% completed. The Policy is being updated with all the changes from the other policies to ensure they are all in synch. Then they will begin legislative review, and Staff and Legal will review the issues with the current legislative document.

## Construction Committee and Reports on Matters Related to CRWA Construction/Infrastructure Projects:

A. Project Status Comments and Updates on Committee Activity ~ Committee Chairman

Vice President Brandon Rohan gave a Construction Committee update. There is a proposed Change Order on the IH-10 TxDOT project to increase the case size from 36 inches to 42 inches, it ended up being a little over \$11,500. There is also a new Supplemental Agreement with TxDOT with a total cost of a little over \$694,000, with \$128,000 being paid directly by TxDOT (this is all included in the budget and is 100% reimbursable). On the FM 1518 Project, 80% is paid for by CRWA and the rest is paid for by TxDOT. On the GIS project, Utility Engineering Group (UEG) provided a proposal for completion. UEG is proposing to finish the mapping project with the assistance of with Colliers Engineering at a cost of a little over \$42,000. UEG expects this work to take approximately 8 weeks, then they will have something to provide Staff with for review/edits. UEG continues to work on the Standards and Specifications, and they expect them to be complete by the end of November 2023. CRWA is still working on contract negotiations with Garver. Vice President Rohan states that the Construction Committee worked hard on the Master Engineering Services Agreement, and they want to keep the Agreement as standard as possible. The Hays Caldwell Improvements Phase 1 Project Request for Proposals will go out to bid soon, but the bids will not be available until January 2024. The improvements include the tank, some electrical work, and some piping. CRWA Staff has a Reimbursement Resolution later in the agenda for the membrane project. On the Task Order for Ardurra in Item 10, the Hays Caldwell group got together and decided to release the rest of the base service from the original scope. Justin Ivicic was nominated and confirmed to be the Presiding Officer for the Board of Managers.

B. Project updates from and written reports by engineering consultants, staff, and others:

Alliance Regional Water Authority participation ~ Alliance

Geographic Information System (GIS) ~ Staff and UEG

TxDOT/CRWA IH-10 (Santa Clara & Zuehl) Pipeline Encasement ~ Staff and UEG 0

TxDOT/CRWA FM 1518 Transmission Line Project ~ Staff and UEG

CRWA Standards and Specifications ~ Staff and UEG

CRWA Master Plan update ~ Staff

- Wells Ranch III WTP Optimization and Conceptual Pipeline Designs ~ Trihydro Engineering
- Hays Caldwell WTP Facility Improvements:

Membrane filter replacement ~ Ardurra

- Exterior to Filter Building status report on approvals, funding, and construction ~ Ardurra
- Alliance Regional Water Authority participation ~ Trey Wilson asked about the different pipeline segments being designed differently by different contractors. Mr. Wilson asked why Mr. Moore decided to do this and how he is administering the overall project. Mr. Moore stated that there is an

overall program management team (because Alliance has an internal staff of only 3 people) that handles all this work. Alliance looked at how to break up the entire program, and how many different construction contracts to have. What Alliance chose to do with the pipelines was to target values within the \$50-75 million range that they thought would attract the midsize regional contractors. They worried if they had one massive project, that they would limit themselves to one contractor that could do it and would not get too many competitive bids. They broke it into components they believed would bring in regional sized contractors and settled on five of them.

Geographic Information System (GIS) ~ David Kneuper of Utility Engineering Group did not add anything to the written report. The project should be completed by the end of January 2024. UEG has been working with Adam Telfer on the as-builts. Once the Hays Caldwell and Wells Ranch portions

are entered into the system, UEG will work with Staff to ensure accuracy.

TxDOT/CRWA IH-10 (Santa Clara & Zuehl) Pipeline Encasement ~ Mr. Kneuper did not add

anything to the written report.

- TxDOT/CRWA FM 1518 Transmission Line Project ~ Mr. Kneuper added that there was a preconstruction meeting with TxDOT, and they are now working with the contractor to set the actual date for construction.
- CRWA Standards and Specifications ~ Mr. Kneuper did not add anything to the written report.

CRWA Master Plan Update ~ Mr. Kneuper did not add anything to the written report.

Wells Ranch III Water Treatment Plant Optimization and Conceptual Pipeline Designs ~ Mr. Kaufman stated CRWA staff has received the draft report from Trihydro and is in the process of reviewing it. Doris Steubing requested a copy of the report, as well as instituting a deadline for Trihydro to get this task finalized. Mr. Kaufman stated that CRWA staff can have the review completed by November 17 and will submit comments back to Trihydro.

Hays Caldwell Water Treatment Plant Facility Improvements ~ Byron Sanderfer with Ardurra did not add anything to the written report.

#### GENERAL BUSINESS Item 10

A. CRWA 23-11-070 Concerning approval of a Reimbursement Resolution (CRWA Staff) Adopt Resolution 23-11-070 approval of a Reimbursement Resolution for design services associated with the Hays Caldwell Water Treatment Plant Membrane Replacement Project for the prior lawful capital expenditure of funds from the proceeds of one or more series of taxable or tax-exempt obligations that CRWA currently contemplates issuing in the amount not to exceed \$12,000,000 to finance a portion of the costs of the Project.

Mr. Kaufman stated this is a Reimbursement Resolution that was put together with the help of

Staphanie Leibe.

Stephanie Leibe stated this is a Reimbursement Resolution that would allow Canyon Regional Water Authority to pay for costs associated with the project and then at the time of bond issuance, reimburse themselves with the bond proceeds as they become available.

President Time Fousse asked how long this Reimbursement Resolution is eligible before

CRWA must apply for a bond.

Ms. Leibe stated that there is a 3-year window from the date of expenditure. There is an earlier window that would come in 18 months from the time the project comes online. That is, 18 months from the time the project comes online and no later than 3 years from the date the expenditure is made. CRWA must issue the bonds within 3 years from the date that its incurs its first expense related to the project being financed.

The Construction Committee recommends moving forward with this item.

The Board of Managers recommends moving forward with approval of this item. >>

Humberto Ramos made a motion to approve Resolution 23-11-070. >>

Vice President Brandon Rohan seconded the motion.

- President Tim Fousse called for a vote. The motion passed with 19 aye votes.
- B. <u>CRWA 23-11-071 Concerning approval of a Service Order with Ardurra Group, Inc. (CRWA Staff)</u> Adopt Resolution 23-11-071 approval of a second Service Order with Ardurra in the amount of

\$659,415.50 for design services associated with the Hays Caldwell Water Treatment Plant Membrane Replacement Project.

- The Construction Committee recommends moving forward with this item.
- The Board of Managers recommend moving forward with this item.
- Steven Fonville made a motion to approve Resolution 23-11-071.
- Regina Franke seconded the motion.
- President Fousse called for a vote. The motion passed with 19 aye votes.
- C. CRWA 23-11-072 Concerning approval of Change Order No. 2 with Ram 2 Utilities (UEG and Staff) Adopt Resolution 23-11-072 approval of Change Order No. 2 with Ram 2 Utilities to replace the proposed 36-inch split steel pipe at Santa Clara Road with a 42-inch split steel casing pipe for a cost not to exceed \$11,522.31 in support of the IH-10 Transmission Line Project.
  - The Construction Committee recommends moving forward with this item.
  - The Board of Managers recommend moving forward with this item.
  - Martin Poore made a motion to approve Resolution 23-11-072.
  - Doris Steubing seconded the motion.
  - President Fousse called for a vote. The motion passed with 19 aye votes.
- D. CRWA 23-11-073 Concerning approval of Supplement Agreement No. 1 with TxDOT (UEG and Staff) Adopt Resolution 23-11-073 approval of Supplemental Agreement No. 1 with TxDOT for the CRWA IH-10 Transmission Line Project for a total cost of \$694,327.18. The joint bid cost is \$128,422.97, which will be paid by TxDOT. The remaining \$565,904.21 will be paid by CRWA, which is also reimbursable to CRWA.
  - The Construction Committee recommends moving forward with this item.
  - The Board of Managers recommends moving forward with this item.
  - Martin Poore made a motion to approve Resolution 23-11-073.
  - Abigaile Maberry seconded the motion.
  - President Fousse called for a vote. The motion passed with 19 aye votes.
- E. <u>CRWA 23-11-074 Concerning approval of a Service Order with UEG for GPS Services (CRWA Staff)</u> Adopt Resolution 23-11-074 approval of a Service Order with Utility Engineering Group, PLLC to perform GPS physical locating of all visible above ground appurtenances associated with CRWA's transmission line system currently depicted on CRWA's GIS website (Mid-cities Phases 2A and 2B, Wells Ranch transmission line, Santa Clara transmission line, and Crystal Clear transmission line) for a cost not to exceed \$42,337.50.
  - The Construction Committee recommends moving forward with this item.
  - The \$42,337.50 is coming from the General Funds and was included in the budget.
  - The Board of Managers recommend moving forward with this item.
  - Martin Poore made a motion to approve Resolution 23-11-074.
  - Doris Steubing seconded the motion.
  - President Fousse called for a vote. The motion passed with 19 aye votes.
- F. CRWA 23-11-075 Concerning Arbitrage Rebate Calculation Services (CRWA Staff) Adopt Resolution 23-11-075 approval of a consulting agreement with Ritz & Associates PA in the amount of \$2,500 for arbitrage rebate calculation services related to CRWA's \$12,050,000 tax-exempt contract revenue bonds (Hays/Caldwell Counties Area Project) Series 2021 (the "2021 Bonds").
  - Tracy Scheel made a motion to approve Resolution 23-11-075.
  - Regina Franke seconded the motion.
  - President Fousse called for a vote. The motion passed with 19 aye votes.
- G. CRWA 23-11-076 Concerning Approval of the Short-Term Partial Assignment of Interest Agreement (CRWA Staff)

Adopt Resolution 23-11-076 approval of the Short-Term Partial Assignment of Interest Agreement ("Agreement") between SAWS, Springs Hill WSC, City of Cibolo, GBRA, and CRWA, which will become effective on January 1, 2024, and expire on December 31, 2028; and authorize the CRWA General Manager to sign the Agreement after the other parties approve and sign the Agreement.

- » Humberto Ramos made a motion to approve Resolution 23-11-076.
- » Doris Steubing seconded the motion.
- » President Fousse called for a vote. The motion passed with 19 aye votes.

H. CRWA 23-11-077 Concerning approval of a Reimbursement Resolution (CRWA Staff)

Adopt Resolution 23-11-077 approval of a Reimbursement Resolution for design services associated with the Hays Caldwell Pipeline Project for the prior lawful capital expenditure of funds from the proceeds of one or more series of taxable or tax-exempt obligations that CRWA currently contemplates issuing in the amount not to exceed \$10,000,000 to finance a portion of the costs of the Project.

» Vice President Rohan asked what happens if \$10,000,000 is not the right number. Will there

need to be another Reimbursement Resolution or an amendment?

» Ms. Leibe stated that the \$10,000,000 was based on current costs and if there is a point in time where CRWA approaches that number but is not ready to issue bonds, then there can be another Reimbursement Resolution and the two action items can be used to capture all the costs that would be incurred for the project.

Humberto Ramos made a motion to approve Resolution 23-11-077.

» Martin Poore seconded the motion.

» President Fousse called for a vote. The motion passed with 19 aye votes.

I. <u>CRWA 23-11-078 Concerning approval of an Annual Overage Charge Procedure (CRWA Staff)</u> Adopt Resolution 23-11-078 approval of an annual overage charge procedure developed by NewGen Strategies & Solutions, LLC to be applied when the contractual annual allocation of treated water is exceeded by a participating member of the Amended and Restated Regional (Hays/Caldwell Counties Area) Water Supply and Treatment Contract, February 9, 2021.

» Donald Bosworth made a Motion to Table consideration of Resolution 23-11-078.

Mr. Bosworth stated that NewGen is not in attendance to be able to explain what their study involved. He stated that the item should not be up for discussion if NewGen is not present to explain it. Mr. Bosworth stated on behalf of Crystal Clear SUD, that their feeling is that this is not an item for action by the Trustees, and that it is preferable to have a meeting between the Hays Caldwell parties and have this topic addressed by NewGen to that group for possible resolution among themselves.

» Mr. Ramos stated he would like Justin Ivicic to speak on what was discussed at the Board of

Managers meeting where NewGen gave a presentation on this topic.

» Mr. Ramos seconded the motion to table.

» The Trustees indicated that they would like to discuss this Item.

» Trey Wilson asked Mr. Ramos to rescind his second on the Motion, so the Trustees could conduct discussion on the item.

» Mr. Ramos withdrew his second of the Motion to Table.

» Justin Ivicic spoke about what was discussed at the Board of Manager's when NewGen presented the overage charge procedure. Mr. Ivicic stated that at the Board of Managers meeting Canyon Regional's Legal Counsel expressed concern over whether CRWA could implement a fee like this. Mr. Ivicic was concerned about bringing this item to the Board of Trustees without Legal Counsel's approval.

Mr. Ramos stated his understanding of the process was, historically, the entities sit together and discuss disagreements such as this, and that there was no opportunity for this to happen. Mr. Ramos then seconded the motion to table this item to allow the Managers time to sit with

Chris Ekrut of NewGen to discuss this.

» President Fousse called for a roll call vote on the Motion to Table this Item. The Motion to Table passed with 13 aye votes, 5 nay votes, and 1 abstained vote.

» Mr. Bosworth asked that CRWA Staff set up a meeting for the General Managers of the five

entities involved, with the Managers to invite who they want from their Board. Chris Ekrut from NewGen would also participate in the meeting.

» President Fousse directed Staff to contact the five entities and invite their General Managers to this meeting, and the General Manager can invite whoever they want from their Board to this meeting with Chris Ekrut from NewGen.

### Item 11 EXECUTIVE SESSION

The Board of Trustees will meet in a closed session to discuss the following items pursuant to Chapter 551 of the Texas Government Code, including, where appropriate, Sections 551.071, 551.072, 551.074, 551.076, 551.086, 551.089, and 418.183(f) of the Texas Government Code.

- A. Meet and consult with Attorney in private as permitted by Section 551.071 of the Texas Government Code to seek advice upon and discuss:
  - o Mediation with Trihydro Corporation conducted on November 2, 2023.
  - Action of CRWA's Executive Committee to direct legal counsel to file a lawsuit against Trihydro Corporation and all other appropriate parties, if any, concerning acts and omissions related to the Wells Ranch Phase 2 Generator Installation Project.
- B. In accordance with Section 554.074(a), Texas Government Code, the Board will meet in a closed session to deliberate the employment, evaluation, and duties of the General Manager of the Authority (*requested by Doris Steubing*).

In accordance with Section 554.074(a), Texas Government Code, the Board will meet in a closed session to deliberate the appointment, employment, and duties of a potential successor to the position of General Manager of the Authority, and formulation of a succession plan for such position (<u>requested by Doris Steubing</u>).

» The Board of Trustees entered Executive Session at 7:46 p.m.

## Item 12 RETURN TO OPEN MEETING

The Board may consider, deliberate, and take action on any item discussed in Executive Session, including discussion and potential adoption of the following Resolution:

- » The Board returned from Executive Session at 9:22 p.m.
- J. CRWA 23-11-079 Concerning Ratification of the Executive Committee's Approval of Litigation related to the Wells Ranch Phase 2 Generator Installation Project. (*President Fousse*). Adopt Resolution 23-11-079 ratifying action of CRWA's Executive Committee to direct legal counsel to file a lawsuit against Trihydro Corporation and all other appropriate parties, if any, concerning acts and omissions related to the Wells Ranch Phase 2 Generator Installation Project
- » Martin Poore made a motion to approve Resolution 23-11-079.
- » Ted Gibbs seconded the motion.
- » President Fousse called for a vote. The motion passed with 19 aye votes.

## Item 13 FUTURE BOARD MEMBER AGENDA ITEMS

- » Clint Ellis stated the Policy and Legislative Committee added the ability for Directors to attend Board of Trustees meetings remotely. He asked if this would be enacted.
- President Fousse said this can be done. The attendee must be fully present, able to hear all of deliberation, well heard, on camera the entire time, and no one in the room with the attendee that should not be in the room.
- » This is Christina Miller's last meeting. She is retiring.

## Item 14 Adjourn the meeting

- » Martin Poore made a motion to adjourn the meeting.
- » President Fousse adjourned the meeting at 9:26 p.m.

Respectfully submitted

Doris Steubing, Secretary

NOTICE: The Board of Trustees may meet in a closed session to discuss any item listed above pursuant to Chapter 551 of the Texas Government Code, including, where appropriate, sections 551.071, 551.072, 551.074, 551.076, 551.086, 551.089, and 418.183(f) of the Texas Government Code. All deliberations and formal action will occur in open session.

## Errata Sheet to Minutes of the CRWA Board of Trustees Meeting on November 13, 2023

## South Texas Region L Water Planning Group [November 2, 2023]

 During the Board meeting Mr. Ramos asked Mr. Kaufman if he attended the November 2, 2023, Region L meeting. Mr. Kaufman responded that he was not able to attend the meeting.

The more complete answer is that Mr. Kaufman directed Mr. Adam Telfer to attend the meeting on behalf of CRWA. Mr. Telfer attended the meeting remotely and took notes of the meeting, which are attached as Exhibit A.

 During the Board meeting Vice-President Rohan also noted that on November 2, 2023, the General Manager and he were both in attendance at the Mediation of CRWA's claims against Trihydro. Other participants in the Mediation meeting included Mr. Tim Fousse, Mr. Steve Cooper, and Mr. Trey Wilson.

Mr. Ramos also stated that at the Region L meeting on November 2, there was a question pertaining to hydrologic assumptions and "bed and banks" with the Siesta project. Mr. Ramos stated that this discussion was very contentious. Mr. Ramos stated that Region L asked if there was a representative from CRWA there to speak. Mr. Ramos stated that he answered the question at the Region L meeting.

- 3. According to the Region L meeting agenda and Board packet, the subject of "bed and banks" with the Siesta Project was not a specific topic for discussion. However, according to an audio recording of the meeting, the subject was briefly discussed in a presentation by Black & Veatch near the end of the meeting concerning return flows and the surface water availability model (WAM). In response to a clarification question by an unidentified person about return flows, the Black and Veatch speaker cited the Siesta project as an example of *possible reuse* of *return flows under the "bed and banks"* program in cooperation with SAWS, if CRWA would choose to do so. At no time during the Region L meeting or during this discussion did anyone ask if there was a representative from CRWA there to speak on the matter. Mr. Ramos said nothing during this discussion, except to briefly inquire at the beginning about the location of a language change requested by SAWS.
- 4. Mr. Ramos asked Mr. Kaufman if he or a member of Staff attended the Region L meeting on August 3. Mr. Kaufman stated that he did not attend the meeting nor did a member of Staff.

The complete answer is that Vice President Rohan attended the Region L meeting on August 3 on behalf of CRWA and "reported" what he had learned previously. His report is attached as Exhibit B.

## **Groundwater Management Area 13**

5. Mr. Ramos stated that in the Staff Report, provided by Mr. Kaufman, it says the next meeting is in Houston, Texas. However, Mr. Ramos stated the meetings are in Pleasanton, Texas [at the Evergreen Underground Water Conservation District office located at 110 Wyoming Blvd., Pleasanton, Texas 78064]. Mr. Kaufman stated if this is typed incorrectly that he will correct it. Mr. Kaufman was referring to the venue of the next Texas Water Development Board meeting on December 7, 2023.

Moreover, at Mr. Kaufman's request, James Bene, a representative of R.W. Harden attended the GMA 13 meeting held on September 15 on behalf of CRWA. Mr. James Bene of R.W. Harden reported to Mr. Kaufman about significant model *input and assumption* errors that were discussed by Mr. Bill Hutchinson of GMA 13 during the meeting. His report is attached as Exhibit C. The next meeting of GMA 13 is February 9, 2024, in Pleasanton, TX.

## Exhibit A

## Region L Meeting on November 2, 2023

## **Email from Adam Telfer**

John,

I attended the November 2, 2023, Region L meeting remotely. Please see the attached agenda and my brief notes below on the meeting items.

Item 1. Meeting started at 9:30am - Roll call.

Item 2. Public Comment - Comment from Ted Boriack on too much water being pumped out o Gonzales

County. Does not approve of any more water permitting in Gonzales County.

Item 3. Previous meeting minutes approved with some minor changes.

Item 4. Discussing on filling two open positions on the board.

Item 5. SARA is approved by Region L Board to negotiate and execute an amendment to the TWDB Contract to Increase the total project cost and committed funds for the 2026 RWP.

Item 6. SARA is approved by Region L Board to negotiate and execute an amendment with Black & Veatch based on TWDB Contract to Increase the Total Project cost and committed funds for the 2026 RWP.

Item 7 & 8. Status Reports and Communications by TWDB – Presentation is saved on our server.

Item 9. Presentation is on our server.

Item 10 & 11. Public Comment Regarding Infeasible Water Management Strategy Evaluation Results - Ted Boriack commented on GBRA's project and other developments in Gonzales County. His concern is that there is too much water being pumped out of the County.

Presentation giving by Black & Veatch. See presentation.

Item 12. Process for Identifying Potentially Feasible Water Management Strategies approved by board. See presentation.

Item 13. Approval of the surface water hydrologic assumptions, including hydrologic variance requests for the 2026 Regional Water Planning Cycle.

Item 14. Discussion on subcommittees

Item 15. Schedule 2024 SCTRWPG

- 1. February 14, 2024.
- 2. May 2, 2024.
- 3. August 1, 2024
- 4. November 7, 2024.

Item 16. Potential Agenda Items for Next Meeting.

Item 17. No public comment

Item 18. Adjourn

I did not hear CRWA's Siesta project mentioned in the meeting. I've attached the board packet with the presentations as well as adding a Region L file to our server.

### **Adam Telfer**

Water Resources and Compliance Manager

## **Exhibit B**

## Region L Meeting on August 3, 2023

E-mail from Brandon Rohan

Good afternoon Adam,

I attended the Region L meeting on August 3, 2023, for ECSUD and took notes on the following high-level observations:

The planning group received nominations for various vacancies resulting from term expirations and resignations. Most importantly, Humberto Ramos was selected to continue representing water districts on the planning group.

Mr. Ramos chairs a subcommittee that worked on population and water demand projections. The subcommittee received ~47 requests for revisions to individual water user groups population and water demand projections. Multiple CRWA member entities requested revisions. The TWDB provided two migration scenarios for the planning groups to consider. Instead of applying one scenario to the entire region, the subcommittee carefully applied one of the two scenarios on a per-county basis. Typically, a request for an increase in a water user group's population requires a decrease in some other water use group's population for a net zero change. This year, the planning group voted to send the requested revisions for increases to the TWDB without a proportionate decrease.

San Antonio Water System provided an update on the 88th Legislative Session.

The planning group is working on identifying infeasible water management strategies, and if any are identified, a revision to the previous plan will be necessary.

The next short-term steps for the planning group are:

Water Availability and Supply Analysis Identification of Water Needs Water Management Strategies and Evaluations

The next meeting will be conducted at SAWS on November 2<sup>nd</sup> at 9:30 a.m.

## **Exhibit C**

## GMA 13 Meeting Sept 13, 2023

## Email from James Bene with R.W. Harden & Associates

Good Morning John,

I remembered that I forgot to fill you in on the GMA-13 meeting. As you can guess from the length of the presentation by Bill Hutchinson, the meat of the act was the discussion of the repair/modifications to the brand new GAM. Keep in mind that Bill was on the team that constructed the model in the first place, so it frustrates me that GMA-13 is paying him to fix his mistakes, which will probably color my remarks. As you might recall, the primary problems with the new GAM are:

- <u>High transmissivity in the Carrizo and some other aquifers</u>. There are regions in Gonzales and LaSalle Counties where the Carrizo transmissivity is 20X-50X higher than documented values. As a result, drawdown in the Carrizo in those areas will be severely underpredicted.
- Low specific yield (Sy) throughout the model. Typical specific yield values for sands range from about 0.2 to 0.25 (20% to 25%), while the modelers applied a specific yield of 0.005 (0.5%) throughout the model. This means that where pumpage is simulated in model cells under water table conditions, the model will overpredict drawdown by about 40X.

Bill plans on increasing the Sy to 0.1 in outcrop areas with cell thicknesses of less than 100 ft, which is better but still significantly less than documented values. There were comments made to that effect at the meeting; Bill's response is that the higher Sy values didn't affect the overall model calibration results. This is an (deliberately?) obtuse response because, as he well knows, Sy values only affect calculated drawdown in water table areas, which by their nature are limited in their extent and don't affect the majority of current calibration points. While changing the Sy doesn't impact model calibration, it does affect the simulation of future drawdown from pumpage in outcrop zones.

CRWA's production is near the outcrop and will likely be overpredicted by the model. We'll evaluate the changes he makes and determine if we need to be a little more aggressive with our comments to the GCDs and the TWDB.

Apparently, Bill found some other problems with the model as he was exploring the best ways to fix it. River conductance and high vertical conductivity values were identified and discussed. It's not clear what he's doing to the river conductance but (our experience suggests) whatever he does will have little impact on the model results more than a cell or two distant from the areas where the simulated river crosses aquifer outcrops. The vertical conductivity was set greater than 10X of the horizontal conductivity in a significant number of cells, which is generally considered too high. Bill plans on resetting all of the high vertical conductivities to be 1/10<sup>th</sup> the value of the cell's horizontal conductivity.

Bill also determined/suspects that the pumpage in the model isn't accurate, to which I roll my eyes. This is the most common shortcoming of model building and calibration because groundwater use reports are typically inaccurate, and the degree of inaccuracy is immediately transferred to the model results because drawdown is exactly proportional to pumpage. Not considering pumpage inaccuracy during calibration is a rookie mistake (these guys aren't rookies!) that is probably the root cause of most of the problems with the GAM. Our review of the model inputs and discussions with the modeling team suggest that the high transmissivities in the model resulted from the auto-calibration (PEST) routine's attempt to channel

drawdown from known pumpage centers to areas of the model where drawdown has been measured in the real-world but there is little recorded pumpage.

In typical Bill fashion, the bulk of the slides in the presentation are statistical analysis plots that convey little information and seem to be engineered to make the viewer sleepy. The gist is that he's going to make a myriad of changes to the model over the next few months and we won't really know what he did or how the model results will be impacted until we can review the new model files ourselves.

**James** 

James Bené, P.G. | Principal – VP



R. W. Harden & Associates, Inc. 9009 Mountain Ridge Drive, Suite 100 Austin, Texas 78759 | (512) 345-2379 www.rwharden.com

## CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	AGENDA NUMBE
DAIE		

12/11/2023

FINANCIAL REPORT AND CHECK REGISTER REPORT

CRWA 23-11-081

INITIATED BY

JOAN WILKINSON

## STAFF RECOMMENDATION

Approve the October 2023 Financial Report and Check Register Report until audited.

## BACKGROUND INFORMATION

The October 2023 Financial Report and Check Register Report are attached.

## FINANCIAL IMPACT

None

## MOTION

Motion to approve the following resolution.

## **CANYON REGIONAL WATER AUTHORITY**

## **RESOLUTION No. 23-11-081**

 $\,$  BE IT RESOLVED that the October 2023 Financial Report and Check Register Report of Canyon Regional Water authority are approved until audited.

	Adop	itea this 11°	day of Dece	mber 2023	
	Ayes	Nays	Abstained	Absent	
			Approve	ed by:	Timothy D. Fousse, CPM President
Certified and attested by:		Doris Ste	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		Fresident

## CANYON REGIONAL WATER AUTHORITY Balance Sheet

As of October 31, 2023

	Oct 31, 23
ASSETS	
Current Assets	
Checking/Savings	
1001 · First United Bank 1006 · First United Checking #5207	1,500,636.82
1010 · First United Checking #5207	2,129.16
1015 · Money Market #2160	1,187,781.75
1017 · HC SM Capacity Buy-In #6744	1,158,098.49
Total 1001 · First United Bank	3,848,646.22
1100 · First United Bank (Res)	
1105 · LD/MC Series 2016, #3017	2,050,540.91
1107 · HC 2005 #3603	3,932.12
1111 · HC Series 2017 #6074	164,778.36
1109 · HC Series 2021 #6663	344,100.50
1113 · HC Counties 2021 Ref #0636	87,644.86
1132 · Wells Ranch Series 2015, #6031	1,801,274.69
1133 · Wells Ranch Series 2016, #3009	1,550,697.08
1134 · Wells Ranch Series 2021 #0911	595,146.08
1140 · L/D Membrane Fund #5701	1,069,694.30
1140-01 · LD Membr-Nanostone Escrow #2545	289,571.75 416,512.50
1142 · H/C Membrane Fund #5693 1145 · Repair & Replacement Fund	4,381,398.57
Total 1100 · First United Bank (Res)	12,755,291.72
1120 · Logic	
1121 · Logic, General Funds	1,205,777.51
1127 · Wells Ranch, Construction #027	780.20
1158 · HC Construction	17,030,657.46
Total 1120 · Logic	18,237,215.17
1160 · BOKF, NA, Austin,WR Series 2015 1161 · BOKF, NA, Austin, HC Series 2017	125,860.28 4,157,386.03
Total Checking/Savings	39,124,399.42
Accounts Receivable	
1200 · Accounts Receivable	4,785,349.10
1205 · A/R, Alliance Water	
1205-01 · A/R, Alliance, Crystal Clear SUD	1,821,238.07
1205-02 · A/R, Alliance, Martindale WSC	28,588.05
1205-03 · A/R, Alliance, Green Valley SUD	1,134,207.53 189,827.00
1205-04 · A/R, Alliance, County Line SUD	109,027.00
Total 1205 · A/R, Alliance Water	3,173,860.65
Total Accounts Receivable	7,959,209.75
Total Current Assets	47,083,609.17
Fixed Assets	
1400 · Capital Assets	500 000 00
1404 · Administration Building	586,288.00 11,273,728.00
1406 · Capitalized Construction Intere	402,287.46
1410 · Equipment & Vehicles	1,156,411.20
1411 · Nanostone - Lake Dunlap	6,437,579.37
1416 · Hays Caldwell 1420 · Lake Dunlap Phase I	4,764,833.00
1422 · Mid-Cities Phase I	8,475,370.50
1422 · Mid-Cities Phase I 1424 · Office Equipment	
1422 · Mid-Cities Phase I 1424 · Office Equipment 1434 · Property Improvements	8,475,370.50 77,863.66
1422 · Mid-Cities Phase I 1424 · Office Equipment 1434 · Property Improvements 1436 · River Crossing	8,475,370.50 77,863.66 60,021.00
1422 · Mid-Cities Phase I 1424 · Office Equipment 1434 · Property Improvements 1436 · River Crossing 1441 · LD Ozone Project	8,475,370.50 77,863.66 60,021.00 577,934.36 3,677,549.16 5,155,886.29
1422 · Mid-Cities Phase I 1424 · Office Equipment 1434 · Property Improvements 1436 · River Crossing 1441 · LD Ozone Project 1442 · Dunlap Water Treatment Plant	8,475,370.50 77,863.66 60,021.00 577,934.36 3,677,549.16 5,155,886.29 30,326.57
1422 · Mid-Cities Phase I 1424 · Office Equipment 1434 · Property Improvements 1436 · River Crossing 1441 · LD Ozone Project	8,475,370.50 77,863.66 60,021.00 577,934.36 3,677,549.16 5,155,886.29

## CANYON REGIONAL WATER AUTHORITY Balance Sheet

As of October 31, 2023

	Oct 31, 23
1445 · HC Chemical Tanks 1446 · Mid-Cities Phase 2 1447 · Hays Caldwell Expansion-2017 1447-01 · HC Expansion, Capitalized Int	5,293.13 32,322,395.02 122,276.51
1447 · Hays Caldwell Expansion-2017 - Other	1,918,306.38
Total 1447 · Hays Caldwell Expansion-2017	2,040,582.89
1450 · Wells Ranch Project 1450-01 · WellsRanch, Cap Interest 1450 · Wells Ranch Project - Other	5,041,728.49 40,885,863.75
Total 1450 · Wells Ranch Project	45,927,592.24
1451 · Wells Ranch Phase II-2011 1451-01 · Capitalized Interest 1451 · Wells Ranch Phase II-2011 - Other	1,872,118.97 14,113,408.01
Total 1451 · Wells Ranch Phase II-2011	15,985,526.98
1452 · Wells Ranch Phase II-2015 1452-01 · Capitalized Interest 1452 · Wells Ranch Phase II-2015 - Other	1,930,053.69 40,434,973.53
Total 1452 · Wells Ranch Phase II-2015	42,365,027.22
1453 · Wells Ranch Phase III 1490 · Accumulated Depreciation	501,004.68 -47,704,967.12
Total 1400 · Capital Assets	136,171,833.80
Total Fixed Assets	136,171,833.80
Other Assets 1805 · Deferred Outflow-Pension 1670 · Land 1672 · Johnson Abstract #47 1673 · Hays Caldwell Project 1673-01 · Carlisle - 2.009 Acres 1673-02 · Land Acquisition Consultant HC	174,748.66 163,243.95 549,930.44 5,698.00
Total 1673 · Hays Caldwell Project	555,628.44
1674 · Randolph Foster 10 Acres 1675 · Wells Ranch Project 1676 · Land & Land Rights	290,837.56 62,061.82 1,276,634.70
Total 1670 · Land	2,348,406.47
1703 · Water Rights 1800 · Deferred Loss on Debt Refunding	3,439,604.49 111,397.00
Total Other Assets	6,074,156.62
TOTAL ASSETS	189,329,599.59
LIABILITIES & EQUITY Liabilities Current Liabilities Accounts Payable	
2000 · Accounts Payable	728,705.65
Total Accounts Payable	728,705.65

# CANYON REGIONAL WATER AUTHORITY Balance Sheet

As of October 31, 2023

_	Oct 31, 23
Other Current Liabilities 2310 · Deferred Inflow-Pension 2300 · Net Pension Liability 2002 · A/P, Misc. 2050 · Accrued Interest Payable 2140 · Texas Workforce 2165 · TCDRS Retirement Payable	26,892.00 109,403.00 -240.00 837,969.15 3.54 24,485.42
Total Other Current Liabilities	998,513.11
Total Current Liabilities	1,727,218.76
Long Term Liabilities 2200 · Deferred Revenue - San Marcos 2400 · Bonds Payable	4,975,022.00
2400 · Bolids Fayable 2408 · LD/MC Tax-Exempt Series 2016 2426 · Hays Caldwell Series 2005 2430 · Hays Caldwell Series 2017 2431 · Hays Caldwell TE Series 2021 2432 · Hays Caldwell Series 2021 Ref 2443 · Wells Ranch Series 2015 2446 · Wells Ranch Series 2016 2447 · Wells Ranch Series 2021	16,720,000.00 535,000.00 4,055,000.00 11,650,000.00 1,940,000.00 33,195,000.00 21,385,000.00 12,600,000.00
Total 2400 · Bonds Payable	102,080,000.00
2490 · Unamortized Premiums	5,073,612.00
Total Long Term Liabilities	112,128,634.00
Total Liabilities	113,855,852.76
Equity 3810 · Restricted for Membranes 3820 · Restricted for Debt Service 3950 · Retained Earnings 3975 · Inv in Cap Asset, net of debt Net Income	1,622,825.00 4,181,580.00 24,847,732.22 42,875,888.52 1,945,721.09
Total Equity	75,473,746.83
TOTAL LIABILITIES & EQUITY	189,329,599.59

# Canyon Regional Water Authority Profit Loss Budget vs. Actual October 2023 - October 2023

# Canyon Regional Water Authority Profit Loss Budget vs. Actual October 2023 - October 2023

	October 2023	October 2023 October 2023	Annual Budget	\$ Over/(Under) Annual Budget	% of Annual Budget
7000 · Plant Expenses-Variable Costs 7005 · Plant Utilities 7010 · Chemicals Total 7000 · Plant Expenses-Variable Costs	240,320.99 327,759.79 568,080.78	240,320.99 327,759.79 568,080.78	3,151,733.24 3,084,120.09 6,235,853.33	-2,911,412.25 -2,756,360.30 -5,667,772.55	7.63% 10.63% 9.11%
7100 · Operating Expenses 7115 · Plant Maintenance & Supplies 7116 · Generator Maintenance	69,497.18 5,769.20 5,197.57	69,497.18 5,769.20 5,197.57	1,220,200.00 109,800.00 40,360.00	-1,150,702.82 -104,030.80 -35,162.43	5.7% 5.25% 12.88%
7117 - Equipment rental 7120 - SCADA 7122 - Vehicle Operations 7125 - Grounds Maintenance	810.00 1,750.18 10,735.11	810.00 1,750.18 10,735.11	205,000.00 158,000.00 134,350.00	-204,190.00 -156,249.82 -123,614.89 -25,046.21	0.4% 1.11% 7.99% 12.58%
7131 · Permits and Fees 7135 · Lab Supplies & Testing Fees 7140 · Insurance	3,603.79 16,903.48 119,266.98	3,603.79 16,903.48 119,266.98	26,000.00 126,600.00 133,998.88 36,500.00	-109,696,52 -14,731,90 -36,500,00	13.35% 89.01% 0.0%
7150 · Meals & Functions 7155 · Memberships & Dues 7160 · Mileage 7162 · Office Sunnlies and Expense	0.00 0.00 35.37 135.15	0.00 0.00 35.37 135.15	10,550.00 38,800.00 30,000.00	-10,550.00 -38,764.63 -29,864.85	0.09% 0.09% 0.45%
7165 - Training 7170 - Clothing 7175 - Telephones 7180 - Mobile Telephones 7190 - Network Expenses 7191 - Internet Domain 7195 - Contract Labor 7196 - GW TransportPumping Fees	0.00 5,500.00 385.74 1,022.96 0.00 400.43 72,585.88	5,500.00 385.74 1,022.96 0.00 400.43 72,585.88 313,599.02	9,500.00 7,000.00 4,500.00 18,500.00 10,000.00 5,000.00 4,000.00 4,000.00 27,731,308.88	-9,500.00 -1,500.00 -1,477.04 -10,000.00 -4,599.57 -4,000.00 -327,414.12 -2,417,709.86	0.0% 78.57% 8.57% 5.53% 0.0% 18.15% 11.48%
7500 · Payroll Expenses 7505 · Annual Pay 7510 · Overtime 7530 · On Call Total 7500 · Payroll Expenses	112,726,73 7,591,00 300,00 120,617.73	112,726.73 7,591.00 300.00 120,617.73	1,862,317.62 129,769.45 15,600.00 2,007,687.07	-1,749,590.89 -122,178.45 -15,300.00 -1,887,069.34	6.05% 5.85% 1.92% 6.01%
7600 · Employee Benefits 7605 · Payroll Taxes 7610 · Insurance 7615 · Retirement Total 7600 · Employee Benefits	8,788.63 21,810.44 16,042.16 46,641.23	8,788.63 21,810.44 16,042.16 46,641.23	155,244.08 439,220.28 261,140.89 855,605.25	-146,455.45 -417,409.84 -245,098.73 -808,964.02	5.66% 4.97% 6.14% 5.45%

# Canyon Regional Water Authority Profit Loss Budget vs. Actual October 2023 - October 2023

	October 2023	October 2023 October 2023	Annual Budget	\$ Over/(Under) Annual Budget	% of Annual Budget	
7800 · Professional Fees 7801 · SEC Disclosure 7802 · Bank Service Fees	0.00	0.00	2,250.00	-2,250.00	0.0%	
7803 · 401(k) Plan Fees 7806 · Bond Fees	442.50	0.00	3,000.00	00.000,6-	0.0%	
7805 · Legal Fees 7810 · Engineering 7815 · Director Bonds	10,499.20 58,100.60 0.00	10,499.20 58,100.60 0.00	400,000.00 400,000.00 1,200.00	-341,899.40	14.53%	
7820 - Accounting & Audit Total 7800 - Professional Fees	0.00	0.00 69,042.30	15,000.00 824,150.00	-15,000.00	8:38%	
7823 - Alliance Water	0.00	0.00	6,275,109.42	-6,275,109.42	%0.0	
Total Expense	2,540,927.14	2,540,927.14	40,588,361.73	-38,047,434.59	6.26%	
Net Ordinary Income	1,169,054.45	1,169,054.45	0.00	1,169,054.45	100.0%	
Other Income/Expense Other Income 8000 · Bond Payment Principal Net Other Income/Expense	776,666.64 776,666.64	776,686.64 776,668.64	0.00	0.00 776,666.64	100.0%	
Net Income	1,945,721.09	1,945,721.09	0.00	1,945,721.09	100.0%	

## CANYON REGIONAL WATER AUTHORITY Profit & Loss Prev Year Comparison

October 2023

	October 202	3			
	Oct 23	Oct 22	\$ Change	% Change	
Ordinary Income/Expense					1
Income				2 7%	,
4000 · Revenues 4002 · Debt Payments	1,033,683.01	1,073,719.61	-40,036.60 44,034.33	-3.7% 2.2%	,
4002 · Debt Payments 4003 · Raw Water	560,938.58	549,004.36	11,934.22	2.2% 100.0%	,
4004 · Water-New Berlin	14,581.00	0.00	14,581.00	0.0%	ļ
4009 · Membrane Replacement Fund	45,153.81	45,153.81	0.00 0.00	0.0%	!
4010 · Line Use & Delivery Contracts	11,902.44	11,902.44	0.00	0.0%	!
4011 · Line Use New Berlin	1,429.94	1,429.94 29,174.05	6,179.66	21.2%	ļ
4012 · Raw Water Delivery Fees	35,353.71	29,174.05 448,308.17	190,223.38	42.4%	!
4017 · Water Sales	638,531.55	295,297.68	46,821.21	15.9%	!
4018 · Plant Operations	342,118.89 149,552.45	145,160.85	4,391.60	3.0%	!
4020 · Repair & Replacement Funds	200,656.67	154,527.94	46,128.73	29.9%	ŀ
4022 · CRWA Administrative 4023 · Alliance Water	522,903.66	415,676.17	107,227.49	25.8% 129.3%	!
4024 · Interest Income General	34,671.55	15,119.08	19,552.47	129.3% 215.7%	!
4026 · Interest Income Bond Accounts	20,475.72	6,485.47	13,990.25	215.7% 84.8%	P
4028 · Interest Construction Accounts	96,771.20	52,362.02	44,409.18 16.11	1.3%	ļ
4030 · Other Income	1,257.41	1,241.30	465,418.70		14.3%
Total 4000 · Revenues	3,709,981.59	3,244,562.89	465,418.70		14.3%
Total Income	3,709,981.59	3,244,562.89	465,418.70		14.3%
Gross Profit	3,709,981.59	3,244,562.89	400,410.70		And Noneconnec
Expense 5000 · Bond Repayments		100 00	-1,179.40	-0.1%	
5005 · Bond Payments	1,055,989.69	1,057,169.09	-1,179.40	27.5.5.00	-0.1%
Total 5000 · Bond Repayments	1,055,989.69	1,057,169.09	-1,11, -1.1-		Grand American com-
5500 · Water Purchases	211,302.58	199,491.75	11,810.83	5.9%	ŀ
5501 · Raw Water Purchases 5502 · Water Purchases, New Berlin	14,581.00	0.00	14,581.00	100.0%	: 2 00/
Total 5500 · Water Purchases	225,883.58	199,491.75	26,391.83		13.2%
5600 · Membrane Funds	40,284.00	0.00	40,284.00 32,399.68		100.0% 137.6%
5700 · Repair & Replacement Funds	55,942.84	23,543.16	32,388.00		1011-1-
6000 · Line Use & Delivery Costs	44 570 FO	11,570.59	0.00	0.0%	ı.
6010 · Line Contract GBRA	11,570.59 33,275.38	31,508.82	1,766.56	5.6%	ă.
6011 · GBRA Raw Water Delivery Fees		43,079.41	1,766.56		4.1%
Total 6000 · Line Use & Delivery Costs	44,845.97	70,5	**#**	3 244	
7000 · Plant Expenses-Variable Costs	240,320.99	244,821.51	-4,500.52	-1.8%	
7005 · Plant Utilities	327,759.79	244,826.72	82,933.07	33.9%	į.
7010 · Chemicals	568,080.78	489,648.23	78,432.55		16.0%
Total 7000 · Plant Expenses-Variable Costs	000,		VEC.	0.20/	æ
7100 · Operating Expenses 7115 · Plant Maintenance & Supplies	69,497.18	69,733.61	-236.43	-0.3%	
7116 · Generator & Compressor Maint.	5,769.20	3,485.56	2,283.64	65.5% 62.1%	
7117 · Equipment rental	5,197.57	3,207.22	1,990.35	100.0%	
7117 · Equipment rental 7120 · SCADA	810.00	0.00	810.00 337.41	23.9%	
7122 · Vehicle Operations	1,750.18	1,412.77	337.41 1,223.67	12.9%	
7125 · Grounds Maintenance	10,735.11	9,511.44	970.80	36.9%	
7131 · Permits and Fees	3,603.79	2,632.99 8,972.25	7,931.23	88.4%	6
7135 · Lab Supplies & Testing Fees	16,903.48	93,795.80	25,471.18	27.2%	6
7140 · Insurance	119,266.98 0.00	-13.73	13.73	100.0%	6
7150 · Meals & Functions	0.00 35.37	2,851.26	-2,815.89	-98.8%	
7160 · Mileage	135.15	763.91	-628.76	-82.3%	
7162 · Office Supplies and Expense	0.00	48.19	-48.19	-100.0%	
7165 · Training 7170 · Clothing	5,500.00	3,000.00	2,500.00	83.3% 5.8%	
7170 · Clothing 7175 · Telephones	385.74	364.58	21.16 -24.39	-2.3%	
7180 · Mobile Telephones	1,022.96	1,047.35	0.00	0.0%	
7191 · Internet Domain 7196 · GW Transport/Pumping Fees	400.43 72,585.88	400.43 15,288.55	57,297.33	374.8%	
Total 7100 · Operating Expenses	313,599.02	216,502.18	97,096.84		44.9%
7500 · Payroll Expenses			06 170 58	580.9%	<b>%</b>
7505 · Annual Pay	112,726.73	16,556.15	96,170.58 9,017.19	632.3%	
7510 · Overtime	7,591.00	-1,426.19 -337.43	637.43	188.9%	
7530 · On Call	300.00	-001.100	-	<u> </u>	-
Total 7500 · Payroll Expenses	120,617.73	14,792.53	105,825.20		715.4%
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## CANYON REGIONAL WATER AUTHORITY Profit & Loss Prev Year Comparison

October 2023

	Oct 23	Oct 22	\$ Change	% Change
7600 · Employee Benefits 7605 · Payroll Taxes 7610 · Insurance 7615 · Retirement	8,788.63 21,810.44 16,042.16	911.09 13,834.95 1,684.87	7,877.54 7,975.49 14,357.29	864.6% 57.7% 852.1%
Total 7600 · Employee Benefits	46,641.23	16,430.91	30,210.32	183.9%
7800 · Professional Fees 7803 · 401(k) Plan Fees 7805 · Legal Fees 7810 · Engineering	442.50 10,499.20 58,100.60	0.00 19,356.52 4,820.00	442.50 -8,857.32 53,280.60	100.0% -45.8% 1,105.4%
Total 7800 · Professional Fees	69,042.30	24,176.52	44,865.78	185.6%
	2,540,927.14	2,084,833.78	456,093.36	21.9%
Total Expense  Net Ordinary Income	1,169,054.45	1,159,729.11	9,325.34	0.8%
Other Income/Expense Other Income 8000 · Bond Payment Principal	776,666.64	746,249.99	30,416.65	4.1%
Total Other Income	776,666.64	746,249.99	30,416.65	4.1%
Net Other Income	776,666.64	746,249.99	30,416.65	4.1%
Net Income	1,945,721.09	1,905,979.10	39,741.99	2.1%

Туре	Date	Num	Name	Memo	Amount	Balance
1001 · First United	Rank	\ <u></u>				1,042,989.60
1006 · First Unit		5207			2.26	1,042,989.60
Deposit	10/02/2023			Deposit	847,340.09	1,890,329.69
Deposit	10/02/2023			Deposit	218,174.77 -28.00	2,108,504.46 2,108,476.46
Bill Pmt -Che	10/02/2023	ACH	GVEC - Big Oaks	08/07/2023 - 09/07/2 08/07/2023 - 09/07/2	-8,853.90	2,099,622.56
Bill Pmt -Che	10/02/2023	ACH	GVEC - Bond East Well GVEC - Bond West Well	08/07/2023 - 09/07/2	-4,985.89	2,094,636.67
Bill Pmt -Che	10/02/2023	ACH	GVEC - Bolld West Well	08/07/2023 - 09/07/2	-3,292.00	2,091,344.67
Bill Pmt -Che Bill Pmt -Che	10/02/2023 10/02/2023	ACH ACH	GVEC - Buil Trap Well	08/07/2023 - 09/07/2	-3,985.00	2,087,359.67
Bill Pmt -Che	10/02/2023	ACH	GVEC - Chicken House Well	08/07/2023 - 09/07/2	-3,536.05	2,083,823.62
Bill Pmt -Che	10/02/2023	ACH	GVEC - Christian East Well	08/07/2023 - 09/07/2	-3,967.80	2,079,855.82
Bill Pmt -Che	10/02/2023	ACH	GVEC - Christian West Well	08/07/2023 - 09/07/2	-4,496.43	2,075,359.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Cibolo	08/07/2023 - 09/07/2	-28.00	2,075,331.39 2,071,595.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Coastal Field Well	08/07/2023 - 09/07/2 08/07/2023 - 09/07/2	-3,736.00 -57.00	2,071,538.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Damerau	08/07/2023 - 09/07/2	-13,354.00	2,058,184.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Deadman Tank Well	08/07/2023 - 09/07/2	-15,485.00	2,042,699.39
Bill Pmt -Che	10/02/2023	ACH ACH	GVEC - Deer Stand Well GVEC - FM 467	08/07/2023 - 09/07/2	-30.00	2,042,669.39
Bill Pmt -Che	10/02/2023 10/02/2023	ACH	GVEC - FM 407 GVEC - Green Valley	08/07/2023 - 09/07/2	-29.00	2,042,640.39
Bill Pmt -Che Bill Pmt -Che	10/02/2023	ACH	GVEC - GV 7293 IH 10	08/07/2023 - 09/07/2	-31.00	2,042,609.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Hardy Road	08/07/2023 - 09/07/2	-29.00	2,042,580.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Hickory Forest	08/07/2023 - 09/07/2	-43.00	2,042,537.39
Bill Pmt -Che	10/02/2023	ACH	GVEC - Littlefield Well	08/07/2023 - 09/07/2	-4,591.18	2,037,946.21
Bill Pmt -Che	10/02/2023	ACH	GVEC - Marion	08/07/2023 - 09/07/2	-27.00	2,037,919.21
Bill Pmt -Che	10/02/2023	ACH	GVEC - Pig Trap Well	08/07/2023 - 09/07/2	-3,087.00 -62.00	2,034,832.21 2,034,770.21
Bill Pmt -Che	10/02/2023	ACH	GVEC - Pivot Irrigation	08/07/2023 - 09/07/2 08/07/2023 - 09/07/2	-267.00	2,034,770.21
Bill Pmt -Che	10/02/2023	ACH	GVEC - Tommys Well	08/07/2023 - 09/07/2	-17,469.24	2,017,033.97
Bill Pmt -Che	10/02/2023	ACH	GVEC - Wagner Booster St	Deposit	64,848.25	2,081,882.22
Deposit	10/03/2023	Direc	Allman, Michael	Берозіс	-2,693.33	2,079,188.89
Paycheck	10/06/2023 10/06/2023	Direc	Cruz, Edward D		-1,421.27	2,077,767.62
Paycheck Paycheck	10/06/2023	Direc	Diaz, Hanna S		-1,412.52	2,076,355.10
Paycheck	10/06/2023	Direc	Flores, Jimmy		-2,133.49	2,074,221.61
Paycheck	10/06/2023	Direc	Kirkland, Debra M		-1,890.10	2,072,331.51
Paycheck	10/06/2023	Direc	McKnight III, John R.		-1,559.53	2,070,771.98
Paycheck	10/06/2023	Direc	McMullen, David W.		-3,750.26 -3,422.48	2,067,021.72 2,063,599.24
Paycheck	10/06/2023	Direc	Moreno, Joe		-3,422.46 -1,665.53	2,061,933.71
Paycheck	10/06/2023	Direc	Powers, Frantiska A		-1,658.34	2,060,275.37
Paycheck	10/06/2023	Direc	Saldana, Michael A Shirk, Austin		-1,528.78	2,058,746.59
Paycheck	10/06/2023 10/06/2023	Direc	Sims, Clarissa R		-1,934.16	2,056,812.43
Paycheck Paycheck	10/06/2023	Direc	Telfer, Adam C		-3,593.76	2,053,218.67
Paycheck	10/06/2023	Direc	Wallace, Russell L		-1,629.42	2,051,589.25
Paycheck	10/06/2023	Direc	Whitelatch, Jr., Richard L		-1,601.65	2,049,987.60
Paycheck	10/06/2023	Direc	Wilkinson, Joan A.		-3,298.16	2,046,689.44
Paycheck	10/06/2023	Direc	Kaufman, John M	74.050000	-4,940.83 -14,558.12	2,041,748.61 2,027,190.49
Liability Check	10/06/2023	<b>EFTPS</b>	US Treasury	74-2586063	-14,556.12	2,026,273.25
Liability Check	10/06/2023	ACH	John Hancock California State Disbursem	401(k) Retirement Plan 200000001098628	-449.07	2,025,824.18
Liability Check	10/06/2023	37240	Office of the Attorney Gene	AG# 0012809999	-489.69	2,025,334.49
Liability Check	10/06/2023 10/06/2023	37241 ACH	Texas Workforce Commissi	구시 강경을 가게 시민들은 아이들의 사람들이 있습니다. 스타스 교육은	-9.58	2,025,324.91
Liability Check Bill Pmt -Che	10/06/2023	37242	Armadillo Lawn Care & Irrig	Lawn Maintenance	-7,651.67	2,017,673.24
Bill Pmt -Che	10/06/2023	37243	Austin Shirk.	Clothing Allowance	-500.00	2,017,173.24
Bill Pmt -Che	10/06/2023	37244	Brenntag Southwest, Inc.	Chemicals	-11,106.50	2,006,066.74
Bill Pmt -Che	10/06/2023	37245	Bryant Law PC	Legal Fees	-7,710.30	1,998,356.44
Bill Pmt -Che	10/06/2023	37246	Clarissa Sims	Clothing Allowance	-500.00	1,997,856.44 1,993,964.63
Bill Pmt -Che	10/06/2023	37247	David McMullen	Aug-Sept Mileage &	-3,891.81 -500.00	1,993,464.63
Bill Pmt -Che	10/06/2023	37248	Debra M. Kirkland	Clothing Allowance Ink Reimbursement	-18.39	1,993,446.24
Bill Pmt -Che	10/06/2023	37249	Doris Steubing DPC Industries	Chemcials	-5,438.38	1,988,007.86
Bill Pmt -Che	10/06/2023 10/06/2023	37250 37251	Dynamic Mechanical Contr	A/C Wall Unit @ 160	-14,928.50	1,973,079.36
Bill Pmt -Che Bill Pmt -Che	10/06/2023	37252	Edward Cruz	Clothing Allowance	-500.00	1,972,579.36
Bill Pmt -Che	10/06/2023	37253	GCUWCD	FY 2022-2023 Correc	-57,297.33	1,915,282.03
Bill Pmt -Che	10/06/2023	37254	Gold Star Exterminators	Pest Control	-300.00	1,914,982.03
Bill Pmt -Che	10/06/2023	37255	Guadalupe County Ground	GW Transport/Pumpi	-15,288.55	1,899,693.48 1,897,133.86
Bill Pmt -Che	10/06/2023	37256	Hach Company	Lab Supplies	-2,559.62 -450.00	1,896,683.86
Bill Pmt -Che	10/06/2023	37257	James Radtke Construction	Line Locate @ 1064 Clothing Allowance	-500.00	1,896,183.86
Bill Pmt -Che	10/06/2023	37258	Jimmy Flores.	Cibiling Allowance	000.00	.1-3-11-2-2

Туре	Date	Num	Name	Memo	Amount	Balance
			Joe Moreno.	Clothing Allowance &	-879.25	1,895,304.61
Bill Pmt -Che	10/06/2023	37259	Law Offices of Patricia Erlin	Groundwater Permitti	-4,067.00	1,891,237.61
Bill Pmt -Che	10/06/2023	37260 37261	Lhoist North America of Te	Lime	-14,735.47	1,876,502.14
Bill Pmt -Che	10/06/2023 10/06/2023		Matheson Tri-Gas, Inc.	Oxygen, Nitrogen &	-12,315.05	1,864,187.09 1,863,687.09
Bill Pmt -Che	10/06/2023		Michael C. Allman	Clothing Allowance	-500.00	1,863,687.09
Bill Pmt -Che Bill Pmt -Che	10/06/2023	37264	Michael Saldana	Clothing Allowance	-500.00 0.00	1,863,187.09
Bill Pmt -Che	10/06/2023	37265	Mission Controls & Automa	VOID: Parts	-480.00	1,862,707.09
Bill Pmt -Che	10/06/2023	37266	New Braunfels Welders Su	Cylinder Rental	-500.00	1,862,207.09
Bill Pmt -Che	10/06/2023	37267	Richard Whitelatch, Jr.	Clothing Allowance	-500.00	1,861,707.09
Bill Pmt -Che	10/06/2023	37268	Russell Wallace.	Clothing Allowance Dental Insurance	-1,407.44	1,860,299.65
Bill Pmt -Che	10/06/2023	37269	Standard Insurance Compa	Texas 811	-215.65	1,860,084.00
Bill Pmt -Che	10/06/2023	37270	Texas Excavation Safety S	Wells Ranch Water L	-450.00	1,859,634.00
Bill Pmt -Che	10/06/2023	37271	Texas Land and Right of W	Garbage Disposal	-1,274.97	1,858,359.03
Bill Pmt -Che	10/06/2023	37272	Waste Management Mission Controls & Automa	Odibugo = F	-1,126.94	1,857,232.09
Bill Pmt -Che	10/06/2023	37273	MISSION CONTROLS & Automania	Deposit	300,696.65	2,157,928.74
Deposit	10/11/2023	ACH	Texas Fleet Fuel	Vehicle/Equipment F	-1,027.79	2,156,900.95
Bill Pmt -Che	10/13/2023	37274	Aflac	Employee Voluntary I	-1,209.84	2,155,691.11
Bill Pmt -Che	10/13/2023 10/13/2023	37275	Ardurra Group, Inc.	<b>HCWTP Ozone Study</b>	-3,421.19	2,152,269.92 2,147,164.92
Bill Pmt -Che		37276	Bleck Electric Company	Motor Repair	-5,105.00	2,147,164.92
Bill Pmt -Che		37277	Brenntag Southwest, Inc.	Chemicals	-18,980.50	2,126,164.42
Bill Pmt -Che Bill Pmt -Che	(시간 구성되었다.) 그렇게 안 없었다.	37278	Citibank, N.A.	Mastercard	-11,762.39 -5,087.92	2,111,334.11
Bill Pmt -Che		37279	Core & Main LP	Parts	-5,067.92 -1,454.07	2,109,880.04
Bill Pmt -Che	10/13/2023	37280	Dex Imaging	Admin Copier	-6,673.60	2,103,206.44
Bill Pmt -Che		37281	DPC Industries	Chlorine	-163.73	2,103,042.71
Bill Pmt -Che		37282	DSHS Central Lab MC2004	Lab Testing A/C Repairs & PM's	-3,155.39	2,099,887.32
Bill Pmt -Che	10/13/2023	37283	Dynamic Mechanical Contr	Chemcials	-60,300.00	2,039,587.32
Bill Pmt -Che	10/13/2023	37284	Evoqua Water Technologie	Mileage Reimbursem	-163.75	2,039,423.57
Bill Pmt -Che	10/13/2023	37285	Frantiska Powers GBRA-Raw Water & TM	12613 A/F @ \$175 &	-248,298.55	1,791,125.02
Bill Pmt -Che	10/13/2023	37286	Hach Company	Lab Supplies & Parts	-10,924.05	1,780,200.97
Bill Pmt -Che		37287 37288	Helping Hand Hardware	Maintenance Supplies	-100.26	1,780,100.71
Bill Pmt -Che		37289	Ingersoll Rand Company	Air Compressor PM's	-4,386.22	1,775,714.49 1,775,414.49
Bill Pmt -Che		37290	James Radtke Construction	Line Locate @ IH10	-300.00	1,773,636.91
Bill Pmt -Che Bill Pmt -Che		37291	Kurita America Inc.	Parts	-1,777.58 -7,374.68	1,766,262.23
Bill Pmt -Che		37292	Lhoist North America of Te	Chemicals	-5,850.00	1,760,412.23
Bill Pmt -Che		37293	Mr. & Mrs. Dan Wyatt	117 A/F @ \$50 Lab Testing	-3,628.00	1,756,784.23
Bill Pmt -Che	. 10/13/2023	37294	Pollution Control Services	2 (1 4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	-3,865.38	1,752,918.85
Bill Pmt -Che		37295	R.W Harden & Associates, Sam's Club MC/SYNCB	Supplies	-817.82	1,752,101.03
Bill Pmt -Che		37296	Standard Insurance Compa		-342.99	1,751,758.04
Bill Pmt -Che		37297 37298	TML Intergovernmental Ris		-119,266.98	1,632,491.06
Bill Pmt -Che		37298	Williams Supply Company	Parts	-117.08	1,632,373.98 2,356,665.76
Bill Pmt -Che	10/13/2023	31200	Villianio Cappy	Deposit	724,291.78	2,356,665.76
Deposit		ACH	TCDRS		-11,757.85 -11,688.00	2,333,219.91
Liability Check Liability Check		ACH	TCDRS		214,581.74	2,547,801.65
Deposit	10/17/2023	(T. ASSASSA (1) - 10 )		Deposit	-12.17	2,547,789.48
Bill Pmt -Che		ACH	CPS - I 10	I-10 Utilities QuickBooks generate	0.00	2,547,789.48
Bill Pmt -Che	10/18/2023		GVEC - Internet	Quickbooks denotate	-2,873.80	2,544,915.68
Paycheck	10/20/2023	Direc			-1,619.04	2,543,296.64
Paycheck	10/20/2023	Direc	Cruz, Edward D		-1,513.67	2,541,782.97
Paycheck	10/20/2023	Direc			-2,055.60	2,539,727.37
Paycheck	10/20/2023		const. I Dollar M		-1,587.15	2,538,140.22
Paycheck	10/20/2023				-1,660.31	2,536,479.91 2,535,992.04
Paycheck	10/20/2023 10/20/2023		I I Dishard I		-487.87	2,532,693.88
Paycheck	10/20/2023		. Wilkinson, Joan A.		-3,298.16	2,532,088.03
Paycheck Paycheck	10/20/2023		. McKnight III, John R.		-605.85 -1,708.84	2,530,379.19
Paycheck	10/20/2023		. Saldana, Michael A		-3,274.77	2,527,104.42
Paycheck	10/20/2023				-2,300.80	2,524,803.62
Paycheck	10/20/2023				-1,452.39	2,523,351.23
Paycheck	10/20/2023	Direc			-2,241.66	2,521,109.57
Paycheck	10/20/2023				-4,941.89	2,516,167.68
Paycheck	10/20/2023				-3,692.42	2,512,475.20
Paycheck	10/20/2023				-3,469.66	2,509,005.6
Paycheck	10/20/2023			74-2586063	-14,381.80	2,494,623.8
Liability Chec				401(k) Retirement Plan	-947.76	2,493,676.0
Liability Chec					-449.07	2,493,226.9
Liability Chec	( 10/20/2020	0,00				

Туре	Date	Num	Name	Memo	Amount	Balance
	10/20/2023	37301	Office of the Attorney Gene	AG# 0012809999	-489.69	2,492,737.28
Liability Check	10/20/2023	37301	Office of the faterney Commen	Pall Trailer Installme	40,284.00	2,533,021.28
Transfer	10/20/2023	ACH	GVEC - Lake Dunlap	08/25/2023 - 09/25/2	-80,901.11	2,452,120.17
Bill Pmt -Che	10/20/2023	ACH	GVEC - Leissner Booster S	08/25/2023 - 09/25/2	-25,255.99	2,426,864.18
Bill Pmt -Che Bill Pmt -Che	10/20/2023	ACH	GVEC - Leissner Rd Boost	08/25/2023 - 09/25/2	-14,020.16	2,412,844.02
Bill Pmt -Che	10/20/2023	ACH	GVEC - Wagner Booster	08/25/2023 - 09/25/2	-9,450.94	2,403,393.08
Bill Pmt -Che	10/20/2023	ACH	GVEC - WR Plant	08/25/2023 - 09/25/2	-18,678.35	2,384,714.73
Bill Pmt -Che	10/20/2023	ACH	GVEC - WR Plant #2	08/25/2023 - 09/25/2	-29,879.59	2,354,835.14
Bill Pmt -Che	10/20/2023	37302	5S Service Company LLC	Pump Repairs & Ad	-22,523.70	2,332,311.44
Bill Pmt -Che	10/20/2023	37303	Anytime Fuel Pros LLC	Diessel for Generator	-1,310.36	2,331,001.08
Bill Pmt -Che	10/20/2023	37304	AT&T Mobility	Mobile Phones	-1,022.96	2,329,978.12
Bill Pmt -Che	10/20/2023	37305	Attorney R. L. Wilson	Legal Fees	-19,620.00	2,310,358.12
Bill Pmt -Che	10/20/2023	37306	Chameleon Industries, Inc.	Liquid Cupric Sulfate	-73,446.40	2,236,911.72 2,229,594.36
Bill Pmt -Che	10/20/2023	37307	DPC Industries	Clorine	-7,317.36	2,228,604.36
Bill Pmt -Che	10/20/2023	37308	DPC Industries-Cylinder Re	Cylinder Rental	-990.00	2,227,682.36
Bill Pmt -Che	10/20/2023	37309	Dynamic Mechanical Contr	A/C PM's @ WBS	-922.00	2,226,487.36
Bill Pmt -Che	10/20/2023	37310	Guadalupe-Blanco River A	Lab Testing	-1,195.00 0.761.17	2,216,726.19
Bill Pmt -Che	10/20/2023	37311	Hach Company	Lab Supplies & Parts	-9,761.17 -27,757.80	2,188,968.39
Bill Pmt -Che	10/20/2023	37312	Hawkins	Chemcials	-15,953.00	2,173,015.39
Bill Pmt -Che	10/20/2023	37313	Hierholzer Engineering, Inc	SCADA	-21,481.21	2,151,534.18
Bill Pmt -Che	10/20/2023	37314	Lhoist North America of Te	Lime	-35.83	2,151,498.35
Bill Pmt -Che	10/20/2023	37315	New Braunfels Utilities	46 Standpipe Utilities	-40,284.00	2,111,214.35
Bill Pmt -Che	10/20/2023	37316	Trojan Technologies Corp.	Pall Trailer Installme	-11,917.50	2,099,296.85
Bill Pmt -Che	10/20/2023	37317	Utility Engineering Group, P	Engineering Fees	-385.74	2,098,911.11
Bill Pmt -Che	10/20/2023	37318	Verve Cloud, Inc.	Telephone	-8,646.14	2,090,264.97
Bill Pmt -Che	10/20/2023	37319	Wastewater Transport Serv	Sludge Removal	507,278.52	2,597,543.49
Deposit	10/20/2023			Deposit HC Utilities - 500005	-22,613.73	2,574,929.76
Bill Pmt -Che	10/23/2023	ACH	Bluebonnet Electric	Utilities	-159.79	2,574,769.97
Bill Pmt -Che	10/23/2023	ACH	CPS - 1518	September Overages	-1,243.55	2,573,526.42
Transfer	10/24/2023			LD-Monthly Bond Pa	-148,238.65	2,425,287.77
Transfer	10/24/2023			Bond Payment Trans	-24,182.49	2,401,105.28
Transfer	10/24/2023			MC-Bond Payment T	-154,239.46	2,246,865.82
Transfer	10/24/2023			Bond Payment Trans	-553.23	2,246,312.59
Transfer	10/24/2023			Bond Payment Trans	-33,386.91	2,212,925.68
Transfer	10/24/2023			Bond Payment Trans	-58,928.72	2,153,996.96
Transfer	10/24/2023			Bond Payment Trans	-14,768.85	2,139,228.11
Transfer	10/24/2023			Bond Payment Trans	-259,041.10	1,880,187.01
Transfer	10/24/2023			Bond Payment Trans	-249,466.88	1,630,720.13
Transfer	10/24/2023			Bond Payment Trans	-98,519.91	1,532,200.22
Transfer	10/24/2023			Bond Payment Trans	-22,479.93	1,509,720.29
Transfer	10/24/2023			Bond Payment Trans	-9,982.18	1,499,738.11
Transfer	10/24/2023			Monthly Membrane T	-5,155.41	1,494,582.70
Transfer	10/24/2023 10/24/2023			Monthly Membrane T	-39,998.40	1,454,584.30
Transfer	10/24/2023			Funds Transfer	-44,958.43	1,409,625.87
Transfer	10/24/2023			Funds Transfer	-28,559.65	1,381,066.22
Transfer	10/24/2023			Funds Transfer	-53,348.21	1,327,718.01
Transfer	10/24/2023			Funds Transfer	-18,294.56	1,309,423.45
Transfer	10/25/2023			Deposit	341,878.90	1,651,302.35
Deposit Bill Pmt -Che	10/26/2023	ACH	CPS - 1604	Utilities	-32,664.82	1,618,637.53
Transfer	10/26/2023			IH-10 RAM Utilites P	15,750.00	1,634,387.53
Transfer	10/26/2023			Ingersoll Rand-2 Co	21,073.09	1,655,460.62
Bill Pmt -Che		ACH	Texas Fleet Fuel	Vehicle/Equipment F	-782.10	1,654,678.52
Bill Pmt -Che		37320	Analytical Environmental La	Lab Testing Fees	-675.00	1,654,003.52 1,651,480.84
Bill Pmt -Che		37321	Anytime Fuel Pros LLC	Generator Fuel	-2,522.68	1,651,265.15
Bill Pmt -Che		37322	Avesis	Employee Vision Ins	-215.69	1,644,401.15
Bill Pmt -Che		37323	Brenntag Southwest, Inc.	Chemicals	-6,864.00	1,644,285.57
Bill Pmt -Che		37324	Charter Communications	Internet	-115.58 -45.15	1,644,240.42
Bill Pmt -Che		37325	Crimcheck	New Hire Background	-45.15 -5,001.20	1,639,239.22
Bill Pmt -Che		37326	DPC Industries	Chemicals	-12,976.05	1,626,263.17
Bill Pmt -Che		37327	Environmental Improvemen	Chlorine System PM'	-950.00	1,625,313.17
Bill Pmt -Che		37328	Fluid Meter Service, Corp.	Field Test Meters		1,615,056.94
Bill Pmt -Che		37329	Hach Company	Lab Supplies & CL17	-10,256.23 -25,578.00	1,589,478.94
Bill Pmt -Che		37330	Hawkins	Chemicals	-21,670.09	1,567,808.85
Bill Pmt -Che		37331	Ingersoll Rand Company	2 Compressors for WR	-9,035.84	1,558,773.01
Bill Pmt -Che		37332	Matheson Tri-Gas, Inc.	Oxygen	-9,035.6 <del>4</del> -4,901.25	1,553,871.76
Bill Pmt -Che		37333	NewGen Strategies and Sol	Rate Studies	-1,408.00	1,552,463.76
Bill Pmt -Che	. 10/27/2023	37334	Pierson Process Technolog		-1,287.00	1,551,176.76
Bill Pmt -Che	. 10/27/2023	37335	Pollution Control Services	Lab Testing	1,201.00	**************************************

Tuna	Date	Num	Name	Memo	Amount	Balance
Type  Bill Pmt -Che Paycheck Liability Check Deposit  Total 1006 · First Total 1001 · First U	10/27/2023 10/27/2023 10/27/2023 10/27/2023 10/27/2023 10/27/2023 10/30/2023 10/31/2023 10/31/2023	37336 37337 37338 37339 37340 37341 Direc EFTPS	RAM Utilities, LLC SAMCO Capital Markets, Inc. Standard Insurance Compa Tri-County A/C & Heating Inc. TX Health Benefits Pool Waste Connections Whitelatch, Jr., Richard L US Treasury	IH-10 TxDot Project VOID: 2022 Continui Employee Life, STD, A/C Filters @ LD Employee Health Ins Garbage Disposal 74-2586063 Interest	-15,750.00 0.00 -1,097.67 -558.00 -30,513.94 -377.17 -2,323.05 -632.26 712.15 457,647.22 457,647.22	1,535,426.76 1,535,426.76 1,534,329.09 1,533,771.09 1,503,257.15 1,502,879.98 1,500,556.93 1,499,924.67 1,500,636.82 1,500,636.82 1,500,636.82 1,500,636.82

## CANYON REGIONAL WATER AUTHORITY Legal Fees by Payee October 2023

Туре	Date	Num	Name	Memo	Amount	Balance
Bryant La Bill Bill	10/31/2023 10/31/2023 10/31/2023	2091 2092 2093	Bryant Law PC Bryant Law PC Bryant Law PC	RE: Louis Rosenberg RE: Louis Rosenberg-Hays Caldwell Contract RE: Louis Rosenberg	5,058.10 3,181.50 2,259.60	5,058.10 8,239.60 10,499.20
Bill	C. T. A. L. C.	2093	Diyant Lan 1 0		10,499.20	10,499.20
TOTAL	ant Law PC				10,499.20	10,499.20

# **CANYON REGIONAL WATER AUTHORITY** Legal Fees by Category October 2023

Type	Date	Num	Name	Memo	Amount
Other Charges Legal & profe Contracts Bill		2092	Bryant Law PC	RE: Louis Rosenberg-Hays Caldwell Contract Water Rights Issues	3,181.50
Total Cont			Table		3,181.50
Committe Bill	e Matters 10/31/2023	2093	Bryant Law PC	RE: Louis Rosenberg	2,259.60
	mittee Matters				2,259.60
General Bill	10/31/2023	2091	Bryant Law PC	RE: Louis Rosenberg	5,058.10
Total Gen	eral				5,058.10
Total Legal &	professional fees				10,499.20
Total Other Charg	257				10,499.20
TAL	,				10,499.20

#### Wells Ranch Project - Phase II Bond Series 2015 Budget vs. Actual October 31, 2023

		TOTAL	TOTAL	%
		BUDGET	DISBURSEMENTS	Complete
	W II D 10 d cott D 10 d	42,000,000.00	42,000,000.00	100.00%
	Wells Ranch Series 2015 Bond Proceeds	420,840.00	420,840.00	100.00%
	Bond Issue Costs	1,664,000.00	1,664,000.00	100.009
	Capitalized Interest	The second secon	The second secon	
E	Beginning Cash Available for Project	39,915,160.00	39,915,160.00	100.009
F	Preliminary Engineering Report	25,000.00	25,000.00	100.009
	Environmental Services	54,080.82	54,080.82	100.009
E	Engineering Add'l Services (RCE Inspections)	317,067.50	317,067.50	100.009
	Inspection Services (HOT)	37,510.00	37,510.00	100.009
	SCADA Engineering Services	50,000.00	50,000.00	100.00
	Legal Notices	22,940.45	22,940.45	100.00
F	Prof Services-TWDB Assistance	15,887.86	15,887.86	100.00
	Santa Clara Road TM	4,545,112.65	4,545,112.65	100.00
(	Crystal Clear TM	3,102,090.36	3,102,090.36	100.00
١	Wagner Booster Station Expansion	4,472,598.27	4,472,598.25	100.00
	Wells Ranch Plant Improvements	7,678,408.73	7,678,407.73	100.00
ı	Leissner Booster Station Imp.			
	Legal Fees	110,925.31	110,925.31	100.009
	Basic Engineering Services	227,160.00	227,160.00	100.00
	Engineering Add'l Services	50,078.25	48,272.75	96.39
	Construction Costs - 2 MG Tank (Preload)	1,533,365.90	1,533,365.90	100.00
-	Construction Costs - Facility (Payton)	1,185,478.00	1,185,478.00	100.00
-	SCADA	16,000.00	16,000.00	100.00
-	Total Leissner Booster Stn Expansion	3,123,007.46	3,121,201.96	99.94
-	Oak Tree Elevated Storage Tank	2,778,256.00	2,778,256.02	100.00
	Well Field (7 wells)	10,812,545.17	10,812,544.67	100.00
T.				
-	Generator Installation Project			
	Legal, Consultant Fees	55,240.83	55,240.83	100.00
	Legal Notices	5,864.16	5,864.16	100.00
-	Basic Engineering Services	203,320.00	172,822.00	85.00
-	Engineering Add'l Services	9,000.00	9,000.00	100.00
	Generator Project Rework	15,783.27	15,783.27	100.00
-	Deadman Well Site		.,,	
-	Generator Cost	71,265.00	71,265.00	100.00
-	Generator Installation	202,500.00	202,500.00	100.00
$\pm$	Total Deadman Well Site	273,765.00	273,765.00	100.00
	Deer Stand Well Site	2.10,100.00		
	Generator Cost	71,265.00	71,265.00	100.00
	Generator Installation	202,500.00	202,500.00	100.00
	Total Deer Stand Well Site	273,765.00	273,765.00	100.00
	Wells Ranch WTP Site	Zi oji dolod	2.0,0000	
-	Generator Cost-WTP	317,295.00	317,295.00	100.00
	Generator Cost-WTF	279,140.00	279,140.00	100.00
	Generator Installation-WTP	412,350.00	412,350.00	100.00
-	Generator Installation-WTF  Generator Installation-MCC-2	376,140.00	376,140.00	100.00
$\vdash$	Total Wells Ranch WTP Site	1,384,925.00	1,384,925.00	100.00
		1,004,020.00	1,004,020.00	100.00
-	Generator Cost	212,200.00	212,200.00	100.00
	Generator Cost Generator Installation	337,000.00	337,000.00	100.00
	Delivery of the control of the contr	549,200.00	549,200.00	100.00
	Total Leissner BPS Site	549,200.00	549,200.00	100,00
	Wagner Booster Station	212,200.00	212,200.00	100.00
-	Generator Cost	259,000.00	259,000.00	100.00
	Generator Installation			100.00
$\vdash$	Total Wagner Booster Station	471,200.00	471,200.00 71,710.00	100.00
	Well #5 & Well #13 Generator Cost	71,710.00		100.00
	Mobilization, Bonds & Insurance	119,000.00	119,000.00	The second secon
	Total Generator Installation Project	3,432,773.26	3,402,275.26	99.11
	Total Phase II - 2015	40,467,278.53	40,434,973.53	99.92
	Unallocated Contingency	-552,118.53		
	Onanocated Contingency	-502,110.03		
	Total Expenditures		40,434,973.53	
	Interest Income	442,003.15	442,003.15	
	Cash from General Funds	72,191.62	204,450.86	
-	Cash from General Funds	37,923.76	0.00	
	Ending Cash	0.00	126,640.48	

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Accrual Basis

## Wells Ranch Phase II - 2015 Account QuickReport

As of October 31, 2023

Type	Date	Num	Name	Memo	Amount	Balance
BOKE NA AL	ustin - Escrow					125,380.47
Deposit	10/02/2023			Interest	479.81	125,860.28
Total BOKF, N	IA, Austin - Escro	w			479.81	125,860.28
Logic-Constr	uction Acct					776.64
Deposit	10/31/2023			Interest	3.56	780.20
Total Logic-Co	onstruction Acct				3.56	780.20
TOTAL					483.37	126,640.48

# Hays Caldwell WTP Improvements Budget vs. Actual October 31, 2023

	TOTAL	TOTAL	
	BUDGET	DISBURSEMENTS	<u>%</u>
	4 004 506 00	4,801,596.00	100.00%
Hays Caldwell Series 2017 Bond Net Proceeds	4,801,596.00		100.00%
Hays Caldwell Series 2021 Bond Net Proceeds	12,355,000.00	12,355,000.00	100.00%
City of San Marcos Cash Contribution	511,593.00	511,593.00	10.70.00.00.00.00.00.00
City of San Marcos Cash Contribution	4,634,982.00	4,634,982.00	100.00%
Beginning Cash Available for Project	22,303,171.00	22,303,171.00	100.00%
Land Purchase - 2.009 Acres	555,628.44	555,628.44	100.00%
TAIDD D. Fund Application Company	35,700.00	35,700.00	100.00%
TWDB D-Fund Application Services	12,000.00	12,000.00	100.00%
HMGP Application	12,000.00	12,000.00	100.0070
Basic Engineering Services:	402 700 00	403,700.00	100.00%
Prelminary Phase	403,700.00		100.00%
Design Phase	728,400.00	728,400.00	0.00%
Bid Phase	73,900.00		VI 00 10 10 10 10 10 10 10 10 10 10 10 10
Construction Phase	458,800.00	100 100 00	0.00%
Total Basic Engineering Services	1,664,800.00	1,132,100.00	68.00%
Additional Engineering Services:			
Grant Application Services	6,927.90	6,927.90	100.00%
Environmental Review & Permitting	121,200.00	107,838.80	88.98%
Topographic Survey	36,900.00	32,950.00	89.30%
Warranty Phase	30,900.00		0.00%
Start-Up Services	59,000.00		0.00%
O&M Manual Update	16,900.00		0.00%
Water Treatment Plant Audit	0.00		0.00%
Flood Protection	0.00		0.00%
CT Study & TCEQ Update	17,000.00	16,954.00	99.73%
Constr Observation & Resident	174,000.00	15,00 1105	0.00%
	76,200.00	76,186.25	99.98%
Geotechnical Investigation	102,500.00	102,617.49	100.11%
TWDB & TCEQ Coordination	55,000.00	55,000.00	100.00%
Power System Study	104,200.00	104,270.89	100.07%
City of San Marcos Permitting	28,900.00	30,032.00	103.92%
City of San Marcos Platting		46,813.60	94.00%
Ozone Bldg Upgrade to CMU	49,800.00	46,613.60	0.00%
TCEQ Pilot Study	4,000.00		0.00%
Preconstruction T&E Surveys-Terrestrial	2,600.00		0.00%
Preconstruction T&E Surveys-Mussels	8,500.00		
Dewatering Aquatic Resources	27,600.00	4 700 50	0.00%
Geotechnical Baseline for River Intake	4,800.00	4,782.50	99.64%
Cultural Resources Constr Monitoring	42,500.00		
OSSF Irrigation Reconfig & Permitting	9,000.00		0.00%
Total Additional Engineering Services	971,500.00	584,373.43	60.15%
HCWTP Ozone Deman & Decay Testing	9,992.00	9,992.00	100.00%
Caldwell County Permits	51,950.00	51,950.00	100.00%
City of San Marcos-Permits	19,323.14	19,323.14	100.00%
SCADA			
Design Fees	20,000.00	3,963.75	19.82%
Construction Costs	150,000.00		0.00%
Total SCADA Costs	170,000.00	3,963.75	2.33%
			100 000
Bluebonnet Electric Coop - Service Entrances & Easeme	61,512.02	61,512.02	100.00%
Miscellaneous Fees	3,077.04	3,077.04	100.00%

# Hays Caldwell WTP Improvements Budget vs. Actual October 31, 2023

	TOTAL	TOTAL	
	BUDGET	DISBURSEMENTS	<u>%</u>
Probable Construction Costs			
Raw Water Pump Station & Intake	3,210,643.00		0.00%
Raw Water Electrical Building	346,491.00		0.00%
Yard Piping	1,160,146.00		0.00%
Clarifier Upgrades	2,656,275.00		0.00%
Splitter Box	760,340.00		0.00%
Chemical Feed & Storage	372,721.00		0.00%
Ozone Improvements	4,209,987.00		0.00%
New 1 MG GST	2,104,317.00		0.00%
Existing GST Rehab	311,740.00		0.00%
HSPS Improvements	698,145.00		0.00%
Recycle Pump Station	113,687.00		0.00%
Decant Pump Station	179,174.00		0.00%
Decant Ponds	611,499.00		0.00%
Site Civil Paving, etc.	1,961,807.00		0.00%
Electrical Improvement	4,842,702.00		0.00%
Instrumentations & Controls	1,372,320.00		0.00%
Subtotal	24,911,994.00	0.00	0.00%
Additive Alternate: 200kW Generator	813,704.00		0.00%
Additive Alternate: 350kW Generator	1,260,262.00		0.00%
Additive Alternate: Motorized Gates	60,480.00		0.00%
Addtive Alternate: Security System Integ.	36,000.00		0.00%
Total Probable Construction Costs	27,082,440.00	0.00	0.00%
Total Hays Caldwell WTP Improvements	30,637,922.64	2,469,619.82	8.06%
Line Hoosted Contingency	-8.334,751.64		0.00%
Unallocated Contingency	0,004,101.04		
Total Expenditures		2,469,619.82	
Interest Income		1,353,492.31	11
Paid from General Funds-Electrical Easement		1,000.00	
Ending Cash		21,188,043.49	

12:43 PM 12/04/23 **Accrual Basis** 

# Hays Caldwell WTP Improvements Banking Activity As of October 31, 2023

Туре	Date	Num	Name	Memo	Amount	Balance
First United, Sp	pecial #7162					0.00
Check	10/13/2023	4930	Ardurra	Grant Application Services	-6,927.90	-6,927.90
Transfer	10/13/2023			Funds Transfer	6,927.90	0.00
Check	10/20/2023	4931	Caldwell Cou	Caldwell County Plat Filing	-121.00	-121.00
Transfer	10/23/2023	1001		Funds Transfer	121.00	0.00
Total First Unite	d, Special #7162				0.00	0.00
Logic, Constru	ction Acct					16,957,902.34
Transfer	10/13/2023			Funds Transfer	-6,927.90	16,950,974.44
Transfer	10/23/2023			Funds Transfer	-121.00	16,950,853.44
Deposit	10/31/2023			Interest	79,804.02	17,030,657.46
Total Logic, Cor	struction Acct				72,755.12	17,030,657.46
BOKF, NA					-91	4,140,902.22
Deposit	10/02/2023			Interest	16,483.81	4,157,386.03
Total BOKF, NA	· ·				16,483.81	4,157,386.03
OTAL					89,238.93	21,188,043.49

# CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	<b>A</b> GENDA NUMBER	
11/11/2023	CONTACT AMENDMENT	CRWA 23-12-082	
	5		

INITIATED BY

GRAHAM MOORE, EXECUTIVE DIRECTOR OF ALLIANCE REGIONAL WATER AUTHORITY

#### RECOMMENDATION

Approve Amendment No. 2 to the Regional Water Supply Contract Between Alliance Regional Water Authority, Canyon Regional Water Authority, City of San Marcos, City of Kyle, and City of Buda.

#### **BACKGROUND INFORMATION**

The Alliance Regional Water Authority ("ARWA") was formed as the successor to the Hays Caldwell Public Utility Agency ("Agency") to resolve the long-term water needs of the Agency's (now ARWA) Participating Members, which include the cities of Kyle, San Marcos and Buda, along with Canyon Regional Water Authority ("CRWA"), which for the purpose of the ARWA Project represents County Line Special Utility District ("CLSUD"), Crystal Clear Special Utility District ("CCSUD"), Martindale Water Supply Corporation ("MWSC"), and Green Valley Special Utility District ("GVSUD"). ARWA's mission is to treat and deliver long-term, reliable, and sustainable potable water to its Participating Members. The ARWA Project is collectively the land interests and facilities associated with the construction and operation of water treatment and transmission facilities necessary to deliver potable water to the ARWA Participating Members.

A Regional Water Supply Contract ("Contract") between the Agency and the Project Sponsors (CRWA, City of San Marcos, City of Kyle, and City of Buda) was executed on January 9, 2008. A copy of this contract is presented in Attachment A. Amendment No. 1 to the Contract was completed to describe the Agency Project more definitively, to modify the scope of the Agency Project and the shares in the capacity of the Project in which each of the participants are entitled, to allow for future modifications to the scope and phasing of the Project, and to make other clarifying revisions to the Contract. Amendment No. 1 became effective on October 31, 2009, and is presented in Attachment B.

The purpose of Amendment No. 2 (presented in Attachment C) is to revise the Contact to authorize ARWA (the successor to Agency) to issue notes or other instruments or evidence of indebtedness in anticipation of, and payable in whole or in part from, proceeds from the sale of future bonds or other such notes, instruments, or evidence of indebtedness.

#### FINANCIAL IMPACT

There is no financial impact of Contract Amendment No. 2 to CRWA. All fees, charges, and expenses under the terms of the Contract, Amendment No. 1, and Amendment No. 2 will be paid by the City of Buda, Texas, City of Kyle, Texas, the City of San Marcos, Texas, and CRWA Project participating entities: Crystal Clear SUD, County Line SUD, and Green Valley SUD. Martindale is a Project participant but has no bond payment obligations associated with the ARWA Project.

#### MOTION

Motion to approve the following resolution.

(D)

#### **CANYON REGIONAL WATER AUTHORITY**

#### **RESOLUTION No. 23-12-082**

BE IT RESOLVED that Amendment No. 2 to the Regional Water Supply Contract Between Alliance Regional Water Authority, Canyon Regional Water Authority, City of San Marcos, City of Kyle, and City of Buda is approved.

	Adopt	ted this 11 <sup>th</sup> day o	f December 202	3	
	Ayes	_ Nays Abstai	ned Absent		
		,	Approved by:	Tiı	mothy D. Fousse, CPM President
Certified and attested by:		Doris Steubing Secretary			

#### Attachment A

# CERTIFICATE OF BOARD SECRETARY

THE STATE OF TEXAS \$

COUNTY OF HAYS \$

# THE UNDERSIGNED HEREBY CERTIFIES that:

1. On the 9th day of January, 2008, the Board of Directors (the *Board*) of the Hays Caldwell Public Utility Agency (the *Agency*) convened in a regular meeting at the City Train Depot in Kyle, Texas (the *Meeting*), the duly constituted members of the Board being as follows:

Chair Mayor Susan Narvaiz Director Mark Speed Vice Chair Councilman Mike Moore Director Robert Camareno Director Collette Jamison Director Jesse Shanks Treasurer Tom Mattis Director Tom Taggart Secretary Chris Betz Director Alan McPherson Director Laurie Anderson Director David Davenport Director Rosie Vela

and all of such persons were present at the Meeting, except for Mr. Moore and Mr. McPherson, who were absent, thus constituting a quorum. Among other business considered at the Meeting, the attached resolution (the *Resolution*) entitled:

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY APPROVING A REVISED REGIONAL WATER SUPPLY CONTRACT BETWEEN THE AGENCY AND THE CANYON REGIONAL WATER AUTHORITY, THE CITY OF BUDA, THE CITY OF KYLE, AND THE CITY OF SAN MARCOS; AND DECLARING AN EFFECTIVE DATE

was introduced and submitted to the Board for passage and adoption. After presentation and discussion of the Resolution, a motion was made by Mr. Taggart that the Resolution be finally passed and adopted in accordance with the Agency's Bylaws. The motion was seconded by Mr. Shanks and carried by the following vote:

11 voted "For" None voted "Against" None abstained

all as shown in the official Minutes of the Board for the Meeting.

2. The attached Resolution is a true and correct copy of the original on file in the official records of the Agency; the duly qualified and acting members of the Board on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Board was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the Agency, this 9th day of January, 2008.

Chris Betz

**Board Secretary** 

(AGENCY SEAL)

## RESOLUTION NO. 20080109-001

A RESOLUTION OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY BOARD OF DIRECTORS APPROVING A REVISED REGIONAL WATER SUPPLY CONTRACT BETWEEN THE AGENCY AND THE CANYON REGIONAL WATER AUTHORITY, THE CITY OF BUDA, THE CITY OF KYLE, AND THE CITY OF SAN MARCOS, AND DECLARING AN EFFECTIVE DATE

#### RECITALS:

- 1. The Hays Caldwell Public Utility Agency (the "Agency") was formed by the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos (the "Sponsoring Public Entities") for the purpose of developing a water supply project (the "Project") in the Carrizo-Wilcox Aquifer.
- 2. The Agency's bond counsel and financial advisors have recommended that the Agency enter into a water supply contract with the Sponsoring Public Entities to serve as the primary mechanism for financing Agency activities and the development of the Project, and to serve as the basis for issuance of debt obligations by the Agency.
- 3. The Agency Board of Directors (the "Agency Board"), at its meeting on September 26, 2007, approved a Regional Water Supply Contract. Since that time, the Agency's financial advisors suggested that the Agency and Sponsoring Public Entities consider revising the contract to allow the Agency to issue bonds in four separate series, one for each Sponsor. This would allow each Sponsor to structure its portion of the debt in a manner best suited to its circumstances. On November 14, 2007, the Executive Committee of the Agency Board recommended that the contract be revised to provide for the issuance of Agency bonds in separate series for each Sponsor. At its meeting on December 12, 2007, the Agency Board directed the Agency's bond attorneys and general counsel to draft the needed revisions to the contract
- 4. The Agency's bond attorneys and general counsel have revised the Regional Water Supply Contract to provide for the issuance of Agency bonds in separate series for each Sponsor, and the Agency Board wishes to approve the Regional Water Supply Contract as revised.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE HAYS CALDWELL PUBLIC UTILITY AGENCY:

- SECTION 1. The attached Regional Water Supply Contract, as revised, between the Agency and the Canyon Regional Water Authority, the City of Buda, the City of Kyle, and the City of San Marcos is approved.
- **SECTION 2.** The Chair of the Agency's Board of Directors, Susan Narvaiz, is authorized to execute the attached contract on behalf of the Agency.
- **SECTION 3.** This Resolution shall be in full force and effect immediately upon its passage.

ADOPTED: January 9, 2008

Susan Narvaiz Chair, Board of Directors

ATTEST:

Chris Betz

Secretary, Board of Directors

## REGIONAL WATER SUPPLY CONTRACT

THIS REGIONAL WATER SUPPLY CONTRACT (the "Contract") is dated and entered into as of the 1 day of January, 2008, by and among the Hays Caldwell Public Utility Agency (the "Agency"), a non-profit constituted authority and instrumentality and political subdivision of the State of Texas (the "State"), created and existing under the laws of the State, including Chapter 422 as amended, Texas Local Government Code, and the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, municipalities and political subdivisions of the State, and the Canyon Regional Water Authority, a conservation and reclamation district and political subdivision of the State of Texas, created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and the laws of the State. The City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority are referred to in this Contract collectively as the "Sponsoring Public Entities" and singularly each as a "Sponsoring Public Entity."

#### RECITALS

WHEREAS, Chapter 422 of the Texas Local Government Code, as amended (the "Act") authorizes public entities to create a public utility agency to plan, finance, construct, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater; and

WHEREAS, the City Councils of the City of Buda, Texas, the City of Kyle, Texas, and the City of San Marcos, Texas and the Board of Trustees of the Canyon Regional Water Authority (collectively, the "Governing Bodies") have collectively determined to authorize and approve the creation of the Agency as their constituted authority and instrumentality to accomplish the specific public purpose to plan, finance, construct, acquire, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater, pursuant to the provisions of the Act, and other applicable law; and

WHEREAS, the Sponsoring Public Entities, pursuant to the Act and other applicable law, have authorized the creation of the Agency for the purposes set forth in the Agency's Bylaws, including the issuance of bonds to finance the costs of the Project, as hereinafter defined; and

WHEREAS, the Agency intends to own, design, construct, acquire, maintain, and operate the Project in a manner that will allow the Agency to deliver its water to the Sponsoring Public Entities and other potential purchasers on a regional basis; and

WHEREAS, the Sponsoring Public Entities and the Agency, exercising their mutual authority and furthering their mutual and urgent interests, wish to enter into this Contract in order

to most efficiently and quickly obtain the capability to deliver the water to the Sponsoring Public Entities; and

WHEREAS, it is necessary that facilities, wells, storage tanks, lines, booster pumps, treatment facilities, and other appurtenances sufficient to deliver the water to which the Sponsoring Public Entities are entitled under this Contract and additional water which the Sponsoring Public Entities may acquire (the "Facilities") be constructed and that the easements, rights-of-way, and other interests in land necessary for the production, withdrawal or diversion of and the acquisition, construction, maintenance, and operation of the Facilities (collectively, the "Land Interests") be purchased (the "Land Interests" and the "Facilities," together the "Project"); and

WHEREAS, it is expected by the Agency and the Sponsoring Public Entities that as soon as practicable after the execution of this Contract the Agency will issue its Bonds (as hereinafter defined) in series for each Sponsoring Public Entity requesting financing through the Agency, payable from and secured solely by payments under this Contract to be made by such Sponsoring Public Entity for which the series of Bonds are issued for the acquisition and construction of the Project; and

WHEREAS, the Agency, to the best of its ability, shall in general do or cause to be done all such things as may be required for the proper acquisition, construction and operation of the Project; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Sponsoring Public Entities and the Agency mutually undertake, promise, and agree as follows:

#### ARTICLE I

## **DEFINITIONS AND INTERPRETATIONS**

Section 1.1 Definitions. In addition to the terms defined above, the following terms shall have the meanings assigned to them below wherever they are used in this Contract, unless the context clearly requires otherwise:

- (a) "Accountant" means a nationally recognized independent certified public accountant, or an independent firm of certified public accountants, selected by the Agency.
- (b) "Additional Bonds" means one or more series of additional Bonds which are issued by the Agency to finance the completion of the Project pursuant to Section 2.9 hereof or for any other lawful purpose.
- (c) "Agency" means the Hays Caldwell Public Utility Agency and its lawful successors and assigns.
- (d) "Annual Payment Amounts" means the amount of money, constituting the Operation and Maintenance Expenses, Overhead Expenses and, to the extent the Agency issues a series of Bonds on behalf of a Sponsoring Public Entity, the Bond Payment, to be paid to the Agency by each Sponsoring Public Entity, on a several and not a joint basis as described in

- Section 3.1, Section 3.5, and Section 5.2 hereof from the revenues of the Sponsoring Public Entities' Systems as an operating and maintenance expense of the Sponsoring Public Entities' Systems (or any other lawfully available revenues of the Sponsoring Public Entities), at the times and in the amounts required by Sections 3.5 and 5.2 of this Contract.
- (e) "Approval Certificate" means the certificate or certificates, if any, of the Chair, Board of Directors or Authorized Representative of the Agency approving certain terms of a series of Bonds.
- (f) "Authorized Representative" means any person at the time delegated authority to act on behalf of a Sponsoring Public Entity or the Agency, as the case may be, and designated as such in a written certificate, containing a specimen signature of such person, which, for a Sponsoring Public Entity shall be the City Manager, City Administrator, or General Manager, as appropriate, of the Sponsoring Public Entity or such other officers or employees of the Sponsoring Public Entity authorized to act on behalf of the Sponsoring Public Entity during the respective City Manager's, City Administrator's, or General Manager's absence or incapacity, and for the Agency shall be the Chair, Board of Directors of the Agency or such other officer or employee of the Agency authorized to act on behalf of the Agency during the absence or incapacity of the Chair, Board of Directors, unless a party notifies the other parties in writing of a change in its Authorized Representative.
- (g) "Bond Payment(s)" means the amount of money to be paid to the Agency by a Sponsoring Public Entity, for the debt service or to fund or replenish any debt service reserve fund or other special or contingency fund on one or more series of Bonds issued for that respective Sponsoring Public Entity, from the revenues of such Sponsoring Public Entity's System as an operating and maintenance expense of the System at the times and in the amounts required by Sections 3.5 and 5.2 of this Contract. A Sponsoring Public Entity is responsible for paying debt service on only the series of Bonds issued for that Sponsoring Public Entity.
- (h) "Bond Resolution" means any resolution and/or trust indenture of the Agency, authorizing the issuance of and securing a series of Bonds and all amendments and supplements thereto and including the Approval Certificate, if any, authorized by such resolution to establish certain of the terms of the Bonds authorized by such resolution. Since separate series of Bonds will be issued for each Sponsoring Public Entity requesting financing, any reference in this Contract means the Bond Resolution related to the Sponsoring Public Entity for which such series of Bonds were issued.
- (i) "Bonds" means all bonds, notes, or other obligations hereafter issued by the Agency in multiple series with a separate series for each Sponsoring Public Entity requesting financing the proceeds of which are used to pay Project Costs (including any Additional Bonds) or to refund any Bonds or to refund any such refunding Bonds.
- (j) "Claim," as used in Section 8.13 of this Contract, means claims, demands, and expenses, including reasonable attorney's fees.
- (k) "Code" means the Internal Revenue Code of 1986, and any amendments thereto, as in force and effect on the date of delivery of any series of Bonds.
- (l) "Completion Date" means such term as it is defined in Section 2.9 of this Contract.

- (m) "Credit Agreement" means any bond insurance policy or other credit agreement, as defined in and authorized by the provisions of Chapter 1371, as amended, Texas Government Code, which the Agency enters into relating to its obligations with respect to the Bonds.
- (n) "Delivery Point" means the place, whether one or more, to which the Agency will deliver water to each Sponsoring Public Entity pursuant to this Contract.
- (o) "Engineer of Record" means the Engineer of Record for a Sponsoring Public Entity so designated by the governing body of the Sponsoring Public Entity with notice to the Agency.
- (p) "Engineering Report" means the "Final Report of the Plumbing Plan," prepared by Lockwood, Andrews & Newnam, Inc., dated September 21, 2007, as such report may be amended, modified and changed and superseded with the approval of the Agency and Sponsoring Public Entities, at any time prior to the execution of construction contracts for the Project or as modified and changed by change orders issued after the execution of such construction contracts; provided, however, no such change orders shall adversely affect any of the Sponsoring Public Entities without the consent of the Sponsoring Public Entities.
- (q) "Fiscal Year" means the Sponsoring Public Entities' fiscal years, which currently begin on October 1 of each year, as they may be changed from time to time with notice to the Agency.
  - (r) "Force Majeure" means such term as it is defined in Section 8.3 of this Contract.
- (s) "Facilities" means the facilities, wells, diversion structures, treatment plants, storage tanks, capacity rights, lines, booster pumps, and other appurtenances sufficient to produce, divert, treat and deliver the water to which the Sponsoring Public Entities are entitled under this Contract and any improvements, additions, or extensions to such Facilities hereafter acquired or constructed to deliver water between such places.
- (t) "Land Interests" means the easements, right-of-way, and other interests in real property necessary for the acquisition, construction, and operation of the Facilities and the Water Rights for the Project.
- (u) "MSRB" means the Municipal Securities Rulemaking Board and any successor to its duties.
- (v) "NRMSIR" means each person whom the SEC or its staff has determined to be a nationally recognized municipal securities information repository within the meaning of the Rule from time to time.
- (w) "Operation and Maintenance Expenses" means all direct costs and expenses incurred by the Agency for its operation and maintenance, including but not limited to, the operation and maintenance of the Project, including (for greater certainty but without limiting the generality of the foregoing) amounts payable under any contract with any person, including, but not limited to any federal, state, or local agency for the right to produce, withdraw or divert and use water, any contribution or payment in lieu of taxes or any fee or charge by any government authority relating to the Agency's production, withdrawal or diversion of or sale of treated water hereunder, the costs of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, supplies, services, and administration of the Project, Overhead Expenses, any required costs of mitigation and land management incidental to Project operation, and costs

of operating, repairing, maintaining, and replacing equipment for proper operation and maintenance of the Project. The term "Operation and Maintenance Expenses" does not include depreciation charges or such portion of the above-described costs to the extent such costs are paid pursuant to an agreement other than this Contract.

- "Overhead Expenses" means the Agency's reasonable and necessary costs and expenses incurred at any time directly related to the issuance and servicing of the Bonds, the acquisition of Land Interests required for the Project, the design, permitting, financing, acquisition, construction, and ownership of the Project and any other activities required of or involving the Agency in connection with or attributable to the Project or the Bonds, including, but not limited to: (i) per diem and reimbursable expenses incurred by the Directors of the Agency for special meetings of the Agency's Board of Directors related to the Project; (ii) services of the professional, technical skilled and unskilled persons and firms engaged by or associated with the Agency, other than Agency staff personnel, together with their reimbursable expenses paid or required to be paid by the Agency; (iii) salaries of the Agency's staff attributable to the Project or the Bonds based on time expended, as documented or reasonably estimated by the President, Board of Directors of the Agency; (iv) the costs of preparing applications for and obtaining all approvals and authorizations required for the Project or the Bonds from the regulatory authorities having jurisdiction; (v) the cost of property casualty and public liability insurance incurred prior to the Completion Date; including any insurance deductible charged to or required to be paid by the Agency; provided that if the Agency is unable to obtain such insurance on an occurrence basis, then any expense incurred by the Agency from and after the Completion Date for casualty and public liability insurance, including any insurance deductible, shall be paid by the Sponsoring Public Entities; (vi) all costs incurred in litigation involving or relating to the Project; and (vii) any and all other costs and expenses, including outof-pocket expenses, incurred by the Agency attributable to the Project or the Bonds, whether enumerated above or not, and whether or not included in the definition or as a part of Project Costs.
- "Permitted Liens" means: (i) minor irregularities, charges, liens, encumbrances, defects, easements, licenses, rights-of-way, servitudes, restrictions, mineral rights, and clouds on title which, in the opinion of counsel to the Agency, a copy of which shall be forwarded to each of the Sponsoring Public Entities, do not materially impair the use of the Project for the purposes for which it is designed; (ii) easements for roads (as used in this Contract, the term "roads" shall include, without limitation, streets, curbs, gutters, drains, ditches, sewers, conduits, canals, mains, aqueducts, aerators, connections, ramps, docks, viaducts, alleys, driveways, parking areas, walkways, and trackage), utilities (which for purposes of this Contact shall include, without limitation, water, sewer, electricity, gas, telephone, pipeline, railroad, and other collection, transportation, light, heat, power, and communication systems) and similar easements and other easements, rights-of-way, rights of flowage, flooding, diversion or outfall, licenses, restrictions, and obligations relating to the operation of the Project which, in the opinion of counsel to the Agency, a copy of which shall be forwarded to each of the Sponsoring Public Entities, do not materially impair the use of the Project for the purposes for which it is designed; (iii) rights of the United States or any state or political subdivision thereof, or other public or governmental authority or agency or any other entity vested with the power of eminent domain to take or control property or to terminate any right, power, franchise, grant, license, or permit previously in force.

- (z) "Plans and Specifications" means the plans and specifications prepared for the Project by the Project Engineer, as the same may be revised from time to time in accordance with this Contract.
- (aa) "Project" means, collectively, the Land Interests and the Facilities as described in the recitals to this Contract and in the Engineering Report, and as those terms are defined in this Section.
- "Project Costs" means and includes, without limitation, the following costs (bb) incurred for the Project by or on behalf of the Agency or the Sponsoring Public Entities: (i) the cost of acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with, the Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating agency, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the underwriters as the anticipated purchasers of the Bonds; (xii) reimbursement of the costs previously incurred by the Sponsoring Public Entities with respect to the Project; and (xiii) other costs generally recognized as a part of Project construction costs.
- (cc) "Project Engineer" means such engineering firm or firms as may be selected by the Agency.
- (dd) "Prudent Utility Practice" means any of the practices, methods, and acts, in the exercise of reasonable judgment, in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the public utility industry prior thereto, known at the time the decision was made, that would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method, or act at the exclusion of all others, but rather is a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In the case of any facility included in a Sponsoring Public Entity's System which is owned in common with one or more other entities, the term "Prudent Utility Practice," as applied to such facility, shall have the meaning set forth in the agreement governing the operation of such facility.
  - (ee) "Rule" means SEC Rule 15c2-12, as amended from time to time.

- (ff) "Sale and Offering Documents" means any official notice of sale, official bid form, preliminary official statement, official statement, or other offering document for a series of Bonds.
- (gg) "SEC" means the United States Securities and Exchange Commission and any successor to its duties.
- (hh) "SID" means any entity designated by the State or an authorized department, officer, or agency thereof as, and determined by the SEC or its staff to be, a state information depository within the meaning of the Rule from time to time.
- (ii) "Sponsoring Public Entities" means collectively the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas and Canyon Regional Water Authority. "Sponsoring Public Entity" means respectively, the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas or the Canyon Regional Water Authority.
- (jj) "Sponsoring Public Entities' Systems" or "Systems" means collectively the Sponsoring Public Entity's System of all of the Sponsoring Public Entities.
- "Sponsoring Public Entity's System" or "System" means and includes the existing combined waterworks and wastewater disposal system of each of the Sponsoring Public Entities, together with all future extensions, improvements, enlargements, and additions thereto, including, to the extent permitted by law, storm sewer and drainage and/or reclaimed water systems which are integrated with the waterworks or wastewater disposal system, and all replacements thereof. Provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the terms "Sponsoring Public Entity's System" or "System" shall not include any waterworks or wastewater facilities which are declared by the respective Sponsoring Public Entity not to be a part of that Sponsoring Public Entity's System, and which are hereafter acquired or constructed by that Sponsoring Public Entity with the proceeds from the issuance of "Special Facilities Bonds," which are hereby defined as being special revenue obligations of that Sponsoring Public Entity which are not secured by or payable from the net revenues of that Sponsoring Public Entity's System, but which are secured by and are payable solely from special contract revenues, or payments received from that Sponsoring Public Entity or any other legal entity, or any combination thereof, in connection with such facilities; and such revenues or payments shall not be considered as or constitute gross revenues of that Sponsoring Public Entity's System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds".
- (ll) "Sponsoring Public Entity's Utility Bonds" or "Utility Bonds" means the bonds, notes and other obligations of a Sponsoring Public Entity outstanding from time to time secured by a lien on and pledge of the net revenues of that Sponsoring Public Entity's System or any part thereof, regardless of lien priority.
  - (mm) "State" means the State of Texas.
- (nn) "TCEQ" means the Texas Commission on Environmental Quality or its successors or assigns.
- (oo) "Trustee" means any trustee named under a trust indenture or the paying agent/registrar named in a paying agent/registrar agreement entered into by the Agency securing the payment of a series of Bonds and authorized by a Bond Resolution.

- (pp) "TWDB" means the Texas Water Development Board or any successor entity thereto.
- (qq) "TWDB Program" means TWDB's State Participation Account as authorized pursuant to Article III, Sections 49-d, 49-d-2, and 49-d-8 of the Texas Constitution and Chapter 16, Subchapters E and F, Texas Water Code or other applicable TWDB program.
- (rr) "Water Rights" means the right to produce, withdraw or divert water, and transport the water from the location where it is produced, withdrawn, or diverted into Caldwell County, Guadalupe County, Hays County, and the surrounding counties. "Water Rights" are a component of "Land Interests".
- Section 1.2 Interpretation. The table of contents and caption headings of this Contract are for reference purposes only and shall not affect its interpretation in any respect. Unless the context otherwise requires, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa. This Contract and all the terms and provisions shall be liberally construed to effectuate the purpose set forth herein and to sustain the validity of this Contract.

#### ARTICLE II

#### ACQUISITION AND CONSTRUCTION OF THE PROJECT

General. Subject to the remaining terms and provisions of this Section 2.1 Contract, the Agency agrees to issue the Bonds and to acquire and construct the Project as generally described in the Engineering Report. It is estimated that the Project will be placed in operation on or before December 31, 2018, or as soon thereafter as practicable. The Authorized Representative of the Agency hereby represents that he is not aware of any reason that the Project, as contemplated, cannot be completed on or before December 31, 2018. It is expressly understood and agreed that any obligations on the part of the Agency to finance, acquire, construct, and complete the Project and to provide the water to the Sponsoring Public Entities shall be (i) conditioned upon the Agency's ability to obtain all necessary permits, Land Interests, material, labor, and equipment, and upon the ability of the Agency to finance the cost of the Project through the actual sale of the Bonds, including any Bonds needed to complete the Project, and (ii) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State, and any regulatory body having jurisdiction. The Project shall be acquired and constructed by the Agency with all reasonable dispatch, and the Agency will diligently pursue such acquisition and construction in order that it may be completed as soon as practicable, delays incident to events of Force Majeure only excepted; but if for any reason there should be delays in or the entire failure of such acquisition, construction, and improvement, there shall be no diminution in or postponement of the Annual Payment Amounts to be made by the Sponsoring Public Entities hereunder and no resulting liability on the part of the Agency; provided, however, that the Sponsoring Public Entities retain the right to pursue any legal remedy to the extent that delays in the Project are the result of negligence on the part of the Agency.

Section 2.2 Location of Project; Acquisition of Land Interests. The Facilities will be constructed and located on, across, within, and through the Land Interests. The Agency (or one or more of the Sponsoring Public Entities acting on behalf of the Agency) shall, as soon as possible after the delivery of this Contract, and subject to the receipt of the Bond proceeds or

funds from one or more of the Sponsoring Public Entities, undertake the acquisition of the Land Interests. The Agency shall be responsible for ensuring that proper filings of each such portion of the Land Interests are made in the deed records of the appropriate counties to ensure that all interested parties have proper notice of the Agency's interests in the Land Interests. As each deed, easement, or other evidence of an interest in real property comprising a portion of the Land Interests is acquired by the Agency, a copy of such instrument, together with evidence of its filing in the deed records of the counties in which such portion lies, shall, upon the written request of a Sponsoring Public Entity, be given to that Sponsoring Public Entity.

The Agency shall acquire a title insurance policy or a title opinion showing good and indefeasible title with respect to each Land Interest acquired. A copy of each such title insurance policy or title opinion shall be retained in the Agency's official records.

- Section 2.3 Construction. The Agency shall, as soon as possible, and in accordance with the Engineering Report, undertake to make, execute, deliver, and prosecute all contracts, orders, receipts, writings, and instructions with or to other persons, and in general do or cause to be done all such other things, as may be required for the proper acquisition and construction of the Facilities.
- Selection of Project Engineer; Plans and Specifications; Bidding. Section 2.4 The Agency shall cause the Project Engineer to complete the Plans and Specifications and the other materials to be used in construction of the Facilities and to perform such other engineering tasks as shall be necessary for construction of the Facilities. The bid documents may include appropriate alternatives to assure the most advantageous price consistent with expeditious completion. The specifications for the Project may include as an owner cost any or all insurance coverages either required by law or deemed necessary or advisable by the Agency. obtaining the approval of the Board of Directors of the Agency of the Plans and Specifications and bid documents, the Agency, through its Project Engineer, will promptly advertise for bids for the Project to the extent and as required by law. The Agency may break the construction of the Facilities into several contracts or phases as it determines is best for the timely acquisition and construction of the Facilities. After the receipt of bids, the Agency shall identify the lowest responsible bidder(s) and award the contract(s). If all bids are rejected, bids will again be solicited, following the procedure outlined above in this Section, until such time as bids satisfactory to the Agency have been received. The Agency shall not be obligated to award a construction contract unless the proceeds from the Bonds are available to pay the contract(s).
- Section 2.5 Alternative Method for Construction Procurement. If authorized under applicable laws, the Agency may procure the design and construction services for the Facilities using an alternative procurement method, such as design-build or construction manager-at-risk. If so authorized, and if the Agency Board of Directors approves the use of an alternative procurement method, the Agency shall proceed to select the contractor and contract for the design and construction of the Facilities in compliance with all applicable laws.
- Section 2.6 Liens. Neither the Sponsoring Public Entities nor the Agency will create or permit or suffer to exist any lien, encumbrance, or charge upon the Project or any interest therein at any time, except Permitted Liens.
- Section 2.7 Revisions of Plans. The Plans and Specifications may be revised prior to the Completion Date.

Section 2.8 Approvals. Unless otherwise required by law, each consent, approval, or other official action required of the Sponsoring Public Entities or the Agency by any provision of this Contract shall be deemed in compliance with this Contract when written evidence of such action, signed by the respective Authorized Representative, is delivered to the party who is to receive evidence of such action. All contracts to be entered into by the Agency shall be authorized by the Agency's Board of Directors. The Sponsoring Public Entities will cooperate with the Agency in the design, financing, acquisition, and construction of the Project and, following the adoption of the Bond Resolution by the Agency's Board of Directors, will not take any action or fail to take any action (including, without limitation, any exercise or denial of its consent or approval of any action proposed to be taken by the Agency or any of its agents hereunder), if taking or failing to take such action, respectively, would unreasonably delay or obstruct the completion of the Project by the Agency.

#### Section 2.9 Completion.

- (a) Except as otherwise provided in subsection (b) of this Section, when the Facilities have been substantially completed, the Agency shall deliver to the Sponsoring Public Entities a certificate of the Agency and the Project Engineer stating that, as of a specified date, the Project has been substantially completed and is ready to be placed in service (the date specified in such certificate being herein called the "Completion Date").
- (b) The Sponsoring Public Entities and the Agency acknowledge that the proceeds of the initial series of Bonds will be insufficient to complete the acquisition and construction of the Project, and accordingly agree to use their best efforts to issue Additional Bonds, or to secure financing pursuant to the TWDB Program or a similar State or Federal Program (e.g., the USEPA Revolving Fund), in an amount sufficient to complete the Project.
- Section 2.10 Title to Water. Title to the water shall be in the Agency until it passes through the meter or meters installed pursuant to this Contract at or near the Delivery Point, following which it shall be in the respective Sponsoring Public Entities that take delivery of the water at that point. Each of the parties hereto hereby agrees, with respect to water to which the party has title, to save and hold each other party hereto harmless from all claims, demands and causes of action which may be asserted by anyone on account of the transportation and delivery of the water while title to the water is in such party.
- Section 2.11 Access to Property of Sponsoring Public Entities. Should any facilities, pipelines, or appurtenances owned by the Agency be installed in any street, alley, or public way within the boundaries of any of the Sponsoring Public Entities, as same are now constituted or as may hereafter be revised, the respective Sponsoring Public Entity hereby grants to the Agency the right, privilege and franchise of using such streets, alleys and public ways for the purposes of maintaining, operating, laying, repairing, or removing such facilities, pipelines, and appurtenances, subject to compliance by the Agency with the franchise and right-of-way management ordinances and other applicable laws and regulations of the respective Sponsoring Public Entity, and the payment of applicable franchise or right-of-way use fees.
- Section 2.12 Easements. Each of the Sponsoring Public Entities hereby agrees to grant to the Agency such easements as may be reasonably necessary for the purposes of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocated, and removing Facilities upon, over, across and through the property of the respective Sponsoring Public Entity and giving to the Agency, and its successors and assigns, all of the rights and benefits necessary

or appropriate for the full enjoyment and use of the easement, including but without limiting the same to, the free right of ingress and egress to and from the property of the respective Sponsoring Public Entity.

## Section 2.13 Cross-Utilization of Lines.

- (a) Each Sponsoring Public Entity acknowledges that it may be necessary for the Agency to use excess capacity in transmission lines of the Sponsoring Public Entity to transport treated water to another Sponsoring Public Entity or other entity on a temporary or long-term basis. The Sponsoring Public Entity with the transmission lines hereby agrees to permit the Agency to so utilize the lines in accordance with this section and with Section 2.11 and Section 2.12. In such case, the Agency will execute an agreement with the Sponsoring Public Entity with the transmission lines describing their respective rights and obligations. This agreement may include, among other matters, the payment of reasonable fees for the Agency's use of the lines, conditions placed by the Sponsoring Public Entity on the use of its lines (including any improvements needed to facilitate Agency use of the lines), provision for cessation of Agency use of a line if the Sponsoring Public Entity determines that there is no excess capacity in the line, and any special requirements with respect to pressure or other matters relating to the lines.
- (b) The Agency will furnish, install, operate, and maintain meters at the point of exit from the Sponsoring Public Entity's transmission lines to maintain accurate measurements of the quantity of water being delivered by the Agency to another Sponsoring Public Entity or other entity through the lines. Such meters shall be subject to inspection and examination by both the Sponsoring Public Entity with the transmission lines and the Agency in accordance with the provisions of Section 4.2.
- (c) In the event that repairs are required to be made to any lines or appurtenances of a Sponsoring Public Entity which the Agency utilizes for the transmission of treated water to another Sponsoring Public Entity or other entity, the Agency shall participate in the cost of such repairs as may be agreed from time to time.
- (d) Nothing in this Contract will prohibit two Sponsoring Public Entities from entering into an agreement related to the use by one Sponsoring Public Entity of the transmission lines of the other Sponsoring Public Entity.
- Interests required to deliver water to the Point of Delivery for each Sponsoring Public Entity at the location depicted in the Engineering Report. However, the Project will include improvements to the transmission lines of a Sponsoring Public Entity needed to facilitate Agency use of the lines under Section 2.13 only to the extent provided for in the agreement entered into by the Agency and the Sponsoring Public Entity under that section. After completion of the Project, each Sponsoring Public Entity shall have the sole responsibility, at its own cost and expense, for providing additional pipelines and other facilities required for transporting its share of the water from the Project to new or additional Points of Delivery, but additional or alternative points of delivery will be allowed only with the consent of the Sponsoring Public Entities.
- Section 2.15 Quantity. The Sponsoring Public Entities' proportionate share of the treated water produced by the Project is as follows:

City of Buda, Texas 5.60%
City of Kyle, Texas 20.50%
City of San Marcos, Texas 39.70%
Canyon Regional Water Authority 34.20%

Section 2.16 Other Contracts. The Agency shall not enter into contracts with persons or entities other than the Sponsoring Public Entities for the supply of water without the prior consent of all of the Sponsoring Public Entities, and any Sponsoring Public Entity may withhold its consent. Before offering to supply any quantity of water to an entity other than the Sponsoring Public Entities, the Agency shall first offer the water to the Sponsoring Public Entities, and confirm that none of the Sponsoring Public Entities wishes to contract with the Agency for the water. The sale of water by a Sponsoring Public Entity to a retail customer which, in turn, provides water through submeters to tenants is permitted.

Section 2.17 Quality. The water to be delivered by the Agency and received by the Sponsoring Public Entities shall be from sources identified generally in the Engineering Report and treated using the Facilities and equipment described generally in the Engineering Report. Each of the Sponsoring Public Entities has satisfied itself that such water is suitable for its needs. With respect to groundwater supply sources, the Agency and each of the Sponsoring Public Entities shall cooperate, each within its legal powers, in preventing possible pollution and contamination of the formation from which the water is obtained.

Section 2.18 Operation. The Agency covenants to operate the Project in accordance with Prudent Utility Practices and in accordance with applicable regulatory requirements. With respect to groundwater supply sources, the Agency and the Sponsoring Public Entities agree that the Agency shall endeavor to operate groundwater wells in a manner that avoids overdrafting of the formation from which the water is obtained, and they also agree that the Agency shall endeavor to reasonably mitigate the effects of operation of Agency groundwater wells on existing wells in the vicinity.

Section 2.19 Excess Capacity. In the event the Project is constructed so that there is excess capacity in all or any portion of the Facilities, such excess capacity shall be owned by the Agency. Any such excess capacity may be used only with the written consent of the Agency Board of Directors, which may include conditions deemed appropriate by the Board.

#### **ARTICLE III**

#### FINANCING OF THE PROJECT

#### Section 3.1 <u>Issuance of Bonds</u>.

(a) The Agency's acquisition and construction of the Project and improvements to the Project will be financed by (i) receipt of cash from a Sponsoring Public Entity, (ii) the Agency through the issuance of one or more series or issues of its Bonds by the Agency for a Sponsoring Public Entity, which Bonds are payable from and secured, in part, by an assignment of the Annual Payment Amounts made under this Contract by the designated Sponsoring Public Entity for which such series of Bonds are issued or (iii) any combination of (i) and (ii). It is expressly understood and agreed by the Agency and the Sponsoring Public Entities that any Bonds issued by the Agency shall be issued as separate series of each Sponsoring Public Entity requesting financing by the Agency. Each Sponsoring Public Entity shall be responsible solely for the Bond

Payments on its series of Bonds. No Sponsoring Public Entity shall have any liability or responsibility for any Bond Payments on a series of Bonds issued for another Sponsoring Public Entity. In consideration of the covenants and agreements set forth in this Contract, and to enable the Agency to issue the Bonds to carry out the intents and purposes hereof, this Contract is executed to assure the issuance of the Bonds and to provide for and ensure the due and punctual payment to the Agency or to the Trustee by each Sponsoring Public Entity for which the Agency has issued a series of Bonds, of amounts not less than the Annual Payment Amounts on a series of Bonds issued for a particular Sponsoring Public Entity. Each of the Sponsoring Public Entities hereby agrees to make, or cause to be made, its respective Annual Payment Amount, as and when due, for the benefit of the owners of the Bonds, as provided in the Bonds and the Bond Resolution.

(b) The proceeds from the sale of the Bonds, together with any cash received from a Sponsoring Public Entity, will be used for the payment of the Project Costs. The Bonds will be issued by the Agency in the amount anticipated to be required to acquire and construct the Project, including payment of all Project Costs advanced by one or more of the Sponsoring Public Entities and incurred by the Agency prior to the date of issuance of the Bonds, and to fund, to the extent deemed advisable by the Agency, a debt service reserve fund and interest on the Bonds during construction and for up to one year after the Completion Date. However, each Sponsoring Public Entity reserves the right to pay cash to the Agency for its share of the Project Costs rather than have the Agency issue Bonds on its behalf.

(c)

- (i) Each Bond Resolution of the Agency shall specify the maximum principal amount of the Bonds to be issued thereunder. The Bonds shall mature not more than forty (40) years from the date of such Bonds and shall bear interest at not to exceed the maximum legal rate then permitted by law, and the Bond Resolution may create and provide for the maintenance of a revenue fund, an interest and sinking fund, a debt service reserve fund, and any other funds deemed prudent by the Agency, all in the manner and amounts as provided in such Bond Resolution.
- (ii) Prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the Agency's Board of Directors or the execution of an Approval Certificate by the Agency, a substantially final copy of the proposed Bond Resolution for the applicable Sponsoring Public Entity, the Approval Certificate, if any, any Credit Agreements and the Sale and Offering Documents shall be presented to the applicable Sponsoring Public Entity for review and approval.
- (iii) Upon approval by the Sponsoring Public Entity for which the Agency issues a series of Bonds of (i) a Bond Resolution hereafter adopted by the Agency for the applicable Sponsoring Public Entity, including any Credit Agreements, (ii) any amendments to any Bond Resolution, (iii) an Approval Certificate authorized by a Bond Resolution, and (iv) the Sale and Offering Documents, and the delivery to the Agency of a certification signed by the Authorized Representative of the respective Sponsoring Public Entity to the effect that the Bond Resolution, including any Approval Certificate, and the Sale and

Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution and the Approval Certificate, if any, in such final form by the Agency's Board of Directors or Authorized Representative, as the case may be, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be considered approved by the respective Sponsoring Public Entity and deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.

(iv) All covenants and provisions in the Bond Resolution affecting, or purporting to bind, a Sponsoring Public Entity, shall, upon the delivery of the Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the Sponsoring Public Entities so long as the Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the respective Sponsoring Public Entity to make, promptly when due, all payments specified in this Contract shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the affected Sponsoring Public Entity, the Agency may enter into Credit Agreements for the purpose of achieving the lowest financing costs for the Project.

Proceeds of Bonds and Cash Contribution. Subject to the terms and provisions of this Contract, the proceeds of the Bonds shall be used by the Agency for the purpose of financing and funding the Agency's acquisition and construction of the Project as provided in Section 3.1 and improvements to the Project. The Agency shall use its best efforts to issue its Bonds, in one or more separate series for each Sponsoring Public Entity requesting financing, in amounts which will be sufficient, together with any cash contributions, to accomplish such purpose. The proceeds of the Bonds shall be deposited in a construction fund established pursuant to the terms of each Bond Resolution. A trust indenture may be entered into between the Agency and a corporate trustee for the purpose of securing the payment of the Bonds. The trust indenture or the Bond Resolution, as appropriate, will establish procedures for the payment of Project Costs out of the construction fund. It is anticipated that a series of Bonds will be issued pursuant to a Bond Resolution and that a paying agent/registrar agreement will be executed between the Agency and the Trustee concerning the payment procedures with respect to such series of Bonds.

Any cash contribution made by a Sponsoring Public Entity for its share of Project Costs shall be deposited into a subaccount of the construction fund of the Agency: (i) prior to the pricing of any series of Bonds for a Sponsoring Public Entity or (ii) simultaneous with the delivery of the proceeds of any series of Bonds so long as sufficient evidence is provided to the Agency and other Sponsoring Public Entities prior to the pricing of the Bonds that their cash contribution will be available at the closing of the Bonds.

<u>Section 3.3</u> <u>Refunding of Bonds.</u> The Agency reserves the right to issue refunding bonds in accordance with the laws of the State and will provide notice to each applicable Sponsoring Public Entity of the redetermined Annual Payment Amounts in accordance with Section 5.2 of this Contract.

Section 3.4 Redemption of Bonds. The Agency, in its sole discretion or upon the written request of a Sponsoring Public Entity (and provided that the affected series of Bonds for such Sponsoring Public Entity are subject to redemption or prepayment prior to maturity at the option of the Agency, and provided that such request is received in sufficient time prior to the date upon which such redemption or prepayment is proposed), forthwith shall take or cause to be taken all action that may be necessary under the applicable redemption provisions of such series of Bonds to redeem the Bonds or any part thereof, to the full extent of funds that are either made available for such purpose by the applicable Sponsoring Public Entity or already on deposit under the Bond Resolution and available for such purpose. The redemption of any outstanding Bonds prior to maturity at any time shall not relieve the applicable Sponsoring Public Entity of their absolute and unconditional obligation to pay each remaining Annual Payment Amount with respect to any outstanding Bonds, as specified in the Bond Resolution.

The parties acknowledge and agree that payments to be made under this Contract will be the primary source available to the Agency to provide the money necessary for the Agency to meet its obligations with respect to a series of Bonds and any Credit Agreements. Each Sponsoring Public Entity therefore agrees to pay the Bond Payments related to the series of Bonds issued for such Sponsoring Public Entity, as outlined in subsections (a) through (c) below, in full when due as provided in this Contract. Bond Payments shall be due by the close of business on the business day prior to each date on which any of the following payments or deposits shall be due and shall be in an amount equal to all such payments and deposits due on such date:

- (a) debt service on its related series of Bonds and related payments and deposits, as follows:
  - (i) principal of, redemption premium, if any, and interest on, its related series of Bonds, less interest to be paid out of Bond proceeds or from other sources if permitted by any Bond Resolution, and the redemption price of any Bonds to be redeemed prior to maturity when and as provided in any Bond Resolution plus the fees, expenses, and, to the extent permitted by law, indemnities of the Trustee, if any, for the Bonds, and those of the paying agent/registrar for paying the principal of and interest on the Bonds and for authenticating, registering, and transferring Bonds on the registration books; and
  - (ii) deposits required to be made to any special, contingency, or reserve fund by the provisions of any Bond Resolution; and
  - (iii) any deposit in addition thereto required to restore any deficiency in any of such funds by the provisions of any Bond Resolution,
  - (b) amounts payable by the Agency under a Credit Agreement; and
- (c) the fees, expenses, and indemnities (to the extent permitted by law) of the remarketing agent, rate setting agent, authentication agent, arbitrage rebate compliance firm, and tender agent, if any, for the Bonds.
- <u>Section 3.6</u> <u>Billing.</u> The Agency will render bills to each of the Sponsoring Public Entities not more than once each month, commencing in April, 2008, for the current payments required by this Contract. Except as otherwise provided in this Contract, the monthly bill for each Sponsoring Public Entity shall be one-twelfth (1/12) of the amount of that Sponsoring

Public Entity's Annual Payment Amount for the current fiscal year of the Agency. The Agency shall, until further notice, render such bills on or before the 5th day of each month and such bills shall be due and payable on the 26th day of each month or twenty-one (21) days after such bill is deposited into the United States mail, properly stamped and addressed to each Sponsoring Public Entity, whichever is later, and thereafter, to the extent permitted by law, interest shall accrue thereon at the rate of ten per cent (10%) per annum until paid in full. The Agency may, however, from time to time by sixty (60) days' written notice, change the date by which it shall render bills, and all bills shall thereafter be due and payable twenty-one (21) days after such dates as herein provided. Each Sponsoring Public Entity shall make all payments in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts and shall make payment to the Agency at its office in Hays County, Texas or at such other place as the Agency may from time to time designate by sixty (60) days' written notice.

any bills when due and payable, the Agency may give written notice of such delinquency to the Sponsoring Public Entity and if all bills due and unpaid, including interest thereon, are not paid within forty-five (45) days after delivery of such notice, then the Sponsoring Public Entity agrees that the Agency shall be authorized, as its option, to institute suit for collection thereof and to collect any amounts due and unpaid, together with interest thereon and reasonable attorneys' fees, and the Sponsoring Public Entity further agrees that the Agency may, as its option, discontinue providing water to the Sponsoring Public Entity until all amounts due and unpaid are paid in full with interest as herein specified. Any such discontinuation of service shall not, however, relieve the Sponsoring Public Entity of its unconditional obligations to make the payments required by this Contract.

The Sponsoring Public Agency's Rights Assigned to Trustee. Entities are advised and recognize that as security for payment of a series of Bonds issued for a Sponsoring Public Entity, the Agency may assign to the Trustee, pursuant to one or more trust indentures (or paying agent/registrar agreements) to be authorized by the Bond Resolution, the Agency's rights under this Contract, including the right to receive payments due from the Sponsoring Public Entities hereunder (but not the right to receive payments, if any, under Section 8.13 hereof). The Sponsoring Public Entities herewith assent to such assignment and will make the payments due from them hereunder directly to the Trustee without defense or set-off by reason of any dispute between one or more of the Sponsoring Public Entities and the Agency or the Trustee. All rights against the Sponsoring Public Entities arising under this Contract or the Bond Resolution and assigned to the Trustee may be enforced by the Trustee, or the owners of the Bonds, to the extent provided in the Bond Resolution, and the Trustee, or the owners of the Bonds, shall be entitled to bring any suit, action, or proceeding against the Sponsoring Public Entities, to the extent provided in the Bond Resolution, for the enforcement of this Contract, and it shall not be necessary in any such suit, action, or proceeding to make the Agency a party thereto.

Agency will use its best efforts to provide for, but will not be liable for a failure to produce, the lowest overall debt service cost for any series of Bonds to be issued for the Project. In connection therewith, the parties understand that the Agency intends to issue Bonds the interest on which is excludable from the gross income of the owners thereof for federal income tax

purposes, except that the parties recognize the series of Bonds issued for the Canyon Regional Water Authority will likely be taxable pursuant to the provisions of the Code. The parties hereto acknowledge their understanding that the federal income tax laws impose certain restrictions on the use and investment of proceeds of such tax-exempt bonds and on the use of the property financed therewith and the output produced therefrom. Accordingly, the parties agree and covenant that if any series of Bonds are offered to investors with the understanding that the interest will be exempt from federal income taxation, then the parties, their assigns and agents, will take such action to assure, and refrain from such action which will adversely affect, the treatment of such Bonds as obligations described in section 103 of the Code. Should any party fail to comply with such covenant, the effect of which being that the Bonds no longer qualify as obligations described in the Code, such defaulting party shall be liable for all costs resulting from the loss of the tax-exempt status of the Bonds. The parties hereby agree and covenant to comply with all of the representations and covenants relating to such exemption which are set out in any Bond Resolution. The parties further agree and covenant that in the event any series of Bonds issued are to be tax-exempt, they will modify such agreements, make such filings, restrict the yield on investments, and take such other action necessary to fulfill the applicable provisions of the Code. For these purposes, the parties may rely on the respective opinion of any firm of nationally-recognized bond attorneys selected by them. In the event that a conflict arises in the opinions of the respective firms of the parties, the parties will identify a different firm that is mutually acceptable to all parties in order to resolve the conflict of opinion.

Section 3.10 Payment to Rebate Fund. In the event that tax-exempt Bonds are issued as provided in Section 3.9, the Agency hereby covenants and agrees to make the determinations and to pay any deficiency into a rebate fund, at the times and as described in the Bond Resolution to comply with the provisions of section 148(f)(2) of the Code. In any event, if the amount of cash held in the rebate fund shall be insufficient to permit the Trustee to make payment to the United States of America of any amount due on any date under section 148(f)(2) of the Code, each of the Sponsoring Public Entity forthwith shall pay the amount of such insufficiency for the series of Bonds issued for such Sponsoring Public Entity on such date to the Trustee in immediately available funds for such purpose. The obligations of the Sponsoring Public Entity, acting under this Section 3.10 are direct obligations of each Sponsoring Public Entity, acting under the authorization of, and on behalf of, the Agency and the Agency shall have no further obligation or duty with respect to the rebate fund.

Section 3.11 Sponsoring Public Entities' Obligations. In the event the Project is not completed for any of the reasons contemplated herein or otherwise, or any proceeds from issuance of a series of Bonds are not used for completion of the Project for any reason, any Bond proceeds and earnings thereon for such series not used for completion of the Project shall be utilized to satisfy amounts due and owing on the related series of Bonds as described in the Bond Resolution, and herein, so as to reduce the Annual Payment Amounts which would otherwise be due hereunder, or be applied for the benefit of the Sponsoring Public Entity for which a series of Bonds are being issued as provided in the Bond Resolution. Each of the Sponsoring Public Entities has covenanted absolutely and unconditionally, in accordance with all other terms of this Contract, to make payment of the Annual Payment Amounts, as provided herein, in consideration for such application of the money as well as the other covenants and obligations of the Agency and others set forth or contemplated herein.

Bonds shall be invested in the manner set forth in the Bond Resolution. Any interest earnings on the Bond proceeds may be used to pay principal of and interest on the related series of Bonds or for the payment of any Project Costs or other costs related to the Project approved by the Sponsoring Public Entity for which such Bonds were issued, subject to Section 3.9.

Sale and Offering Documents. At the request of the Agency, each of Section 3.13 the Sponsoring Public Entities for which a series of Bonds are being issued shall provide to the Agency current and historical information concerning such Sponsoring Public Entity's System, the financial conditions, results, and prospects of the Sponsoring Public Entity, and such other information concerning such Sponsoring Public Entity as the Agency shall deem advisable for inclusion in the Sale and Offering Documents for the series of Bonds of to be issued for such Sponsoring Public Entity, and shall certify to the Agency and the underwriters of any offering of Bonds to be made by means of such Sale and Offering Documents when and if the Sponsoring Public Entity deems such Sale and Offering Documents to be complete and final for purposes of the Rule. Each of the Sponsoring Public Entities represents and warrants that all statements concerning it (including, without limitation, its financial condition, results, and prospects, its System, and any demographic and economic information concerning the area served by its System) that are contained in any Sale and Offering Document approved by the Sponsoring Public Entities pursuant to Section 3.1 hereof shall be true in all material respects and shall not omit to state any material fact necessary to make the statements made in such Sale and Offering Document, in the light of the circumstances in which they are made, not misleading.

Section 3.14 Right of Sponsoring Public Entities to Prepay. Each of the Sponsoring Public Entities shall have the right at any time to prepay all or any portion of the Annual Payment Amounts. Subject to the provisions of Section 3.9, such prepaid Annual Payment Amounts shall be used and invested by the Agency as directed by the Sponsoring Public Entity which paid (i) as a credit against future Annual Payment Amount obligations of such Sponsoring Public Entity, (ii) to redeem Bonds issued for such Sponsoring Public Entity pursuant to the provisions of Section 3.4, or (iii) to provide for the defeasance of the Bonds pursuant to the provisions of the Bond Resolution. Any such prepayment will not cause a termination of this Contract until all other amounts owed or to be incurred by the Agency or any other person under the provisions of the Bond Resolution (including the charge for water pursuant to Section 8.5 hereof) have been paid in full or waived by such person.

## ARTICLE IV

## METERING AND MEASUREMENT

Section 4.1 Unit of Measurement. The unit of measurement for water delivered hereunder shall be 1,000 gallons of water, U. S. Standard Liquid Measure.

## Section 4.2 Measuring Equipment.

(a) The Agency shall furnish, install, operate and maintain at its own expense for each Delivery Point the necessary electronic or other equipment and devices of standard type for measuring properly the quantity of water delivered under this Contract. Such meter or meters and other equipment so installed shall remain the property of the Agency. The Sponsoring Public Entities shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be done only by the employees or agents of the

Agency. For the purpose of this Contract the original record or reading of the meter or meters shall be the journal or other record book of Agency in its office in which the records of the employees or agents of the Agency who take readings are or may be transcribed. Upon written request of a Sponsoring Public Entity, the Agency will give the Sponsoring Public Entity a copy of such journal or record book, or permit the Sponsoring Public Entity to have access to the same in the office of the Agency during reasonable business hours.

- Each Sponsoring Public Entity shall be entitled to have a representative present during each calibration, and the parties shall jointly observe any needed adjustments which are made to the meters. If the check meters hereinafter provided for have been installed, the same shall also be calibrated by the Sponsoring Public Entities in the presence of a representative of the Agency, and the parties shall jointly observe any needed adjustment. If the Sponsoring Public Entities in writing request the Agency to calibrate its meters, and the Agency gives the Sponsoring Public Entities notice of the time when the calibration is to be made, and a representative of any Sponsoring Public Entity is not present at the time set, the Agency may proceed with calibration and adjustment in the absence of a representative of that Sponsoring Public Entity.
- (c) If any party at any time observes a variation of one percent (1%) or more between the delivery meter or meters and the check meter or meters (if any such check meter or meters are installed), such party will promptly notify the other parties, and the parties hereto shall then cooperate to procure an immediate calibration test and joint observation of any adjustment, and the said delivery and check meter or meters shall then be tested and adjusted to accuracy. Each party shall give the other parties forty-eight (48) hours' notice of the time of all tests of meters so that the other parties may conveniently have a representative present.
- (d) If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (½) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any meters are out of service or out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered during the period such meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise the amount of water delivered during such period may be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation, or (ii) by estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the meter or meters were registering accurately.
- (e) One or more of the Sponsoring Public Entities may, at their option and their own expense, install and operate a check meter to check each delivery meter installed by the Agency, but the measurement of water for the purpose of this Contract shall be solely by the Agency's meters, except in the cases hereinabove specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of the Agency. The reading, calibration and adjustment thereof, however, shall be made only by the respective Sponsoring Public Entity or Entities,

except during any period when a check meter may be used under the provisions hereof for measuring the amount of water delivered, in which case the reading, calibration and adjustment thereof shall be made by the Agency with like effect as if such check meter or meters had been furnished or installed by the Agency.

#### ARTICLE V

# ANNUAL PAYMENT AMOUNTS, SPONSORING PUBLIC ENTITY COVENANTS

Section 5.1 Annual Estimate of Annual Payment Amounts. Not less than ninety (90) days prior to the beginning of each Fiscal Year, the Agency shall furnish to the Agency Board of Directors, and to each of the Sponsoring Public Entities, a proposed budget that includes an estimate of the Annual Payment Amounts for that Fiscal Year from each Sponsoring Public Entity, and a schedule of the monthly payments required to be paid by each Sponsoring Public Entity in such Fiscal Year. The Annual Payment Amount for each Sponsoring Public Entity shall include the Entity's Bond Payment and the anticipated proportionate share of the Operation and Maintenance Expenses and Overhead Expenses of the Agency. The Agency Board shall review the proposed budget, and after making any adjustments which are reasonable and necessary, shall approve the budget not later than ten (10) days before the beginning of the Fiscal Year. The Agency Board shall ensure that each approved budget includes appropriate amounts for making of all Bond Payments by the Agency.

# Section 5.2 Payments by the Sponsoring Public Entities.

- (a) Each of the Sponsoring Public Entities hereby agrees that it will make payment of its Bond Payment, to the extent the Agency issues a series of Bonds for such Sponsoring Public Entity, and its proportionate share of the Operation and Maintenance Expenses and Overhead Expenses to the Agency, or to the Trustee on behalf of the Agency, as provided in the Bond Resolution, and in accordance with the procedures established in Section 3.6 hereof. If a Sponsoring Public Entity at any time disputes the amount to be paid by it to the Agency, such Sponsoring Public Entity shall nevertheless promptly make such payment or payments, but if it is subsequently determined by agreement or court decision that such disputed payments made by the Sponsoring Public Entity should have been less, or more, the Agency shall promptly revise the charges for such Sponsoring Public Entity in such manner that the Sponsoring Public Entity will recover its overpayment or the Agency will recover the amount due it. The Agency shall pursue all legal remedies against the Sponsoring Public Entities to enforce and protect the rights of the Agency and the owners of the Bonds, and the Sponsoring Public Entities shall not be relieved of the liability to the Agency for the payment of all amounts which are due by them hereunder.
  - (b) Except to the extent otherwise provided by the Bond Resolution, all amounts due under this Contract shall be paid and are due in Hays County, Texas, which is the County in which the principal administrative offices of the Agency are located.
  - (c) The Agency shall redetermine the estimate and schedule of Annual Payment Amounts due in any Fiscal Year at any time during such Fiscal Year, as and to the extent deemed necessary or advisable by the Agency to accurately forecast the Annual Payment Amounts and the dates of payments to be made by each of the Sponsoring Public Entities, if (i) the Agency issues Bonds to complete the Project or to refund any Bonds or enters into, amends, or terminates a Credit Agreement, (ii) actual interest rates on any variable interest rate Bonds differ from those

projected by the Agency, or (iii) any other event occurs which results in an increase or decrease in the Annual Payment Amounts required to be made by the Sponsoring Public Entities in such Fiscal Year.

- (d) If, during any Fiscal Year, the Annual Payment Amount is redetermined in any manner as provided or required in this Section, the Agency will promptly furnish each of the Sponsoring Public Entities with an updated schedule of payments reflecting such redetermination.
- (e) Notwithstanding anything herein to the contrary, no failure of the Agency to estimate, and no mistake by the Agency in any estimate of, the amount of or schedule for payments due from the Sponsoring Public Entities in any Fiscal Year shall relieve the Sponsoring Public Entities from (or defer) their absolute and unconditional obligation to pay all Annual Payment Amounts in full when due.
- The Agency shall, to the extent permitted by law, suspend the delivery of services or water from the Project to any Sponsoring Public Entity which remains delinquent in any payments due under the preceding paragraphs for a period of thirty (30) days, and shall not resume delivery of services or water while such Sponsoring Public Entity is so delinquent. The Agency also retains the right to charge a reconnection fee or other appropriate charges prior to commencing utility service to the delinquent Sponsoring Public Entity. It is further provided and agreed that if any Sponsoring Public Entity should remain delinquent in any payments due hereunder for a period of one hundred twenty days, and if such delinquency continues during any period thereafter, such Sponsoring Public Entity's proportionate share specified in Section 2.15 shall be deemed to have been zero percent during all periods of such delinquency, for the purpose of calculating and redetermining the percentage of Operation and Maintenance Expenses and Overhead Expenses to be paid by the non-delinquent Sponsoring Public Entities and the Agency, and the Agency shall redetermine such percentage of Operation and Maintenance Expenses and Overhead Expenses on that basis in such event so that the non-delinquent Sponsoring Public Entity and the Agency collectively shall be required to pay all of the Operation and Maintenance Expenses and Overhead Expenses. However, the Agency shall pursue all legal remedies against any such delinquent Sponsoring Public Entity to enforce and protect the rights of the Agency and the other Sponsoring Public Entities, and any nondelinquent Sponsoring Public Entity may also pursue remedies against the delinquent Sponsoring Public Entity in coordination with the Agency. The delinquent Sponsoring Public Entity shall not be relieved of the liability to the Agency for the payment of all Operation and Maintenance Expenses and Overhead Expenses which would have been due hereunder had no default occurred or the percentage had not been redetermined as provided in this Section. If any amount of Operation and Maintenance Expenses and Overhead Expenses due and owing the Agency by any Sponsoring Public Entity is placed with an attorney for collection, such Sponsoring Public Entity shall pay to the Agency, and to the non-delinquent Sponsoring Public Entities, as appropriate, all attorneys' fees, in addition to all other payments provided for herein, including interest. In the event the Agency redetermines the percentages of the Operation and Maintenance Expenses and Overhead Expenses to be made by the non-delinquent Sponsoring Public Entities under this subsection then the Agency shall also redetermine each non-delinquent Sponsoring Public Entity's pro rata share of treated water from the Project for the period of the delinquency, and the non-delinquent Sponsoring Public Entities shall be entitled to use of their respective redetermined shares during the period of delinquency.

### Section 5.3 Source of Payment.

- (a) Each of the Sponsoring Public Entities represents and covenants that all payments to be made by them under this Contract shall constitute reasonable and necessary "operating expenses," as defined in Chapter 1502, as amended, Texas Government Code, of its System, but only to the extent of the Annual Payment Amount. A Sponsoring Public Entity shall not be obligated to make its payments under this Contract from any source other than the gross revenues of its System. Each of the Sponsoring Public Entities further represents that its Governing Body has determined that the services to be provided by the Project are absolutely necessary and essential to provide water to that Sponsoring Public Entity.
- (b) Each of the Sponsoring Public Entities agrees throughout the term of this Contract to fix and collect such rates and charges for services to be supplied by its System as will produce gross revenues at all times during the term of this Contract in an amount at least equal to (i) all of the expenses of operation and maintenance of the Sponsoring Public Entity's System, including specifically its payments under this Contract and (ii) all other amounts as required by law and the provisions of the ordinances or resolutions authorizing the Sponsoring Public Entity's Utility Bonds or other obligations now or hereafter outstanding payable, in whole or in part, from the net revenues of the Sponsoring Public Entity's System, including the amounts required to pay all principal of and interest on such Sponsoring Public Entity's Utility Bonds and other obligations.
- (c) No ad valorem tax revenues of any of the Sponsoring Public Entities shall be pledged to the payment of any amounts to be paid by the Sponsoring Public Entities to the Agency under this Contract, nor shall the Agency have the right to demand payment of any amounts to be paid by the Sponsoring Public Entities under this Contract be paid from funds raised or to be raised from ad valorem taxation from the Sponsoring Public Entities. The obligations under this Contract shall never be construed to be a debt or pecuniary obligation of any of the Sponsoring Public Entities of such kind as to require any of the Sponsoring Public Entities to levy and collect an ad valorem tax to discharge their obligations.
- Expenses. To the extent not paid out of the proceeds of the Bonds, or otherwise, each of the Sponsoring Public Entities shall pay and reimburse the Agency for all of its proportionate share of Operation and Maintenance Expenses and Overhead Expenses incurred by the Agency throughout the term of this Contract within thirty (30) days of receipt of documentation therefor from the Agency. The Sponsoring Public Entities also agree, with the consent of the Agency, to enter into an interlocal agreement among themselves and with the Agency to provide for, among other matters, an annual adjustment of the Operation and Maintenance Expenses and Overhead Expenses paid by each Sponsoring Public Entity based upon certain formulas and taking into account the quantity of water actually utilized by each Sponsoring Public Entity.
- Sponsoring Public Entity shall make provision in its annual budgets and shall appropriate an amount sufficient, at a minimum, for the payment of all amounts required to be paid by the Sponsoring Public Entity from the sources specified under this Contract.
- Section 5.6 Revenue Sources Pledged. Each of the Sponsoring Public Entities hereby pledges the gross revenues of its System to the payment of its obligations under this Contract, and recognizes that the Agency will, and authorizes the Agency to, pledge the Annual Payment Amounts owing to the Agency by the Sponsoring Public Entities under this Contract to

the payment of the Bonds and Credit Agreements. The Agency agrees to make the payments for the Bonds and Credit Agreements when and as required by the Bond Resolution, the Credit Agreements, and this Contract, from and to the extent of capitalized interest, proceeds of the Bonds not expended for the Project, and payments made by the Sponsoring Public Entities.

- Section 5.7. General Covenants. Each Sponsoring Public Entity further represents, covenants and agrees that in accordance with and to the extent permitted by law:
- (a) <u>Performance</u>. It will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in each ordinance or resolution authorizing the issuance of its Sponsoring Public Entity's Utility Bonds; and it will, at the time and in the manner prescribed, deposit or cause to be deposited the amounts required to be deposited into the fund and accounts created by said ordinances, but only from and to the extent of the sources of funds and after satisfaction of all prior obligations described therein.
- (b) Sponsoring Public Entities' Legal Agency. It is a duly created and existing municipality of the State, or a conservation and reclamation district and political subdivision of the State, as applicable, and is duly authorized under the laws of the State to enter into this Contract, and that all action on its part for the execution and delivery of this Contract has been duly and effectively taken; and that this Contract is a valid and enforceable special obligation of the Sponsoring Public Entities in accordance with its terms.
- efforts in accordance with Prudent Utility Practice to acquire and construct, or cause to be acquired and constructed, any capital improvements to its System needed for it to secure delivery of its proportionate share of treated water from the Project at the agreed Delivery Points, which shall mean and include any capital extensions, improvements, and betterments, in accordance with the plans and specifications therefor, as modified from time to time with due diligence and in a sound and economical manner; and (2) it shall at all times use its best efforts to operate or cause to be operated its System properly and in an efficient manner, consistent with Prudent Utility Practice, and shall use its best efforts to maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and condition, and shall from time to time make, or use its best efforts to cause to be made, all necessary and proper repairs, replacement, and renewals so that at all times the operation of its System may be properly and advantageously conducted.
- (d) <u>Title</u>. It has or will obtain lawful title, whether such title is in fee or lesser interest, to the lands, buildings, structures, and facilities constituting its System; it will defend the title to all the aforesaid lands, buildings, structures, and facilities, and every part thereof, for the benefit of the Agency and the owners of the Bonds, against the claims and demands of all persons whomsoever; and it is lawfully qualified to pledge the gross revenues of its System to the payment of the payments required by this Contract in the manner prescribed herein, and has lawfully exercised such rights.
- (e) <u>Liens</u>. It will from time to time, and before the same become delinquent, pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon its System; it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge thereon, the lien of which would be prior to or interfere with the liens hereof, so that the priority of the lien granted hereunder

shall be fully preserved in the manner provided herein; and it will not create or suffer to be created any mechanic's, laborer's, materialman's, or other lien or charge which might or could be prior to the liens hereof, or do or suffer any matter or thing whereby the lien hereof might or could be impaired; provided however, that no such tax, assessment, or charge, and no such claims which might be used as the basis of a mechanic's, laborer's, materialman's, or other lien or charge, shall be required to be paid so long as the validity of the same shall be contested in good faith by the Sponsoring Public Entity.

(f) Books, Records, and Accounts. It shall keep proper books, records, and accounts separate and apart from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to its System, the Bonds, and the Sponsoring Public Entities, and its shall cause said books and accounts to be audited annually as of the close of each Fiscal Year by the Accountant. At the request of the Agency, the Sponsoring Public Entity shall allow the Agency to audit such books, records, and accounts at any reasonable time and from time to time.

#### (g) <u>Insurance</u>.

- (i) Except as otherwise permitted in clause (ii) below, it shall cause to be insured such parts of its System as would usually be insured by public entities operating like properties, with a responsible insurance company or companies, against risks, accidents, or casualties against which and to the extent insurance is usually carried by public entities operating like properties, including, to the extent reasonably obtainable, fire and extended coverage insurance, insurance against damage by floods, and use and occupancy insurance. Public liability and property damage insurance shall also be carried unless the legal counsel for the Sponsoring Public Entity gives a written opinion to the effect that the Sponsoring Public Entity is not liable for claims which would be protected by such insurance. At any time while any contractor engaged in construction work shall be fully responsible therefor, the Sponsoring Public Entities shall not be required to carry insurance on the work being constructed if the contractor is required to carry appropriate insurance. All such policies shall be open to the inspection of the Agency at all reasonable times.
- (ii) In lieu of obtaining policies for insurance as provided above, the Sponsoring Public Entities may self-insure against risks, accidents, claims, or casualties described in clause (i) above.
- (iii) The annual audit hereinafter required shall contain a section commenting on whether or not the Sponsoring Public Entity has complied with the requirements of this Section with respect to the maintenance of insurance, and listing the areas of insurance for which the Sponsoring Public Entity is self-insuring, all policies carried, and whether or not all insurance premiums upon the insurance policies to which reference is hereinbefore made have been paid.
- (h) Audits. After the close of each Fiscal Year while this Contract is in effect, it shall cause an audit to be made of the books and accounts relating to its System and of the revenues and expenses of its System by the Accountant. As soon as practicable after the close of each such Fiscal Year, and when said audit has been completed and made available to the Sponsoring Public Entity, a copy of such audit for the preceding Fiscal Year shall be mailed to the Agency.

Such annual audit reports shall be open to the inspection of the Agency, its agents and representatives, the Trustee, and the owners of the Bonds at all reasonable times at the Agency's office.

- (i) Governmental Agencies. It will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to its System, and which have been obtained from any governmental agency; and the Sponsoring Public Entities have or will obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of its Sponsoring Public Entity's System.
- (j) No Competition. To the extent it legally may, it will not grant any franchise or permit for the acquisition, construction, or operation of any competing facilities which might be used as a substitute for its System's facilities, and, to the extent that it legally may, each Sponsoring Public Entity will prohibit any such competing facilities.
- (k) <u>Rights of Inspection</u>. The Agency, the Trustee, and the owners of 10% or more in principal amount of the Bonds of any series shall have the right at all reasonable times to inspect its System and all records, accounts, and data of the Sponsoring Public Entity relating thereto, and upon request the Sponsoring Public Entity shall furnish to the Agency, the Trustee, and such owners of Bonds such financial statements, reports, and other information relating to the Sponsoring Public Entity and its System as any such person may from time to time reasonably request.
- (l) <u>Sale, Lease, or Disposal of Property by the Sponsoring Public Entities</u>. A Sponsoring Public Entity shall not sell, lease, mortgage, demolish, remove, or otherwise dispose of any part of its System, except as follows:
  - To the extent permitted by law, a Sponsoring Public Entity may sell or exchange at any time and from time to time any property or facilities constituting a part of its System only if (a) it shall determine such property or facilities are not useful in the operation of its System, (b) the proceeds of such sale are \$250,000 or less, or it shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative stating, in their opinion, that the fair market value of the property or facilities exchanged is \$250,000 or less, (c) if such proceeds or fair market value exceeds \$250,000, it shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative stating, in their opinion, that the sale or exchange of such property or facilities will not impair the ability of the Sponsoring Public Entity to comply during the current or any future year with the provisions of Section 5.3(b) of this Contract, or (d) the sale or exchange will not adversely affect the excludability of interest on the Bonds from the gross income of the owners thereof. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the Sponsoring Public Entity's System shall forthwith, at the option of the Sponsoring Public Entity, be used as provided in the ordinances of the Sponsoring Public Entity authorizing its Utility Bonds.
    - (ii) To the extent permitted by law, the Sponsoring Public Entity may lease or make contracts or grant licenses for the operation of, or make

arrangements for the use of, or grant easements or other rights with respect to, any part of its System, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation by the Sponsoring Public Entity of the System, (ii) does not in any manner impair or adversely affect the rights or security of the Agency under this Contract; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement, or other right is in excess of \$500,000, the Sponsoring Public Entity shall have received a certificate executed by the Sponsoring Public Entity's Engineer of Record and Authorized Representative that the action of the Sponsoring Public Entity with respect thereto does not result in a breach of the conditions under this subsection (2), and (iii) does not adversely affect the excludability of interest on the Bonds from the gross income of the owners thereof. Any payments received by the Sponsoring Public Entity under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the Sponsoring Public Entity's System or any part thereof shall constitute gross revenues of the System.

# ARTICLE VI

### CONTINUING DISCLOSURE

### Section 6.1 Annual Reports.

- Following the issuance of Bonds of any series by the Agency for the benefit of the appropriate Sponsoring Public Entity, the offer or sale of which is not exempt from the Rule and, until the Sponsoring Public Entities are no longer obligated, contingently or otherwise, to pay the Annual Payment Amounts in respect of the Bonds of such series, each Sponsoring Public Entity undertakes to and shall provide annually to each NRMSIR and any SID, within six months after the end of each Fiscal Year, (1) financial information and operating data of the general type included in the Sale and Offering Documents for the Bonds of such series, as specified in the Sponsoring Public Entities' approval of such Sale and Offering Documents pursuant to Section 3.1 hereof and (2) audited general purpose financial statements of the Sponsoring Public Entity, if then available. Any financial statements so to be provided shall be (1) prepared in accordance with generally accepted accounting principles for governmental agencies or such other accounting principles as the Sponsoring Public Entity may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the Sponsoring Public Entity commissions an audit of such statements and the audit is completed within the period during which it must be provided. If the audit of such financial statements is not complete within such period, then the Sponsoring Public Entity shall provide unaudited financial statements within the required period, and shall provide audited financial statements for the applicable Fiscal Year to each NRMSIR and any SID, when and if the audit report on such statements become available.
  - (b) If a Sponsoring Public Entity changes its Fiscal Year, it will notify the Trustee, each NRMSIR, and any SID in writing of the change (and of the date of the new Fiscal Year end) prior to the next date by which the Sponsoring Public Entity otherwise would be required to provide financial information and operating data pursuant to this Section.
  - (c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be incorporated by specific

reference to any document or specific part thereby (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to each NRMSIR and any SID or filed with the SEC. Copies of such information and operating data shall be furnished to the Agency at the same time the information and data are furnished to any NRMSIR or SID.

Section 6.2 <u>Material Event Notices</u>. (a) The following are the events with respect to the Bonds which the Agency must agree to disclose in a timely manner pursuant to the Rule, if "material" under applicable federal securities laws and regulations promulgated thereunder.

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) Modifications to rights of holders of the Bonds;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds; and
- (11) Rating changes.
- (b) A Sponsoring Public Entity shall, promptly after obtaining actual knowledge of the occurrence of any of the events enumerated in (a) above with respect to such Sponsoring Public Entity, notify the Agency of such event and provide all information in the format required to satisfy the requirements of the Rule. Further, the Sponsoring Public Entity shall provide, in a timely manner, notice of any failure by the Sponsoring Public Entity to provide audited financial statements, financial information, and operating data in accordance with Section 6.1 hereof to each NRMSIR and each SID.

# Section 6.3 <u>Limitations, Disclaimers, and Amendments</u>.

(a) Each Sponsoring Public Entity shall be obligated to observe and perform the covenants specified in this Article in respect of its Bonds of any series for so long as, but only for so long as, the Sponsoring Public Entity remains an "obligated person" with respect to the Bonds of such series within the meaning of the Rule, except that a Sponsoring Public Entity in any event will give notice of any deposit made in accordance with the Bond Resolution that causes Bonds of such series no longer to be outstanding.

- (b) The provisions of this Article are for the sole benefit of (and may be enforced by) the owners and beneficial owners of the Bonds of such Sponsoring Public Entity, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Sponsoring Public Entities undertake to provide only the financial information, operating data, financial statements, and notices which they have expressly agreed to provide pursuant to this Article and they do not hereby undertake to provide any other information that may be relevant or material to a complete presentation of their respective financial results, condition, or prospects, nor do they hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The Sponsoring Public Entities make no representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.
- (c) UNDER NO CIRCUMSTANCES SHALL ANY SPONSORING PUBLIC ENTITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE SPONSORING PUBLIC ENTITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.
- (d) No default by a Sponsoring Public Entity in observing or performing its obligations under this Article shall comprise a breach of or default under this Contract for purposes of any other provision of this Contract.
- (e) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the Agency or the Sponsoring Public Entities under federal and state securities laws.
- The provisions of this Article may be amended by the Agency and the appropriate Sponsoring Public Entities from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Agency or the appropriate Sponsoring Public Entities, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds of the applicable series in the primary offering of the Bonds of such series in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances, and (2) either (a) the owners of a majority in aggregate principal amount (or any greater amount required by any other provision of this Contract that authorizes such an amendment) of the outstanding Bonds of each such series affected consent to such amendment or (b) an entity that is unaffiliated with the Agency or the appropriate Sponsoring Public Entities (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interest of the owners and beneficial owners of the Bonds of such series and is permitted by the terms of the Article. If the Agency and the appropriate Sponsoring Public Entities so amend the provisions of this Article in connection with the financial or operating data which the Sponsoring Public Entities are required to disclose under Section 6.1 hereof, the appropriate Sponsoring Public Entities shall provide a notice of such amendment to be filed in accordance with Section 6.2(b) hereof, together with an explanation, in narrative form, of the reason for the amendment and the impact of any change in the type of financial information or operating data to be so provided. The Agency and the

appropriate Sponsoring Public Entities may also amend or repeal the provisions of this Article if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

### ARTICLE VII

# COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

- Section 7.1 Compliance with Federal, State and Local Laws. In addition to the provisions of Section 8.8 hereof, this Contract is subject to all applicable federal and State laws and any applicable permits, ordinances, rules, orders and regulations of any local, state or federal government authority having or asserting jurisdiction. The Contract is specifically subject to the rules of the TCEQ, and the Agency shall have the right to terminate this Contract with respect to a Sponsoring Public Entity upon the Sponsoring Public Entity's non-compliance with the rules promulgated by the TCEQ. Pursuant to those rules the parties will comply with all of the applicable requirements in Section 7.2 hereof.
- Section 7.2 Recordkeeping and Reporting. The Sponsoring Public Entities and the Agency shall maintain records relating to the Agency on site for a period of five (5) years.
  - (a) Records to be maintained by the Agency include:
  - (i) copies of notifications made to the TCEQ concerning water projects;
    - (ii) as applicable, copies of contracts made with each water user;
  - (iii) records of volume of water delivered to each water user per delivery; and
    - (iv) water quality analyses.
  - (b) Records to be maintained by each Sponsoring Public Entity include:
  - (i) records of volume of water delivered to the Sponsoring Public Entity by the Agency;
  - (ii) records of water quality analysis of the Sponsoring Public Entity's distribution system;
  - (iii) calibration records for any check meters (as described in Section 4.2(e) above) owned, maintained, or controlled by the Sponsoring Public Entity; and
  - (iv) maintenance records pertinent to each Agency delivery point to the Sponsoring Public Entity.
  - (c) The Agency shall report to the TCEQ on a monthly basis the following information on forms furnished by the Executive Director of the TCEQ:
    - (i) volume of water delivered to each Sponsoring Public Entity.

(ii) quality of water delivered to the Sponsoring Public Entities reported as a monthly average for each quality criteria except those listed as "not to exceed," which shall be reported as individual analyses.

Such reports are due to the TCEQ by the 20th day of the month following the reporting period.

The foregoing requirements of this Article VII shall be amended as necessary to comply with the rules of the TCEQ.

All costs of compliance with the rules of the TCEQ shall be paid by the Agency, but such costs shall be considered an Operation and Maintenance Expense.

# ARTICLE VIII GENERAL PROVISIONS

Section 8.1 Participation by the Parties. Each party represents to the other parties that it is empowered by law to participate in the acquisition, construction, and financing of the Project, and to execute this Contract and other agreements and documents as are or may hereafter be required to accomplish the same; and that its participation in the Project and execution of this Contract have been duly authorized by action of its Governing Body at a meeting conducted in accordance with the Texas Open Meetings Act, as amended, Chapter 551, Texas Government Code. Each party agrees to furnish to the other parties such documentation or evidence of its authority to so participate and execute this Contract and other agreements and documents as the other parties may reasonably request, and to take and perform such other and further actions and execute such other agreements and documents as may be reasonably required to carry out the provisions of this Contract.

### Section 8.2 Insurance.

- (a) The Agency agrees to carry public liability insurance and environmental pollution insurance on the Project for purposes and in amounts which ordinarily would be carried by a privately owned utility company owning and operating such facilities, except that the Agency shall not be required to carry liability insurance except to insure itself against risk of loss due to claims for which it can, in the opinion of the Agency's legal counsel, be potentially liable considering relevant governmental immunities of the Sponsoring Public Entities and the Agency. The Agency shall also carry property casualty insurance in the amount of the replacement value of all improvements and personal property connected with the Project (less a deductible comparable to the deductible on the Sponsoring Public Entities' property insurance for their respective properties generally). All premiums for such insurance shall constitute an expense of the Project but may be paid out of the proceeds of the Bonds to the extent that such proceeds are available. In the event the Agency is required to pay a deductible with respect to a claim under any such policy, the amount of such deductible shall constitute an expense and shall be paid by the Sponsoring Public Entities.
  - (b) The Agency shall require the contractor or contractors employed for construction of the Project to carry insurance and bond coverages throughout the construction period in at least the following amounts: (1) workers' compensation: State law limits; (2) general liability (including contractual liability) and automobile liability: one million dollars (\$1,000,000) per

person and two million dollars (\$2,000,000) per occurrence for bodily injury, and one million dollars (\$1,000,000) for property damage; (3) builder's risk: full replacement value of improvements; (4) performance and payment bond: full value of contract; (5) cost overrun insurance; and (6) timely completion insurance. The Agency shall secure from the contractor or contractors a certified copy of such effective policy of insurance, and original bonds, prior to commencement of construction, and the Agency shall furnish a copy of the policy and bonds to a Sponsoring Public Entity upon request. Such insurance policies shall name the Agency and the Sponsoring Public Entities as additional insureds, and the Agency shall require the contractor to provide a certificate of insurance to the Agency showing the required coverages, and providing that the policies may not be canceled, changed, or not renewed until the Agency has been given thirty (30) days prior written notice of such event.

(c) The insurance required by this section may be modified by written agreement of the Sponsoring Public Entities and the Agency, in accordance with good business practice. Any questions about the scope of coverage required hereunder shall be resolved by written agreement between the Sponsoring Public Entities and the Agency. The parties can agree to substitute an owner controlled insurance program for any of the above specified insurance requirements.

Force Majeure. If by reason of Force Majeure any party hereto shall Section 8.3 be rendered unable wholly or in part to carry out its obligations under this Contract, other than the obligation of each of the Sponsoring Public Entities to make the payments required under Sections 3.5, and 5.2 of this Contract, then if such party shall give notice and full particulars of such Force Majeure in writing to the other parties within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, blue northers, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, inability on the part of the Agency to deliver water for any reason, or any other causes not reasonably within the control of the party claiming such inability.

that the Sponsoring Public Entities urgently require the facilities and services of the Project, and that such facilities and services are essential and necessary for actual use and for standby utility system purposes, and recognizing the fact that the payments to be received from each of the Sponsoring Public Entities will be the primary source of funds available to the Agency and the Trustee to pay the Bonds and other Project Costs, and recognizing the fact that purchasers of the Bonds will rely on the obligation of the Sponsoring Public Entities to pay the Annual Payment Amounts with respect to their series of Bonds in accordance with the provisions of this Contract, each of the Sponsoring Public Entities hereby waives all rights of set-off, recoupment, counterclaim, suspension, deferment, reduction, and amendment against the Agency, the Trustee, and any other direct or indirect recipients of payments with respect to making the Annual Payment Amounts. Each of the Sponsoring Public Entities agrees that it shall make its appropriate Annual Payment Amounts even if no Bonds are issued for its benefit by the Agency

and, if any Bonds are issued, it shall be unconditionally obligated to pay the Annual Payment Amounts as provided and determined by this Contract, regardless of whether or not the Agency actually acquires, constructs, or completes the Project, or breaches any obligation on the Agency's part hereunder, and whether or not the Sponsoring Public Entity actually uses the Project, whether due to Force Majeure or any other reason whatsoever, regardless of any other provisions of this Contract, or any other contract or agreement between any of the parties hereto. This covenant by each of the Sponsoring Public Entities shall be for the benefit of and enforceable by the owners of the Bonds and/or by the Agency.

By entering into this Contract and performing their obligations under any Section of this Contract, the Sponsoring Public Entities do not release any persons from or waive any claims against such persons that the Sponsoring Public Entities may have resulting from actions by such persons contrary to that person's legal obligations.

date, and this Contract shall continue in force and effect until the principal of and interest on all Bonds shall have been paid or provision for the payment of all of the Bonds has been made in accordance with the terms of each Bond Resolution and thereafter continue in force and effect during the entire useful life of the Project. When the principal of and interest on all Bonds shall have been paid or provision for the payment of all of the Bonds has been made in accordance with the terms of the Bond Resolution and all amounts owed to the Agency, the Trustee, or any other person hereunder have been paid, all money held by the Trustee or the Agency pursuant to the terms of the Bond Resolution shall be paid to the Agency. Upon the termination of this Contract, the Agency will charge each of the Sponsoring Public Entities a unit based charge (or other published rate) for water delivered to the Sponsoring Public Entities in accordance with the Agency's then existing rate schedule.

Section 8.6 Modification. No change, amendment, or modification of this Contract shall be made or be effective which will affect adversely the prompt payment when due of all money required to be paid by each of the Sponsoring Public Entities under the terms of this Contract, and no such change, amendment, or modification shall be made or be effective which would cause a violation of any provisions of any Bond Resolution.

Section 8.7 Addresses and Notice. Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to the other parties must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the Agency:

Chair, Board of Directors

Hays Caldwell Public Utility Agency 121 West Center Street Kyle, Texas 78640

If to one or more of the Sponsoring Public Entities:

City Administrator City of Buda, Texas 121 North Main Street Buda, Texas 78610

City Manager City of Kyle, Texas 100 West Center Street Kyle, Texas 78640

City Manager City of San Marcos, Texas 630 East Hopkins San Marcos, Texas 78666

General Manager Canyon Regional Water Authority 850 Lakeside Pass Drive New Braunfels, Texas 78130

The Agency and each Sponsoring Public Entity shall have the right from time to time and at any time to change its respective address and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other parties.

Section 8.8 State or Federal Laws, Rules, Orders, or Regulations. This Contract is subject to all applicable federal and State laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having or asserting jurisdiction but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction. Each of the parties represents to the other parties that, to the best of its knowledge, no provisions of any applicable federal, State, or local law, including any Home Rule Charter of a Sponsoring Public Entity, nor any permit, ordinance, rule, order, or regulation of any party will limit or restrict its ability to carry out its respective obligations under or contemplated by this Contract.

Section 8.9 Severability. The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words of this Contract or the

application of such actions, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

Remedies Upon Default. It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such Section 8.10 other remedies (other than termination) existing at law or in equity may be availed of by any party hereto and shall be cumulative. Recognizing that failure in the performance of the Sponsoring Public Entities' obligations hereunder could not be adequately compensated in money damages alone, each of the Sponsoring Public Entities agrees in the event of any default on its part that the Agency and the owners of the Bonds as third-party beneficiaries shall have available to them the remedies of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination) which may also be available to them. Notwithstanding anything to the contrary contained in this Contract, any right or remedy or any default hereunder, except the right of the Agency to receive the Annual Payment Amounts and the provision of Section 3.9 hereof, which shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto or of the performance by any other party of any duty or obligation hereunder shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character or description, under any circumstances.

Section 8.11 Venue. All amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Hays County, Texas, which is the County in which the principal administrative offices of the Agency are located. It is specifically agreed among the parties to this Contract that Hays County, Texas, is the place of performance of this Contract; and in the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same shall be brought in Hays County, Texas.

Section 8.12 Statutory Authority. In entering into this Contract and performing all duties and obligations hereunder, the Sponsoring Public Entities and the Agency exercise their authority under and in accordance with the State Constitution and laws including, but not limited to, the Act; Chapter 1502, as amended, Texas Government Code; any Home Rule Charter of a Sponsoring Public Entity; Chapter 1371, as amended, Texas Government Code; and all other laws which may authorize this Contract, all of which provisions and laws, cited or not cited herein, shall cumulatively provide the authority for this Contract.

Section 8.13 Indemnification. FOR SO LONG AS THE BONDS ARE OUTSTANDING AND UNPAID, AND ALSO WITH RESPECT TO ANY CLAIM THAT MAY ARISE OUT OF THE OFFER AND SALE OF THE BONDS OF ANY SERIES OR THE ALLEGED MISSTATEMENT OR OMISSION OF A MATERIAL FACT IN OR FROM ANY SALE AND OFFERING DOCUMENT RELATING TO ANY OF THE SPONSORING PUBLIC ENTITIES USED IN CONNECTION THEREWITH, TO THE EXTENT PERMITTED BY LAW, EACH OF THE SPONSORING PUBLIC ENTITIES AGREES TO INDEMNIFY AND SAVE AND HOLD HARMLESS THE AGENCY, AND THE OTHER

DIRECTORS, THEIR OFFICERS, ENTITIES, **PUBLIC** SPONSORING FINANCIAL ADVISORS, ATTORNEYS, AND EMPLOYEES, AND THE UNDERWRITERS OF ANY SUCH OFFERING AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, AND ALL PERSONS WHO CONTROL THE SAME WITHIN THE MEANING OF THE FEDERAL SECURITIES LAWS, FROM AND AGAINST ALL CLAIMS THAT MAY ARISE AS A RESULT OF ANY UNDERTAKING, ACT, OR OMISSION, WHETHER NEGLIGENT OR NOT, WHICH IS DONE OR OMITTED TO BE DONE BY THAT SPONSORING PUBLIC ENTITY OR ANY OF ITS OFFICERS, COUNCIL MEMBERS, AGENTS, ATTORNEYS, OR EMPLOYEES, RELATING TO THE PROJECT OR PROVIDING INFORMATION FOR INCLUSION IN THE SALE AND OFFERING ANY SUCH CLAIM IS BROUGHT AGAINST ANY SUCH DOCUMENTS. INDEMNIFIED PERSON, THE INDEMNIFYING SPONSORING PUBLIC ENTITY SHALL PAY ALL COSTS INCURRED BY SUCH PERSON IN DEFENDING AGAINST THE CLAIM, AND (SUBJECT TO APPLICABLE RULES OF ATTORNEY CONDUCT) MAY CONTROL THE DEFENSE OF SUCH CLAIM.

Section 8.14 Contract not for Benefit of Third Parties. This Contract is made for the exclusive benefit of the Sponsoring Public Entities, the Agency, the Trustee, the owners of the Bonds, the parties to any Credit Agreements, the underwriters of any offering of and remarketing agent and tender agent, if any, for any Bonds, and their respective successors and assigns herein permitted, and not for any third party or parties other than the Agency (including its officers, directors, employees, agents, and attorneys), the Trustee, the owners of the Bonds, the Sponsoring Public Entities, and the parties to any Credit Agreements, the underwriters of any offering of and remarketing agent and tender agent, if any, for any Bonds, the other persons indemnified by Section 8.13 hereof, and their respective successors and assigns herein permitted, any rights or remedies under or by reason of this Contract.

Section 8.15

Succession and Assignment. This Contract is binding on and inures to the benefit of the parties hereto and their respective successors, representatives, and assigns. This Contract may not be assigned by any party hereto without (i) complying with any provisions relating to the right of the parties to assign this Contract contained in the Bond Resolution and (ii) prior written notice to and approval by the other parties, which consent may be withheld without cause. The provisions of this Section do not affect the assignment of the Agency's rights under this Contract to the Trustee pursuant to Section 3.8.

Section 8.16 Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Contract for all purposes and are adopted as a part of the judgment and findings of the Agency and the Sponsoring Public Entities.

Section 8.17 Independent Contractor. As among the parties, the Agency shall be solely responsible for the operation of the Project to produce, withdraw, or divert and treat water and to transport the water to the Sponsoring Public Entities pursuant to this Contract (except to the extent the Agency and a Sponsoring Public Entity enter into agreements for the Sponsoring Public Entity to operate parts of the Project); and the Agency shall be an independent contractor in the operation of the Project.

Section 8.18 Financing Statement. To the extent required by law, each of the Sponsoring Public Entities agrees it shall execute, at the request of the Agency or the Trustee, a

financing statement in a form satisfactory to the Agency or the Trustee and meeting the requirements of the Texas Uniform Commercial Code to perfect any security interest created hereby. To the extent required by law, each Sponsoring Public Entity further agrees to execute such continuation statements or other documents as may be necessary to maintain any such security interest.

Section 8.19 Entire Agreement. This Contract constitutes the entire agreement among the parties with respect to the matters described herein.

Section 8.20 Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State, and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws without reference to the laws of any other state or jurisdiction, except for applicable federal laws, rules, and regulations.

Section 8.21 Counterparts. This Contract may be executed in counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

Reservation of Rights to Utilize the Texas Water Development Section 8.22 The Sponsoring Public Entities and the Board's State Participation Account Program. Agency hereby agree that the Agency may file an application with the TWDB to seek financial assistance pursuant to the TWDB Program. To the extent the Agency utilizes the TWDB Program to access funds to complete the Project, the TWDB Program's rules and regulations require that the TWDB take an undivided ownership interest in up to 50% of the infrastructure improvements comprising the Project. This undivided ownership interest is represented by a master agreement and other documents to be executed between the Agency and the TWDB to effectuate the Agency's financial participation in the TWDB Program. Under the TWDB Program, the Agency will be obligated (and the Sponsoring Public Entities will be obligated to pay the Annual Payment Amounts to reflect this financial obligation) to make lease or other rental payments to the TWDB to repay the TWDB's financial assistance which enabled the Agency to construct the Project in a manner in which excess capacity in the Project was implemented on a regional basis.

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IN WITNESS WHEREOF, the parties hereto acting under authority of their respective Governing Bodies have caused this Contract to be duly executed as of the day and year first above written.

# HAYS CALDWELL PUBLIC UTILITY AGENCY

Attest:

Chair Board of Direct

By:

Secretary, Board of Directors

ADOPTED on January 15, 2008.

Attest:

Bobby Lane, Mayor Pro Tem

Poni Milam City Secretar

CTTY OF KYLE, TEXAS

y: Mayor

Attest:

By: \_\_\_\_\_

City Secretary

city of san marcos, texas

By: (\_\_\_\_\_Y )

Attest:

 $\mathcal{L}_{\mathcal{A}}$ 

Interior City Cherk

### CANYON REGIONAL WATER AUTHORITY

By: Melin E. Struy President, Board of Trustees

Attest:

By: Man Jacob Secretary, Board of Trustees

### AMENDMENT NO. 1 TO REGIONAL WATER SUPPLY CONTRACT

This is Amendment No. 1 to the Regional Water Supply Contract (the "Contract") by and among the Hays Caldwell Public Utility Agency (the "Agency"), and the City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority. The Contract was dated and effective as of January 1, 2008. This Amendment is dated and effective as of October 31, 2009. The City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority are referred to in this Amendment collectively as the "Sponsoring Public Entities" and singularly each as a "Sponsoring Public Entity".

#### RECITALS:

- 1. The Sponsoring Public Entities formed the Agency as a public utility agency pursuant to Chapter 572 of the Local Government Code, and executed the Contract in order to jointly plan, finance, construct, own, operate, or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment, or distribution of water and wastewater.
- 2. The Sponsoring Public Entities have decided to postpone the issuance of Bonds by the Agency, and they are financing the activities of the Agency through cash contributions until the time the Agency issues Bonds.
- 3. The Sponsoring Public Entities wish to revise the Contract to describe the Project more definitively, to modify the scope of the Project and the shares in the capacity of the Project to which each of them is entitled, to allow for future modifications to the scope and phasing of the Project, and to make other clarifying revisions to the Contract.

#### AMENDMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Sponsoring Public Entities and the Agency mutually undertake, promise, and agree that the Contract is amended as follows:

1. Section 2.1 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):

## Section 2.1. General: Project Description.

(a) The Project will have a total capacity of 33,212 acre-feet/year. The Facilities will be constructed in two phases as described in the Engineering Report, the first phase having a capacity of 15,000 acre-feet/year, and the second phase having a capacity of 18,212 acre-feet/year. Prior to the issuance of Bonds by the Agency for each phase of construction of the Facilities, the Parties may, by written amendment to this Contract approved by all of the Parties, agree to revise the total capacity of the Project,

the phasing of the Project, or the capacity of each phase of the Project. After the Agency issues Bonds in connection with a phase of the construction of the Facilities, any revision to the capacity of that phase of the Facilities will be limited by, and subject to, the terms and provisions of the Bonds issued for that phase of the Facilities.

- Subject to the remaining terms and provisions of this Contract, the Agency agrees to issue the Bonds and to acquire and construct the Project as generally described in the Engineering Report. It is estimated that the first phase of the Project will be placed in operation on or before December 31, 2018, or as soon thereafter as practicable. The Authorized Representative of the Agency hereby represents that he is not aware of any reason that the first phase of the Project, as contemplated, cannot be completed on or before December 31, 2018. It is expressly understood and agreed that any obligations on the part of the Agency to finance, acquire, construct, and complete the Project and to provide the water to the Sponsoring Public Entities shall be (i) conditioned upon the Agency's ability to obtain all necessary permits, Land Interests, material, labor, and equipment, and upon the ability of the Agency to finance the cost of the Project through the actual sale of the Bonds, including any Bonds needed to complete the Project, and (ii) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State, and any regulatory body having jurisdiction. The Project shall be acquired and constructed by the Agency with all reasonable dispatch, and the Agency will diligently pursue such acquisition and construction in order that it may be completed as soon as practicable, delays incident to events of Force Majeure only excepted; but if for any reason there should be delays in or the entire failure of such acquisition, construction, and improvement, there shall be no diminution in or postponement of the Annual Payment Amounts to be made by the Sponsoring Public Entities hereunder and no resulting liability on the part of the Agency; provided, however, that the Sponsoring Public Entities retain the right to pursue any legal remedy to the extent that delays in the Project are the result of negligence on the part of the Agency.
- (c) The provisions of this Article II shall apply to each phase of the construction of the Facilities.
- 2. Section 2.15 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):

Section 2.15. Shares of Treated Water and Project Cost Quantity. The Sponsoring Public Entities' proportionate shares of the Project Costs and of the treated water produced by each phase of the Facilities constructed for the Project will be based on the capacity for each Sponsoring Public Entity out of the total Project capacity. The proportionate shares of Project Costs and treated water produced, and the capacity for each Sponsoring Public Entity out of the total Project capacity, are is-as follows:

Sponsoring Public Entity	Project Share of Project Costs and Treated Water	Acre-feet/year out of Total Project Capacity
City of Buda, Texas City of Kyle, Texas	<del>5.60</del> <u>5.08</u> %	1,687
	<del>20.50</del> <u>28.17</u> %	<u>9,355</u>

39.70 <u>35.86</u> %	<u>11,910</u>
34.20 <u>30.89</u> %	10,260
	3200

Prior to the issuance of Bonds by the Agency for each phase of construction of the Facilities, the Parties may, by written amendment to this Contract approved by all of the Parties, agree to revise the proportionate shares of the treated water to be produced by, and the proportionate shares of Project Costs for, that phase of the Facilities. After the Agency issues Bonds in connection with a phase of construction of the Facilities, any revision to the proportionate shares of the treated water to be produced by, and the proportionate shares of Project Costs for, that phase of the Facilities will be limited by, and subject to, the terms and provisions of the Bonds issued for that phase of the Facilities.

- 3. Section 2.19 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):
  - Section 2.19. Excess Capacity. With prior approval of all of the Parties, the Agency may acquire Water Rights and Land Interests, and may construct the Facilities, so that the capacity of the Project exceeds the total Project capacity as stated in Section 2.1(a). In the event the Project is constructed so that there is excess capacity in all or any portion of the Facilities, such excess capacity shall be owned by the Agency. Any such excess capacity may be used only with the written consent of the Agency Board of Directors, which may include conditions deemed appropriate by the Board.
- 4. Section 3.1 of the Agreement is amended as follows (underlining indicates added text; overstrike indicates deleted text):

### Section 3.1. Issuance of Bonds.

The Agency's acquisition of the Water Rights for the Project will be financed by the receipt of cash contributions from the Sponsoring Public Entities (which, as to a particular Sponsoring Public Entity, may be proceeds of a loan, bonds or other debt issued by that entity). The Agency's acquisition of other Land Interests needed for the Project, and the Agency's acquisition and construction of each phase of the Facilities Project and any other substantial improvements to the Facilities Project will be financed by (i) receipt of cash from a Sponsoring Public Entity, (ii) the Agency through the issuance of one or more series or issues of its Bonds by the Agency for a Sponsoring Public Entity, which Bonds are payable from and secured, in part, by an assignment of the Annual Payment Amounts made under this Contract by the designated Sponsoring Public Entity for which such series of Bonds are issued or (iii) any combination of (i) and (ii). It is expressly understood and agreed by the Agency and the Sponsoring Public Entities that any Bonds issued by the Agency shall be issued as separate series of each Sponsoring Public Entity requesting financing by the Agency. Each Sponsoring Public Entity shall be responsible solely for the Bond Payments on its series of Bonds. No Sponsoring Public Entity shall have any liability or responsibility for any Bond Payments on a series of Bonds issued for another Sponsoring Public Entity. In consideration of the covenants and agreements set forth in this Contract, and to enable the Agency to issue the Bonds to carry out the intents and purposes hereof, this Contract is executed to assure the

issuance of the Bonds and to provide for and ensure the due and punctual payment to the Agency or to the Trustee by each Sponsoring Public Entity for which the Agency has issued a series of Bonds, of amounts not less than the Annual Payment Amounts on a series of Bonds issued for a particular Sponsoring Public Entity. Each of the Sponsoring Public Entities hereby agrees to make, or cause to be made, its respective Annual Payment Amount, as and when due, for the benefit of the owners of the Bonds, as provided in the Bonds and the Bond Resolution.

(b) The proceeds from the sale of the Bonds, together with any cash received from a Sponsoring Public Entity, will be used for the payment of the Project Costs. The Bonds will be issued by the Agency in the amount anticipated to be required to acquire and construct the Project, including payment of all Project Costs advanced by one or more of the Sponsoring Public Entities and incurred by the Agency prior to the date of issuance of the Bonds, and to fund, to the extent deemed advisable by the Agency, a debt service reserve fund and interest on the Bonds during construction and for up to one year after the Completion Date. However, each Sponsoring Public Entity reserves the right to pay cash to the Agency for its share of the Project Costs rather than have the Agency issue Bonds on its behalf.

(c)

- (i) Each Bond Resolution of the Agency shall specify the maximum principal amount of the Bonds to be issued thereunder. The Bonds shall mature not more than forty (40) years from the date of such Bonds and shall bear interest at not to exceed the maximum legal rate then permitted by law, and the Bond Resolution may create and provide for the maintenance of a revenue fund, an interest and sinking fund, a debt service reserve fund, and any other funds deemed prudent by the Agency, all in the manner and amounts as provided in such Bond Resolution.
- (ii) Prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the Agency's Board of Directors or the execution of an Approval Certificate by the Agency, a substantially final copy of the proposed Bond Resolution for the applicable Sponsoring Public Entity, the Approval Certificate, if any, any Credit Agreements and the Sale and Offering Documents shall be presented to the applicable Sponsoring Public Entity for review and approval.
- (iii) Upon approval by the Sponsoring Public Entity for which the Agency issues a series of Bonds of (i) a Bond Resolution hereafter adopted by the Agency for the applicable Sponsoring Public Entity, including any Credit Agreements, (ii) any amendments to any Bond Resolution, (iii) an Approval Certificate authorized by a Bond Resolution, and (iv) the Sale and Offering Documents, and the delivery to the Agency of a certification signed by the Authorized Representative of the respective Sponsoring Public Entity to the effect that the Bond Resolution, including any Approval Certificate, and the Sale and Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution and the Approval Certificate, if any, in such final form by the Agency's Board of Directors or Authorized Representative, as the

case may be, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be considered approved by the respective Sponsoring Public Entity and deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.

- (iv) All covenants and provisions in the Bond Resolution affecting, or purporting to bind, a Sponsoring Public Entity, shall, upon the delivery of the Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the Sponsoring Public Entities so long as the Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the respective Sponsoring Public Entity to make, promptly when due, all payments specified in this Contract shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the affected Sponsoring Public Entity, the Agency may enter into Credit Agreements for the purpose of achieving the lowest financing costs for the Project.
- (d) The provisions of this Article III shall apply to the Bonds issued by the Agency with respect to each phase of the construction of the Facilities.
- 5. Defined Terms. All terms that are defined in the Contract will have those same definitions in this Amendment.
- 6. Remaining Provisions. All other provisions of the Contract remain in full force and effect.

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### AMENDMENT NO. 2 TO REGIONAL WATER SUPPLY CONTRACT

This is Amendment No. 2 (this "Amendment") to the Regional Water Supply Contract, as amended (the "Contract") by and among the Alliance Regional Water Authority (formerly known as Hays Caldwell Public Utility Agency) (the "Agency" or the "Authority"), and the City of Buda, Texas, the City of City of San Marcos, Texas, and the Canyon Regional Water Authority. The Contract was dated effective as of January 1, 2008, and was subsequently amended by Amendment No. 1 effective as of October 31, 2009. This Amendment is dated effective as of [December 31, 2023]. The City of Buda, Texas, the City of Kyle, Texas, the City of San Marcos, Texas, and the Canyon Regional Water Authority may be referred to in this Amendment collectively as the "Sponsoring Public Entities" and singularly each as a "Sponsoring Public Entity."

#### **RECITALS:**

- 1. The Sponsoring Public Entities formed the Agency as a public utility agency pursuant to Chapter 572 of the Local Government Code, and executed the Contract in order to jointly plan, finance, construct, own, operate or maintain facilities necessary for the conservation, storage, transportation, treatment, or distribution of water and wastewater, including plant sites, rights-of-way, and property, equipment, or rights of any kind useful in connection with the conservation, storage, transportation, treatment or distribution of water and wastewater.
- 2. On June 15, 2017, by special act of the 85<sup>th</sup> Legislature, SB 1198, codified as Chapter 11010, Special District Local Laws Code (the "Act"), the Agency was converted from the Hays Caldwell Public Utility Agency to the Alliance Regional Water Authority, as a conservation and reclamation district to accomplish the purposes set forth in the Act and Article XVI, Section 59, Texas Constitution.
- 3. The Agency has previously sold, issued and delivered multiple series of Bonds to the Texas Water Development Board, with each such issuance structured as a separate series of Bonds for each requesting Sponsoring Public Entity, respectively, and such Bonds payable from and secured by an assignment of the Annual Payment Amounts made under the Contract by the designated Sponsoring Public Entity for which such series of Bonds was issued.
- 4. The Agency and the Sponsoring Public Entities wish to revise the Contract to authorize the Agency to issue notes or other instruments or evidence of indebtedness in anticipation of , and payable in whole or in part from, proceeds from the sale of future Bonds or other such notes, instruments or evidence of indebtedness.

#### AMENDMENT:

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Sponsoring Public Entities and the Agency mutually undertake, promise, and agree that the Contract is amended as follows:

- 1. Section 3.15 of the Contract is added as follows (underlining indicated added text):
  - Section 3.15 Bond Anticipation Notes. Notwithstanding anything contained herein to the contrary:
    - (a) The Agency may issue Bond Anticipation Notes (as such term is defined herein below) as a single series or as separate series of each Sponsoring Public Entity requesting financing by the Agency, in such form as now or hereafter authorized by law.
    - (b) In the case of Bond Anticipation Notes issued by the Agency as a single series, (i) the Agency may issue such Bond Anticipation Notes pursuant to the terms of a single Bond Resolution adopted by the Agency; (ii) the term Bond Resolution shall refer to such single Bond Resolution of the Agency; and (iii) each Sponsoring Public Entity shall be responsible solely for the Bond Payments attributable to its pro rata portion of such Bond Anticipation Note, allocated pro rata as if the Bond Anticipation Note were comprised of separate series.
    - (c) As used in the Contract (including this Amendment), the term "Bond Anticipation Note(s)" means a note or other instrument or evidence of indebtedness issued in anticipation of, and payable in whole or in part from, proceeds from the sale of future Bonds (or other Bond Anticipation Notes).
  - Defined Terms. All terms that are defined in the Contract (and not otherwise defined herein) shall have those same definitions in this Amendment.
  - 3. **Remaining Provisions**. All other provisions of the Contract not amended hereby remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto acting under authority of their respective Governing Bodies have caused this Amendment to be duly executed as of the day and year first above written.

	ALLIANCE REGIONAL WATER AUTHORITY
ATTEST:	Chris Betz, Chair
Amber Lewis, Secretary	_

# CITY OF BUDA, TEXAS

	By:City Manager	
ATTEST:		
By:		

# CITY OF KYLE, TEXAS

	By:	
ATTEST:		
By:		

# CITY OF SAN MARCOS, TEXAS

	By:City Manager
ATTEST:	
By:	

# CANYON REGIONAL WATER AUTHORITY

	By: President, Board of Trustees
ATTEST:	
By: Secretary, Board of Trustees	

# CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

SUBJECT	
CONTRACT AMENDMENT	CRWA 23-12-083
M MOORE, EXECUTIVE DIRECTOR OF ALLIANCE R	EGIONAL WATER AUTHORITY
	CONTRACT AMENDMENT  M MOORE, EXECUTIVE DIRECTOR OF ALLIANCE R

#### RECOMMENDATION

Approve Amendment No. 1 to the Canyon Regional Water Authority, Crystal Clear SUD, County Line SUD, and Green Valley SUD Take-or-Pay Contract.

#### **BACKGROUND INFORMATION**

The CRWA/SUDs Take-of-Pay Contract Regional Water Supply Contract ("Contract") Between Canyon Regional Water Authority ("CRWA"), Crystal Clear Special Utility District ("CCSUD"), County Line Special Utility District ("CLSUD"), and Green Valley Special Utility District ("GVSUD") became effective on October 19, 2015. This contract was developed to support the goals and objectives of the Hays Caldwell Public Utility Agency ("PUA") water development project. The successor to the PUA is the Alliance Regional Water Authority ("Agency"). A copy of the Contract is presented in Attachment A.

The purpose of Amendment No. 1 of the Contact (presented in Attachment B) is:

- To allow the Agency to issue Bond Anticipation Notes as a single series or a separate series
  of each Sponsoring Public Entity (CRWA, City of San Marcos, City of Kyle, and City of Buda)
  requesting financing by the Agency such form as now or hereafter authorized by law.
- 2. In the case of Bond Anticipation Notes issued by the Agency as a single series, (i) the Agency may issue such Bond Anticipation Notes pursuant to the terms of a single Bond Resolution adopted by the Agency; (ii) the term Bond Resolution shall refer to such single Bond Resolution of the Agency; (iii) each Sponsoring Public Entity shall be responsible solely for the Bond Payments attributable to its pro rata portion of such Bond Anticipation Note, allocated pro rata as if the Bond Anticipation Note comprised of separate series.
- As used in the Contract the term "Bond Anticipation Note(s)" means a note or other instrument of evidence of indebtedness issued in anticipation of, and payable in whole or in part from, proceeds from the sale of future Bonds (or other Bond Anticipation Notes).

All other provisions of the Contract not amended remain in full force and effect. Approval of the contract amendment is also being considered in December Board meetings by Crystal Clear SUD, County Line SUD and Green Valley SUD.

#### FINANCIAL IMPACT

There is no financial impact of this Contract Amendment to CRWA. All fees, charges, and expenses associated with Amendment No. 1 of the Contract shall be paid by CCSUD, CLSUD, and GVSUD.

#### MOTION

Motion to approve the following resolution.



## **CANYON REGIONAL WATER AUTHORITY**

## RESOLUTION No. 23-12-083

BE IT RESOLVED that Amendment No. 1 to the Canyon Regional Water Authority, Crystal Clear Special Utility District, County Line Special Utility District, and Green Valley Special Utility District Take-or-Pay Contract is approved.

	Adopted this 11 <sup>th</sup> day of December 2023	•
	Ayes Nays Abstained Absent	
	Approved by:	Timothy D. Fousse, CPM
		President
Certified and attested by:	Doris Steubing Secretary	

Attachment A
CRWA/SUDs TAKE-OR-PAY CONTRACT
October 19, 2015
between
CANYON REGIONAL WATER AUTHORITY
and
CRYSTAL CLEAR SPECIAL UTILITY DISTRICT,
COUNTY LINE SPECIAL UTILITY DISTRICT, and
GREEN VALLEY SPECIAL UTILITY DISTRICT

HAYS CALDWELL PUBLIC UTILITY AGENCY
CONTRACT REVENUE BONDS, SERIES 2015A
(REGIONAL WATER SUPPLY CONTRACT PROJECT –
CANYON REGIONAL WATER AUTHORITY)
SOLD TO THE TEXAS WATER DEVELOPMENT BOARD
[SWIRFT PHASE I (2015)]

# TABLE OF CONTENTS

		Page
		3
ARTICLE I Defi	nitions	2
Section 1.01	Definitions	5
- 1 100	Construction	
ARTICLE II Rep	resentations and Warranties	
	Worranties of Authority	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
Section 2.01	Representations and Warranties of Participating Members	5
Section 2.02	nstruction of Project and Issuance of Bonds	6
ARTICLE III Cor	estruction of Project and Issuance of Bonds in	6
Section 3.01	Construction of Project  Issuance of Bonds	6
Section 3.02	Issuance of Bonds Liens	7
Section 3.03	m Dt Donda	
Section 3.04	- Lie Daboto Fund	
Section 3.05 Section 3.06	a 1 1 Officia Documents	******
Gestion 2 07	PILA's Rights Assigned to Trustee	
ARTICLE IV Sal	le and Purchase of Treated Water; Operating Requirements	8
Section 4.01	Ontion to Purchase	
Section 4.02	- 1 . CD -1!	
Section 4.03		
Section 4.04	ResaleOther Contracts	
Section 4.05	Other Contracts  Quality  Metering Equipment	
Section 4.06	- Deal-flow Movimiim Rafe of Flow	= -
Section 4.07	Cross-Utilization of Lines	11
Section 4.08	scal Provisions	12
ARTICLE V Fi	scal Provisions	12
Section 5.01	Annual Requirement	12
Section 5.02		
Section 5.03		
Section 5.04	Unconditional Payments  Continuing Right to Treated Water	16
Section 5.05	dditional Participating Members	16
	Additional Participating Members	16
Section 6.01	pecial Conditions	16
ARTICLE VII S	pecial Conditions	16
Section 7.01		17
Section 7.02	The same and Applicable Lilws	
Section 7.03	- t Tr I To domnification	
Section 7.04	# 1 1 Ti Darrows100	17
Section 7.05	raymonts botory 1 xom === .	

# TABLE OF CONTENTS (continued)

	(continued)	Page
	Operating Expenses	17
Section 7.06		
Section 7.07	True de Cristam	
Section 7.08	- · · · · · · · · · · · · · · · · · · ·	
Section 7.09	~	
Section 7.10	Additional Special Provisions	19
Section 7.11	Additional Special Florisions	19
ARTICLE VIII Conti	nuing Disclosure	10
	. 1D	19
Section 8.01		
Section 8.02 Section 8.03	D' -l-image and Amenaments	
Section 8.03 Section 8.04	The Transport Incornoration by Releiche	
Section 8.05	transfer of the Carlotte Charles I Irollon	
Section 8.06		
Section 8.07	- CO 1	
Section 8.08	1 1 0 ant	
Section 8.09	and the second months and the second months are the second months and the second months are the second months	
Section 8.10	1 XT-tian	
Section 8.11	T 1 I I T area Dailog Orders Of Repulations	
Section 8.12	41 T P P 14	
Section 8.12	4 * 4 * 5 * 5 * 5 * 5 * 5 * 5 * 5 * 5 *	
Section 8.14		
Section 8.15		
Section 8.16		
Section 8.17		
Section 8.18	- a 1 T - a Cithor Trongter of Particulating Monto	
Doorgon area		
Section 8.19	O - stemports	
Section 8.20	- 1 C - Carrier Marrier of Sovereign minimum.	
grant and the second		2.6
Section 8.21	Limitation on Damages PUA Third Party Beneficiary of this Contract	

#### TAKE-OR-PAY CONTRACT

THIS CRWA/SUDs TAKE-OR-PAY CONTRACT (this "Contract") dated as of the October 19, 2015 (the "Contract Date") is between the CANYON REGIONAL WATER AUTHORITY, a regional water authority and a political subdivision created and existing under and essential to the accomplishment of the purposes of Article XVI, Section 59 of the Texas Constitution and other laws of the State of Texas (the "Authority"), and the CRYSTAL CLEAR SPECIAL UTILITY DISTRICT, a special utility district created by a special act of the Texas Legislature, the COUNTY LINE SPECIAL UTILITY DISTRICT, and the GREEN VALLEY SPECIAL UTILITY DISTRICT, each a special utility district created under Chapter 65, as amended, Texas Water Code (as the "Original Participating Members"), which, together with any Additional Participating Members as hereinafter defined, are collectively or individually referred to herein as "Participating Members").

## PREAMBLE AND WITNESSETH:

WHEREAS, the Authority was created to purchase, own, hold, lease, and otherwise acquire sources of a potable water supply; to build, operate, and maintain facilities for the treatment and transportation of water; to sell potable water to local governments, special utility districts, water supply corporations, and other persons in the State of Texas; and to protect, preserve, and restore the purity and sanitary condition to water in the Authority; and

WHEREAS, the Authority's boundaries currently include all of the territory located in the service area of its members as provided in their respective certificates of convenience and necessity issued by the Texas Commission on Environmental Quality (the "Commission"); and

WHEREAS, each of the Authority's members, which include a number of other political subdivisions in addition to the Original Participating Members currently provides potable water utility service to its customers; and

WHEREAS, in the pursuit of its purposes, the Authority has entered into contracts and has and anticipates entering into additional contracts to acquire rights to purchase raw water for treatment and resale to the Participating Members and other entities; and

WHEREAS, the Authority was an original "Sponsoring Public Entity," along with the Cities of San Marcos, Buda, and Kyle of the Hays Caldwell Public Utility Agency (the "PUA"), a political subdivision of the State of Texas created and existing under the laws of the State of Texas, including Chapter 572, as amended, Texas Local Government Code and previously entered into a take-or-pay contract with the PUA dated January 1, 2008, as amended by Amendment No. 1 to Regional Water Supply Contract, dated and effective as of October 31, 2009 (collectively, the "PUA Contract"); and

WHEREAS, the PUA Contract defines the Project as set forth in the Engineering Report (as defined in the PUA Contract), establishes the Authority's ownership of the Project to be 10,260 acrefeet/year of Total Project Capacity (as set forth in the PUA Contract) or 30.89% share of Project Costs and Treatment Water (as set forth in the PUA Contract), and obligates the Authority to make Annual Payment Amounts (as defined in the PUA Contract) to include Operation and Maintenance Expenses, Overhead Expenses, and Bond Payments (each as defined in the PUA Contract), on a several and not a joint basis as described in the PUA Contract; and

WHEREAS, the PUA Contract is a take-or-pay contract with the other Sponsoring Public Entities pursuant to the PUA Contract and the Authority's expected source of funds to make these

pecuniary obligations are the Original Participating Members pecuniary obligations set forth in this Contract and in other contracts previously executed between these entities; and

WHEREAS, to date, the Original Participating Members and the Martindale Water Supply Corporation have contributed cash to the Authority to permit the Authority to satisfy its Annual Payment Amounts to the PUA; and

WHEREAS, the Authority and Crystal Clear Water Supply Corporation (now Crystal Clear Special Utility District), Green Valley Special Utility District, County Line Special Utility District, and Martindale Water Supply Corporation previously executed contracts evidencing various rights, duties, and obligations pursuant to the Project; and

WHEREAS, the PUA is contemplating the sale of its initial series of Bonds (as defined in the PUA Contract) to the Texas Water Development Board in the aggregate principal amount of \$3,960,000 to be allocated solely for the benefit of the Authority relating to the Project (as defined in the PUA Contract) and, as such, this Contract will obligate the Original Participating Members to make their proportionate payments to the Authority to satisfy certain of the Authority's Annual Payment Amounts to the PUA; and

WHEREAS, the PUA Contract is attached hereto as Exhibit D and is incorporated by reference for all purposes to this Contract; and

WHEREAS, the PUA plans to build, expand, improve, renovate, equip, operate, and maintain the Project for the purpose of storing, receiving, treating, and transmitting certain of the water purchased pursuant to certain contracts now in force or to be entered into in the future; and

WHEREAS, the Participating Members and other member entities of the Authority previously entered into certain contracts, as amended, and other contractual arrangements concerning the Project; and

WHEREAS, the Participating Members hold and may acquire additional rights to raw water from other sources for treatment pursuant to the provisions of this Contract and thereafter to supply, redeliver, or sell this treated water in accordance with the provisions of this Contract; and

WHEREAS, to finance the costs of the acquisition, construction, and equipping of the first phase of the Project, the PUA intends to issue one or more series of its contract revenue bonds or other debt obligations (the "Bonds") initially to the Texas Water Development Board to be funded by the sale of bonds by the Texas Water Development Board from the State Water Implementation Revenue Fund for Texas or to fund the costs of future phases of the Project to sell Bonds to the Texas Water Development Board or to other entities (including a public or negotiated sale), to be secured by and payable from revenues received by the PUA from the Authority and from the Authority from the Original Participating Members pursuant to this Contract; and

WHEREAS, for and in consideration of the PUA acquiring the right to purchase raw water for treatment and resale as provided herein, the Original Participating Members are willing and have agreed to contract with the Authority as hereinafter provided to acquire treated water from the Project and to pay the costs of the Project by assisting in the amortization of the principal of and interest on the Bonds and paying the Authority's Operation and Maintenance Expenses, Overhead Expenses, and Bond Payments (each as defined in the PUA Contract); and

WHEREAS, the Authority and the Original Participating Members are authorized to enter into this Contract pursuant to the Authority's enabling legislation being Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (the "Act"), and Chapter 791, Texas Government Code, as amended (the "Interlocal Cooperation Act"), and other applicable laws; and

WHEREAS, the Authority agrees that the Original Participating Members shall continue to own their respective Certificates of Convenience and Necessity issued by the Commission, shall continue to own and operate their respective water pumping, storage, and distribution facilities, and any respective water treatment facilities currently owned by each of the Original Participating Members; and

WHEREAS, the Authority's Board of Directors has directed that a portion of the raw water under this Contract be made available (following treatment by the PUA) on a firm basis to parties who contract with the Authority pursuant to this Contract; and

WHEREAS, each of the Original Participating Members under this Contract proposes to pay its share of costs of the Project and the Bonds based upon a rate methodology to be developed by the PUA and the Authority or in proportion to the respective amounts of treated water each has agreed to purchase under this Contract; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and subject to the terms and conditions hereinafter set forth, the Authority and each of the Participating Members agree and contract as follows:

# ARTICLE I Definitions

#### Section 1.01 Definitions.

The following terms and expressions as used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

- (1) "Act" means Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended.
- (2) "Additional Participating Member(s)" means any entity or entities hereafter agreeing pursuant to Section 6.01 of this Contract to be bound by the terms of this Contract, as it may be amended from time to time.
- (3) "Adjusted Annual Payment" means the Annual Payment as adjusted by the Board during or after an Annual Payment Period, as provided by this Contract.
- (4) "Annual Payment" means the amount of money to be paid to the Authority by each Original Participating Member during each Annual Payment Period as its share of the Annual Requirement.
- (5) "Annual Payment Period" means the Authority's Fiscal Year, which currently begins on October 1 of each calendar year and ends on September 30 of the next following calendar year, but which may be any twelve consecutive month period fixed by the Authority.
- (6) "Annual Requirement" means, during an Annual Payment Period, the total amount required to pay the Authority's Annual Payment Amounts to the PUA as set forth in the PUA Contract,

including Operation and Maintenance Expenses, Overhead Expenses, and Bond Payments (each as defined in the PUA Contract).

- (7) "Authority" means the Canyon Regional Water Authority, a political subdivision of the State of Texas created in accordance with the Act. Except as otherwise noted herein, actions required or permitted to be taken by the Board under this Contract may be taken by the General Manager on behalf of the Board.
  - (8) "Board" means the governing body of the Authority.
  - (9) "Boardmembers" means a member or members of the Board.
- (10) "Bond Resolution" means any resolution or other financing documents of the PUA which authorizes any Bonds.
- (11) "Bonds" means all bonds, notes, or other debt obligations payable from and secured, in whole or in part, from the payments to the PUA under the PUA Contract, and the interest thereon, hereafter issued by the PUA to finance the costs to acquire, construct, expand, renovate, improve, and equip the Project, and/or all bonds, notes, or other obligations issued subsequently to finance costs to improve and extend the Project, and any bonds or other obligations issued to refund any other bonds, notes, or other obligations to refund any other refunding bonds or other obligations.
- (12) "Code" means the Internal Revenue Code of 1986, and any amendments thereto, as in force and effect on the date of delivery of any series of Bonds.
- (13) "Commission" means the Texas Commission on Environmental Quality or any successor entity thereto.
- (14) "Contract" means this CRWA/SUDs Take-or-Pay Contract, as initially executed and as it may be amended from time to time.
- (15) "Credit Agreement" means any credit agreement, as defined in and authorized by the provisions of Chapter 1371, as amended, Texas Government Code which the PUA enters into relating to its obligations with respect to the Bonds.
- (16) "EMMA" means the MSRB's Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) http://www.emma.msrb.org.
- (17) "Fiscal Year" means the Authority's fiscal year, which currently begins on October 1 of each year and ends on September 30 of the following year, as it may be changed from time to time by the Authority with notice to the Participating Members.
  - (18) "Force Majeure" means such term only as it is defined in Section 5.04 of this Contract.
- (19) "General Manager" means the general manager of the Authority's operations, including any party or entity that the Authority enters into a management contract to provide these services.
  - (20) "Land Interests" as defined in the PUA Contract.
- (21) "MSRB" means the Municipal Securities Rulemaking Board and any successor to its duties.
  - (22) "Operation and Maintenance Expenses" as defined in the PUA Contract.
- (23) "Original Participating Members" means Crystal Clear Special Utility District, County Line Special Utility District, and the Green Valley Special Utility District.

- (24) "Overhead Expenses" as defined in the PUA Contract.
- (25) "Participating Member(s)" means certain of the Original Participating Members and all Additional Participating Members from time to time subject to this Contract.
  - (26) "Permitted Liens" as defined in the PUA Contract.
- (27) "Point(s) of Delivery" means the point or points designated in Exhibit B to this Contract or by subsequent agreement where water will be delivered by the PUA to the Authority and by the Authority to the Participating Members from the Project.
  - (28) "Project Costs" as defined in the PUA Contract.
- (29) "Project" means the "Project" as defined in the preamble of this Contract and in the PUA Contract.
  - (30) "Rule" means SEC Rule 15c2-12, as amended from time to time.
- (31) "SEC" means the United States Securities and Exchange Commission and any successor to its duties.
  - (32) "Sale and Offering Documents" as defined in the PUA Contract.
  - (33) "State" means the State of Texas.
  - (34) "System" as defined in the PUA Contract.

### Section 1.02 Construction.

Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Contract and all the terms and provisions hereof shall be constructed to effectuate the purposes set forth herein and to sustain the validity of this Contract.

# ARTICLE II Representations and Warranties

# Section 2.01 Representations and Warranties of Authority.

The Authority hereby represents and warrants that it has full power and authority to sell or otherwise convey treated water to the Participating Members in accordance with the terms of this Contract and the PUA Contract and the execution and delivery of this Contract by the Authority and the performance by the Authority of the provisions hereof do not and will not conflict with or constitute on the part of the Authority a breach or a default of any provision of any other contract or agreement of the Authority.

# Section 2.02 <u>Representations and Warranties of Participating Members.</u>

Each of the Participating Members hereby represents and warrants that it has full power and authority to purchase treated water from the Authority in accordance with the terms of this Contract and the PUA Contract; and the execution and delivery of this Contract by each Participating Member and the performance of the provisions hereof by each Participating Member do not and will not conflict with

or constitute on the part of such Participating Member a breach or a default of any provision of any other contract or agreement of such Participating Member.

# ARTICLE III <u>Construction of Project and Issuance of Bonds</u>

# Section 3.01 Construction of Project.

The PUA has agreed in the PUA Contract that the acquisition, construction, and improvement of the Project by the PUA will be accomplished in accordance with generally accepted engineering practices and, subject to the issuance of the Bonds pursuant to Section 3.02 to provide a source of funds, with all practical dispatch.

## Section 3.02 <u>Issuance of Bonds.</u>

- A. The PUA may issue the Bonds, payable from and secured by a pledge of the Annual Payments from the PUA Contract to finance the costs of acquiring, constructing, extending, enlarging, repairing, renovating, equipping, and otherwise improving the Project.
- B. Each Bond Resolution of the PUA shall specify the exact principal amount of the Bonds to be issued thereunder, which Bonds shall mature within the maximum allowable period or such shorter period as determined by the Authority and shall bear interest not exceeding the maximum allowable rates, all as permitted by law, and each Bond Resolution shall contain such other terms and provisions pertaining to the security and payment of Bonds and the operation and maintenance of the Project as may be necessary for the marketing and sale of the Bonds. The PUA may from time to time issue its Bonds in such amounts as are within its judgment and discretion sufficient to achieve full implementation of the Project.
- C. Prior to the final adoption of a Bond Resolution or any amendment of a Bond Resolution by the PUA's governing body, a draft of the proposed Bond Resolution, and the Sale and Offering Documents shall be presented for review and approval to the Authority's Board of Directors and to the Board of Directors of the Participating Members. The Participating Members shall adopt a resolution approving the issuance of Bonds and delegate to an authorized representative the approval of the final terms and provisions of the Bonds, including the principal amount, as reflected in the final Bond Resolution.
- D. Upon the Authority and the Participating Member approval of (i) each form of Bond Resolution hereafter adopted by the PUA, (ii) any amendments to any Bond Resolution, and (iii) the Sale and Offering Documents and the delivery to the PUA of a certification signed by the authorized representative of the Participating Member to the effect that the Bond Resolution and the Sale and Offering Documents comply with this Contract, then upon the adoption and approval of the Bond Resolution in such final form by the PUA's governing body, the execution of an approval certificate by the authorized representatives of each of the Authority and the Participating Members approving the final terms and provisions of the Bonds and the Bond Resolution, and the issuance and delivery of the Bonds to the purchaser thereof, the Bond Resolution shall for all purposes be considered approved by the PUA and deemed to be in compliance with this Contract in all respects, and the Bonds issued thereunder will constitute Bonds as defined in this Contract for all purposes. Any owner of Bonds is entitled to rely fully and unconditionally on any such approval.

- E. All covenants and provisions in the Bond Resolution affecting, or purporting to bind, the Participating Member, shall, upon the delivery of the Bonds, become absolute, unconditional, valid, and binding covenants and obligations of the Authority and the Participating Member so long as said Bonds and interest thereon are outstanding and unpaid, and may be enforced as provided in this Contract and the Bond Resolution. Particularly, the obligation of the Participating Member to make, promptly when due, all Annual Payments specified in this Contract and all payments described in Section 5.03 hereof shall be absolute and unconditional, and said obligation may be enforced as provided in this Contract. In addition, subject to the approval of the Authority, the PUA may enter into Credit Agreements, to the extent permitted by law, for the purpose of achieving the lowest financing costs for the Project.
- Section 3.03 <u>Liens</u>. Neither the Participating Members nor the Authority will create or permit or suffer to exist any lien, encumbrance, or charge upon the Project or any interest therein at any time, except Permitted Liens.
- Tax-Exempt Bonds. The parties hereto understand and agree that the PUA\_will use its best efforts to provide for, but will not be liable for a failure to produce, the lowest overall debt service cost for the Bonds to be issued for the Project. In connection therewith, the parties intend that the PUA will issue Bonds the interest on which is excludable from the gross income of the owners thereof for federal income tax purposes. The parties hereto acknowledge their understanding that the federal income tax laws impose certain restrictions on the use and investment of proceeds of such taxexempt bonds and on the use of the property financed therewith and the output produced therefrom. Accordingly, the parties agree and covenant that if the Bonds are offered to investors with the understanding that the interest will be exempt from federal income taxation, then the parties, their assigns and agents, will take such action to assure, and refrain from such action which will adversely affect the treatment of such Bonds as obligations described in section 103 of the Code. Should either party fail to comply with such covenant, the effect of which being that the Bonds no longer qualify as obligations described in the Code, such defaulting party shall be liable for all costs resulting from the loss of the tax-exempt status of the Bonds. The parties hereby agree and covenant to comply with all of the representations and covenants relating to such exemption which are set out in any Bond Resolution. The parties further agree and covenant that in the event the Bonds issued are to be tax-exempt, they will modify such agreements, make such filings, restrict the yield on investments, and take such other action necessary to fulfill the applicable provisions of the Code. For these purposes, the parties may rely on the respective opinion of any firm of nationally-recognized bond attorneys selected by them. In the event that a conflict arises in the opinions of the respective firms of each of the parties, the parties will identify a different firm, that is mutually acceptable to both parties, in order to resolve the conflict of opinion.
  - Section 3.05 Payment to Rebate Fund. In the event that tax-exempt Bonds are issued as provided in Section 3.04, the PUA will covenant and agree in the Bond Resolution to make the determinations and to pay any deficiency into a rebate fund, at the times and as described in the Bond Resolution to comply with the provisions of section 148(0)(2) of the Code. In any event, if the amount of cash held in the rebate fund shall be insufficient to permit the trustee or paying agent to make payment to the United States of America of any amount due on any date under section 148(f)(2) of the Code, the PUA forthwith shall pay the amount of such insufficiency on such date to the trustee or paying agent in immediately available funds for such purpose.
  - Section 3.06 <u>Sale and Offering Documents</u>. At the request of the PUA, the Authority and the Participating Members shall provide to the PUA current and historical information concerning their respective utility systems, general fund information, the financial conditions results, and prospects of the

Participating Members, and such other information concerning the Participating Members as the PUA shall deem advisable for inclusion in the Sale and Offering Documents for the Bonds of each series and shall certify to the PUA and the underwriters of any offering of Bonds to be made by means of such Sale and Offering Documents when and if the Participating Members deem such Sale and Offering Documents to be complete and final for purposes of the Rule. The Authority and the Participating Members' knowledge, Members represent and warrant, to the best of the Authority and the Participating Members' knowledge, that all statements concerning the Authority and the Participating Members (including, without limitation, their financial condition, results, and prospects, their utility system, and any demographic and economic information concerning the area served by their utility system) that are contained in any Sale and Offering Document shall be true in all material respects and shall not omit to state any material fact necessary to make the statements made in such Sale and Offering Document, in the light of the circumstances in which they are made, not misleading.

Section 3.07 PUA's Rights Assigned to Trustee. The Participating Members are advised and recognize that as security for the payment of the Bonds, the PUA may assign to a trustee, pursuant to one or more trust indentures to be authorized by the Bond Resolution, the PUA's rights under the PUA Contract and the PUA's third party beneficiary rights under this Contract, including the right to receive the Annual Payments hereunder and the amounts described in Section 5.03 hereof. The Authority and the Participating Members herewith assent to such assignment and will make the Annual Payments and the payments described in Section 5.03 hereof directly to the trustee without defense or set-off by reason of any dispute between the Participating Members and the Authority or the trustee. All rights against the Participating Members arising under this Contract or the Bond Resolution and assigned to the trustee may be enforced by the trustee, or the owners of the Bonds, to the extent provided in the Bond Resolution, and the trustee, or the owners of the Bonds, shall be entitled to bring any suit, action, or proceeding against the Participating Members, to the extent provided in the Bond Resolution, for the enforcement of the PUA Contract and this Contract, and it shall not be necessary in any such suit, action, or proceeding to make the PUA or the Authority a party thereto.

# ARTICLE IV <u>Sale and Purchase of Treated Water: Operating Requirements</u>

# Section 4.01 Water Conveyance; Option to Purchase.

A. The Participating Members hereby agree to pay for the right to receive from the PUA for the benefit of the Authority and the Authority hereby agrees to sell to the Participating Members all of the treated water produced by the PUA for the benefit of the Authority through the Project subject to the terms and provisions of this Contract or other contracts which generate System revenues; provided, however, the Authority shall have the right to purchase, and the Participating Members hereby each agree to relinquish their right to purchase, treated water produced by the Project upon reduction, on a proportionate basis, of the Participating Members' share of their Annual Payments under this Contract as provided in Section 5.04 hereof. It is expressly recognized that the treated water delivered to each Participating Member as disclosed in Exhibit A shall be owned by such Participating Member and may be sold or otherwise conveyed by such Participating Member in accordance with applicable law; provided, however, before any Participating Member enters into a contract or other agreement to transfer, sell, or convey any treated water received from the Authority pursuant to the terms of this Contract, such Participating Member shall afford the Authority the right of first refusal for a period of 90 days to obtain such treated water for redistribution to other Participating Members.

B. Each of the Participating Members shall be entitled to receive from the Authority the quantities of treated water identified in Exhibit A attached hereto in accordance with this Contract. To

the extent the Authority has acquired additional water from some other source, or to the extent any Participating Member does not request all of its allotted treated water as set forth on Exhibit A, or to the extent the Authority acquires a percentage share of the treated water produced by the Project pursuant to Paragraph A of this Section, the Authority may sell or otherwise use the allotted treated water not requested or the share of treated water produced by the Project and acquired by the Authority to supply treated water or spot water sales to other Participating Members, to retail customers, if any, of the Authority, or on a spot basis. The Authority shall provide a "credit" for any Participating Members' water that is sold by the Authority. The Authority agrees to utilize the revenues from this potential sale of water pursuant to this Paragraph B to benefit all Participating Members as these revenues will be accounted for and disclosed in the Authority's next succeeding budget.

#### Section 4.02 Points of Delivery.

Each Participating Member agrees to take treated water at the Point(s) of Delivery for such Participating Member set forth in Exhibit B hereto. Modification of such Points of Delivery may be mutually agreed to in writing between each Participating Member, respectively, the PUA, and the Authority. The PUA will maintain ownership of the connection (being any device, including welded pipe connections, water installations, valves, meter vaults, or similar devices) between the Authority's System and the utility system of the Participating Members.

#### Section 4.03 Resale.

Participating Members hereby agree not to sell treated water purchased from the Authority under this Contract to any person or entity outside such Participating Member's boundaries or prescribed service area (as the boundaries or prescribed service area may be adjusted by the Participating Member in its sole discretion and as approved by any regulatory authority with jurisdiction from time to time) unless the Participating Member has received prior written approval from the Board and are subject to compliance with Section 4.01A above. Approval to make retail sales of treated water to individual customers outside such boundaries or prescribed service area may be granted by the General Manager of the Authority. Approval to make wholesale sales of treated water pursuant to this Contract outside the Participating Member's boundaries or prescribed service area shall require the specific prior approval of the Board and are subject to compliance with Section 4.01A above. Notwithstanding any provision in this Section to the contrary, each Participating Member shall have the right and authority to continue to sell treated water on a retail or wholesale basis to all existing customers situated outside its corporate boundaries or prescribed service area and without the approval or consent of the Board or General Manager. Additionally, the Participating Members shall have the right and authority to sell treated water received from other sources other than the Authority on a wholesale basis or otherwise without any limitation imposed by this Contract or approval by the Board or General Manager.

### Section 4.04 Other Contracts.

A. If the Authority exercises its right to water under this Contract pursuant to Section 4.01, the Authority reserves the right to supply treated water from the Project to others on wholesale or retail basis. Each such contract with other entities shall be limited to the Authority's share of treated water covered by this Contract and shall not contain any provision which would adversely affect the Participating Members' percentage share of treated water covered by this Contract, except as permitted by Section 4.01. In addition, the Authority shall not sell treated water (or such sales will be suspended) pursuant to this Section 4.04 to any entity other than a Participating Member when a condition of

drought or other water conservation measure exists which resulted in all Participating Members having their allocation of treated water reduced on a pro rata basis.

B. The parties hereto recognize and acknowledge that the Authority shall have the right and authority to contract or make other arrangements with respect to its percentage share of water from the Project without limitation or approval of any Participating Member.

#### Section 4.05 Quality.

A. The water to be delivered by the PUA and received by each Participating Member shall be treated water from the Project of a quality sufficient to meet the requirements for potable water established by the Commission and the United States Environmental Protection Agency as set forth in the PUA Contract.

The PUA shall not be responsible for maintaining any particular amount of chlorine residuals at any point in any Participating Member's utility system.

- B. The PUA shall periodically and at a minimum, no less than as may be required by any regulatory authority having jurisdiction, collect samples of treated water delivered to Participating Members and other customers and cause same to be analyzed consistent with guidelines established by the Commission using the then-current edition of Standard Methods for Examination of Water and Wastewater as published by the American Water Works Association ("AWWA") and others.
- C. The PUA shall cooperate with any Participating Member in responding to any regulatory or legal inquiry related to the quality of water delivered under this Contract.

## Section 4.06 Metering Equipment.

The PUA will furnish, install, operate, and maintain at its expense the necessary equipment and devices (including a meter house or pit) of standard type required for measuring the quantity of water delivered under this Contract from the Project to each Participating Member's Point or Points of Delivery. Such meters and other equipment so installed shall be the property of the Authority. The PUA shall inspect, calibrate, and adjust its meters at least annually as necessary to maintain accurate measurements of the quantity of water being delivered. Each Participating Member shall have access to the metering equipment at all reasonable times for inspection and examination, but the reading, calibration, and adjustment thereof shall be done only by employees or agents of the Authority. The PUA will notify each Participating Member of any scheduled reading, inspection, calibration, or adjustment at least three (3) business days in advance of the scheduled date. If a Participating Member so requests, the Participating Member may observe such reading, inspection, calibration, and adjustment of meters. Any measuring device which fails to function or which functions incorrectly shall promptly be adjusted, repaired, or replaced by the Authority, Replacement shall be by a like device having the required accuracy. A meter registering not more than five percent (5%) above or below the test results shall be deemed to be accurate. The previous readings of any meter disclosed by tests to be inaccurate shall be corrected for a period equal to one-half (1/2) the time elapsed since the date of the immediately preceding meter test at which no inaccuracy was discovered, but in no event will a period of correction exceed six (6) months, in accordance with the percentage of inaccuracy found by such tests. If any meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless the PUA and the Participating Member shall agree upon a different amount. All readings of meters will be entered upon proper books of record maintained by the Authority. Any Participating Member may have access to said record books during the Authority's normal business hours.

B. Notwithstanding the requirements for other notices provided in this Contract, any notice, communication, request, reply, or advice from the PUA to a Participating Member, or vice versa, relating to the activities described in Subsection A above, or any other communication relating to the devices for metering of water, may be by electronic or telephone communication, provided receipt of the notice is confirmed by the intended recipient.

# Section 4.07 Pressure, Backflow, Maximum Rate of Flow.

- A. The PUA shall deliver treated water to the Point(s) of Delivery for each Participating Member (subject to the provisions of Section 4.08) at a pressure of not less than 10 psi or at such other pressure agreed upon by the PUA and the Participating Member. If a Participating Member requires a greater or lesser pressure, such Participating Member shall bear all of the costs of providing such greater or lesser pressure. Pressure failure due to supply line breaks, power failures, flood, fire, earthquakes, other catastrophes, or use of water to fight fires, or any other cause beyond the reasonable control of the PUA shall relieve the PUA from compliance with this provision for such reasonable period of time as may be necessary to restore pressure.
- B. The PUA shall install and maintain at its sole expense at each Point of Delivery a backflow preventor of AWWA-approved quality. Each Participating Member shall have the right to inspect the backflow preventor at each of its Points of Delivery at such reasonable times at such Participating Member in its discretion may determine are required.
- C. The maximum rate of flow per day that may be provided to each Participating Member by the PUA is established in Exhibit A hereto and incorporated by reference for all purposes to this Contract.

## Section 4.08 <u>Cross-Utilization of Lines.</u>

- A. Each Participating Member acknowledges that it may be necessary for certain of its transmission lines to be utilized in order for the PUA to transmit treated water to another Participating Member and such Participating Member hereby agrees to permit the PUA to so utilize its transmission lines in accordance with Section 7.09. In such case, the Participating Members involved agree to inform the PUA of any special requirements with respect to pressure or other matters relating to the transmitting Participating Member's lines.
- B. The PUA will furnish, install, operate, and maintain at its expense meters at the point of exit from a Participating Member's lines to maintain accurate measurements of the quantity of water being delivered by the PUA to a Participating Member through the lines of another Participating Member. Such meters shall be subject to inspection and examination by both Participating Members in accordance with the provisions of Section 4.06.
- C. In the event that repairs are required to be made to any lines of a Participating Member which are utilized for the transmission of treated water to another Participating Member, the receiving Participating Member shall participate in the cost of such repairs as may be agreed from time to time.

# ARTICLE V Fiscal Provisions

#### Section 5.01 Annual Requirement.

Subject to the terms and provisions of this Contract, the Authority will provide and pay the PUA for the cost of the Project through the issuance of the Bonds. It is acknowledged and agreed that payments by the Participating Members to the Authority under this Contract will be the expected source of funds available to the Authority to provide the Annual Requirement to the PUA. Each Participating Member shall be obligated to pay the full amount of its Annual Requirement notwithstanding that it may elect not to receive the full amount of treated water available to it under this Contract. In compliance with the Authority's duty to fix and from time to time to revise the rates and charges for services rendered under this Contract, the Annual Requirement may change from time to time. Each such Annual Requirement shall be allocated among the Participating Members and the Authority based upon a rate methodology to be developed by the Authority or according to their respective percentage shares of treated water covered by this Contract, and the Annual Requirement for each Annual Payment Period shall be identified in each annual budget and shall at all times be not less than an amount sufficient to pay or provide for the payment of the following:

- A. all Operation and Maintenance Expenses and Overhead Expenses; and
- B. when the Authority and the Participating Members agree to issue Bonds to finance the costs of the Project, a capital component, including principal, interest, premium, reserve funds, and other funds established or required by any Bond Resolution and to pay the principal of and interest on the Bonds, including the Bond Payment (as defined in the PUA Contract).

# Section 5.02 <u>Annual Budget</u>.

Each annual budget for the acquisition and/or operation and maintenance of the Project shall always provide for amounts sufficient to pay the Annual Requirement. Each Participating Member will be furnished a copy of such annual budget, and each Participating Member hereby acknowledges its ability to pay its share of the Annual Requirement from available funds budgeted therefor. On or before July 15 of each year thereafter commencing July 15, 2016, the Authority shall furnish to each Participating Member a preliminary estimate of the Annual Payment required from each Participating Member for the next following Annual Payment Period.

Not less than 60 days before the commencement of each Annual Payment Period beginning in Fiscal Year 2016, the Authority (i) shall cause to be prepared a preliminary budget for the Project for the next ensuing Annual Payment Period and (ii) shall provide a copy of such preliminary budget to each Participating Member. A Participating Member who disputes any information in the preliminary budget shall submit written comments, questions, or requests for clarification about the preliminary budget directly to the Authority, with copy to each member of the Board, not less than thirty (30) days before the commencement of the Annual Payment Period. The Board may adopt the preliminary budget or make such amendments thereof as to it may seem proper; provided, however, no change or amendment to the preliminary budget will be made by the Board after such preliminary budget has been submitted to the Participating Members which change or amendment would in effect increase the Annual Requirement without resubmitting such amended preliminary budget to the Participating Members not less than 10 days prior to the date of the Board meeting scheduled for approval of the annual budget. The Board shall thereupon approve the annual budget. With respect to budgetary

-12-

matters, the Participating Members shall have the right only to comment on the preliminary budget; their approval of the preliminary or final annual budget shall not be required. The annual budget thus approved by the Board shall be the annual budget for the next ensuing Annual Payment Period. The annual budget, including the first annual budget, may be amended by the Authority at any time to transfer funds from one account or fund to another account or fund, provided such transfer will not increase the total budget and the transfer of funds is attributable to the costs of the Project or to the Project's maintenance and operation. Subject to notification to the Participating Members, the amount for any account or fund, or the amount for any purpose, in the annual budget may be increased through formal action by the Board even though such action might cause the total amount of the annual budget for the Project to be exceeded; provided, however, such action shall be taken only in the event of an emergency or special circumstances which shall be clearly stated in the notice to the Participating Members and in the resolution at the time such action is taken by the Board.

Notwithstanding anything herein to the contrary, no failure of the Authority to estimate, and no mistake by the Authority in any estimate of, the amount of or schedule for Annual Payments due from the Participating Members in any Fiscal Year shall relieve the Participating Members from (or allow them to defer) their absolute and unconditional obligation to make all Annual Payments in full when due.

# Section 5.03 Payments by Participating Members.

- A. Subject to Sections 4.06 and 4.07B, each Participating Member agrees to pay any required connection fee for each Point of Delivery equal to the total cost of material, labor, and equipment required to implement such connection.
- B. For the treated water available to the Participating Members under this Contract (whether or not the Participating Members elect to receive such water), each of the Participating Members agrees to pay, at the time and in the manner hereinafter provided, its share of the Annual Requirement. Each of the Participating Members shall pay its part of the Annual Requirement for each Annual Payment Period directly to the Authority (or its assigns), in monthly installments in accordance with the schedule of payments furnished by the Authority, as hereinafter provided.
- C. Each Participating Member shall pay a proportionate share of the Annual Requirement according to a rate methodology to be developed by the Authority or based upon the relative amount of water available to each Participating Member as set forth on Exhibit A, as amended from time to time. The Authority shall charge each Participating Member its share of pumping costs according to the volume of water actually delivered.
- D. Each Participating Member's allocated share of the Annual Requirement for each Annual Payment Period shall be made in accordance with a written schedule of payments for the appropriate Annual Payment Period which will be supplied to each of the Participating Members by the Authority.
- E. Notwithstanding the foregoing, the Annual Requirement, and each Participating Member's share thereof, shall be redetermined, after consultation with each of the Participating Members, at any time during any Annual Payment Period, to the extent deemed necessary or advisable by the Authority, if:
  - (1) the Authority exercises its option to acquire treated water pursuant to Section 4.01;

- (2) unusual, extraordinary, or unexpected Operation and Maintenance Expenses or Overhead Expenses are required which are not provided for in the Authority's annual budget or reserves for the Project;
- (3) Operation and Maintenance Expenses or Overhead Expenses of the Project are substantially less than estimated;
- (4) a Participating Member's interest under this Contract is terminated as provided herein or Additional Participating Members become subject to this Contract;
  - (5) the PUA issues Bonds for the Project; or
- (6) the Authority receives either substantially more or substantially less revenues or other amounts than those anticipated by the Authority at the time a Participating Member elects to execute this Contract or at the time any annual Preliminary Budget is distributed by the Authority. "Substantially" in this subsection (6) means by an amount of 15% or greater, determined in accordance with generally accepted accounting practices.
- F. Each Participating Member hereby agrees that it will make payments to the Authority required by this Contract at the Authority's offices within thirty (30) days of the date a bill for service is deposited in the United States mail. If any Participating Member at any time disputes the amount to be paid by it to the Authority, such complaining party shall nevertheless promptly make such payment or payments; but if it is subsequently determined by agreement or by appropriate administrative, board, agency, or court decision that such disputed payments should have been less, or more, the Authority shall promptly revise and reallocate the charges in such manner that the Participating Member will recover its overpayment or the Authority will recover the amount due it. All amounts due and owing to the Authority by each Participating Member or due and owing to any Participating Member by the Authority shall, if not paid when due, bear interest at the maximum lawful nonusurious rate of interest per annum from the date when due until paid.
- The Authority shall, to the extent permitted by law, suspend the delivery of services or water from the Project to any Participating Member which remains delinquent in any payments due under the preceding paragraph for a period of forty-five (45) days, and shall not resume delivery of services or water while such Participating Member is so delinquent. The Authority also retains the right to charge a reconnection fee or other appropriate charges prior to commencing utility service to the delinquent Participating Member. It is further provided and agreed that if any Participating Member should remain delinquent in any payments due hereunder for a period of one hundred twenty days, and if such delinquency continues during any period thereafter, such Participating Member's minimum amount specified in Exhibit A, shall be deemed to have been zero gallons during all periods of such delinquency, for the purpose of calculating and redetermining the percentage of each Annual Payment to be paid by the non-delinquent Participating Members and the Authority, and the Authority shall redetermine such percentage on that basis in such event so that the non-delinquent Participating Members and the Authority collectively shall be required to pay all of the Annual Requirement. However, the Authority shall pursue all legal remedies against any such delinquent Participating Member to enforce and protect the rights of the Authority, the other Participating Members, and the holders of the Bonds, if Bonds have been issued or incurred. The delinquent Participating Member shall not be relieved of the liability to the Authority for the payment of all amounts which would have been due hereunder had no default occurred or the percentage had not been redetermined as provided in this Section. It is understood that the foregoing provisions are for the benefit of the Authority and holders of the Authority's Bonds, if Bonds have been issued or incurred, so as to insure that all of the Annual Requirement will be paid by the non-delinquent Participating Members and the Authority during each Annual Payment Period regardless of the delinquency of a particular Participating Member. If any

amount due and owing the Authority by any Participating Member is placed with an attorney for collection, such Participating Member shall pay to the Authority all attorneys' fees, in addition to all other payments provided for herein, including interest.

H. If, during any Annual Payment Period, any Participating Member's Annual Payment is redetermined in any manner as provided or required in this Section, the Authority will promptly furnish such Participating Member with an updated schedule of monthly payments reflecting such redetermination.

#### Section 5.04 Unconditional Payments.

- A. Notwithstanding any provision of this Contract to the contrary, while this Contract remains in effect each of the Participating Members agrees to pay its share of the total cost of the Project and the Bonds. If the Authority elects to exercise its option to acquire a percentage share of the treated water covered by this Contract as provided in Section 4.01, the Annual Payment of each Participating Member shall be reduced to the proportion that each Participating Member's amount of water identified in Exhibit A bears to the total amount of water available from the Project. Initially, the Participating Members agree to pay 100% of the Annual Requirement, but, if the Authority exercises its option to acquire treated water from the Project pursuant to Section 4.01, the Participating Members and the Authority shall share the cost of the Project and the Bonds in proportion to quantities of treated water each is entitled to take from the Project pursuant to this Contract.
- B. Recognizing that the Participating Members urgently require the facilities and services of the Project, and that such facilities and services are essential and necessary for actual use and for standby purposes, and further recognizing the fact that the Authority will use payments received from the Participating Members to pay the PUA for the Bonds, it is hereby agreed that each of the Participating Members shall be unconditionally obligated to pay, without offset or counterclaim, its share of the Annual Requirement, as provided and determined in this Contract, regardless of whether or not the PUA actually acquires, constructs, or completes the Project or is actually delivering water from the Project to any Participating Member hereunder, or whether or not any Participating Member actually receives or uses water from the Project whether due to Force Majeure or any other reason whatsoever, regardless of any other provisions of this or any other contract or agreement between any of the parties hereto. This covenant by the Participating Members shall be for the benefit of and enforceable by the holders of the Bonds as well as the PUA and the Authority.
- C. If by reason of Force Majeure a Participating Member or the Authority shall be rendered unable wholly or in part to carry out its obligations under this Contract, other than the obligation of each Participating Member to make the payments required under Section 5.03 of this Contract, then if such party shall give notice and full particulars of such Force Majeure in writing to the other Participating Members and/or the Authority, as appropriate, within a reasonable time after occurrence of the event or cause relied on, the obligation of the Participating Member or the Authority giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such Participating Member or the Authority shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or

-15-

entire failure of water supply, or on account of any other causes not reasonable within the control of the party claiming such inability.

# Section 5.05 Continuing Right to Treated Water.

For and in consideration of agreeing to the unconditional payments to be made under this Contract, each Participating Member is entitled to a firm right to treated water from the Project in the amounts indicated in Exhibit A, as such amount may be modified from time to time by the terms of this Contract. That right shall continue for the term of this Contract and any renewals thereof.

# ARTICLE VI Additional Participating Members

# Section 6.01 Additional Participating Members.

If water is available, the Authority and the Original Participating Members agree that additional entities may become subject to the provisions of this Contract as Additional Participating Members by providing the following to the Authority and the then Participating Members:

- A. an executed signature page to this Contract in form satisfactory to the Authority;
- B. to the extent any representation contained in this Contract relating to Participating Members does not correctly describe such entity, a revision of such representations satisfactory in form and content to the Authority in the Authority's sole discretion to be included on Exhibit C to this Contract;
- C. a revised Exhibit A to this Contract satisfactory to the Authority and all then Participating Members;
- D. a revised Exhibit B to this Contract setting forth the Point(s) of Delivery for such entity which shall be satisfactory to the Authority;
- E. a completed Exhibit C to this Contract to the extent applicable to such entity and in form satisfactory to the Authority; and
- F. such other certifications and information as may be reasonably requested by the Authority and the then Participating Members.

# ARTICLE VII Special Conditions

# Section 7.01 Operation and Maintenance of the Project.

The PUA will continuously operate and maintain the Project in an efficient manner and in accordance with good business and engineering practices, and at reasonable cost and expense as set forth in the PUA Contract.

#### Section 7.02 Project Schedule.

It is the intent of the parties that the Project be placed in operation as soon as practicable, and the PUA has agreed in the PUA Contract to proceed diligently with the evaluation of feasibility, the securing of regulatory permits, and the design and construction of the Project to meet such schedule, subject to the other terms and conditions in this Contract.

## Section 7.03 Permits, Financing, and Applicable Laws.

Any obligations on the part of the PUA to acquire, construct, and complete the Project and related facilities and to provide treated water from the Project to the Authority for the benefit of the Participating Members shall be (i) conditioned upon the PUA's ability to obtain all necessary permits, material, labor, and equipment; (ii) subject to the PUA's final determination of feasibility of transportation of the treated water from the Project; (iii) conditioned upon the ability of the PUA to finance the cost of the Project through the sale of the Bonds; and (iv) subject to all present and future valid laws, orders, rules, and regulations of the United States of America, the State of Texas, the Commission, and any regulatory body having jurisdiction.

## Section 7.04 Title to Water; Indemnification.

Title to all water supplied to each Participating Member shall be in the Authority up to the Point of Delivery for such Participating Member, at which point title shall pass to the receiving Participating Member. Title to treated water transmitted through the lines of a Participating Member pursuant to Section 4.08 for the use of another Participating Member shall remain in the Authority until it reaches the Point(s) of Delivery of the receiving Participating Member. The Authority and each of the Participating Members shall, to the extent permitted by law, save and hold each other harmless from all claims, demands, and causes of action which may be asserted by anyone on account of the transportation and delivery of said water while title remains in such party.

### Section 7.05 Payments Solely From Revenues.

The Authority shall never have the right to demand payment by any Participating Member of any obligations assumed by it or imposed on it under and by virtue of this Contract from funds raised or to be raised by taxes, and the obligations under this Contract shall never be construed to be a debt of such kind as to require any of the Participating Members to levy and collect a tax to discharge such obligation. Nonetheless, any Participating Member may make payments from its utility system revenues, or from any other lawful source, including ad valorem taxes, if lawfully available to such Participating Member.

#### Section 7.06 Operating Expenses.

Each of the Participating Members represents and covenants that, to the extent payments under this Contract are made with utility system revenues, such payments shall constitute reasonable and necessary "operating expenses" of its utility system, as defined in Chapter 1502, as amended, Texas Government Code (or other applicable law), and that all such payments will be made from the revenues of its utility system or any other lawful source. Each Participating Member represents and has determined that the treated water supply to be obtained from the Project is absolutely necessary and essential to the present and future operation of its utility system and that the Project represents a long-term source of supply of treated water to meet current and projected water needs of the Participating Member's utility system and facilities, and, accordingly, all payments required by this

-17-

Contract to be made by each Participating Member shall constitute reasonable and necessary operating expenses of its utility system as described above, with the effect that such payments from revenues of such systems shall be deducted from gross revenues of the system in the same manner as other system operating and maintenance expenses for purposes of determining net revenues available to pay bonds or other similar obligations heretofore or hereafter issued by such Participating Member, which obligations are payable from and secured by a pledge of the revenues of the system or facilities after deduction of maintenance and operating expenses.

#### Section 7.07 Rates for Water.

Each of the Participating Members agrees throughout the term of this Contract to continuously operate and maintain its utility system and to fix and collect such rates and charges for utility services to be supplied by its system as aforesaid as will produce revenues in an amount equal to at least (i) all of the expenses of operation and maintenance expenses of such system, including specifically, its Annual Payment under this Contract, and (ii) all other amounts as required by law and the provisions of the ordinance or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding, including the amounts required to pay all principal of and interest on such bonds and other obligations.

### Section 7.08 Use of Funds and System.

The Authority covenants and agrees that neither the proceeds from the sale of the Bonds, nor the money paid it pursuant to this Contract, nor any earnings from the investment of any of the foregoing, will be used for any purposes, except those directly relating to the Project and the Bonds as provided in this Contract.

### Section 7.09 Rights-of-Way.

- A. Each Participating Member hereby grants to the Authority without additional cost to the Authority, the use of the streets, easements, rights-of-way, and pipelines under its control for the construction, emergency repairs, operation, and maintenance of the Project and the provision and transmission of treated water hereunder; provided, however, such grant of the use of streets, easements, rights-of-way, and pipelines to the Authority is subject to and conditioned on the Authority (i) complying with all applicable policies, practices, and regulations of the Participating Members governing and regulating such use of the streets, easements, rights-of-way, and pipelines and (ii) paying all costs, if any, of restoring such streets, easements, rights-of-way, and pipelines to substantially the same state of condition that existed prior to the Authority's use.
- B. To the extent they have such ownership authority, each Participating Member agrees that, without prior written approval, the Authority may use streets, alleys, and public rights-of-way within the Participating Member's boundaries for pipeline purposes.

#### Section 7.10 Insurance.

The PUA has agreed in the PUA Contract to carry and arrange for fire, casualty, public liability, and/or other insurance, including self-insurance, on the Project for purposes and in amounts which, as determined by the PUA, ordinarily would be carried by a privately owned utility company owning and operating such facilities, except that the PUA shall not be required to provide liability insurance except to insure itself against risk of loss due to claims for which it can, in the opinion of the PUA's legal counsel, be liable under the Texas Tort Claims Act or any similar law or judicial decision. Such insurance will provide, to the extent feasible and practicable, for the restoration of damaged or

destroyed properties and equipment, to minimize the interruption of the services of such facilities. Premiums for such insurance that relate directly to the Project or, under generally accepted cost accounting practices, is allocable to the Project, shall constitute an Operation and Maintenance Expense.

## Section 7.11 Additional Special Provisions.

The parties hereto acknowledge and agree to the Special Provisions, if any, which are set forth in Exhibit C hereto. The Special Provisions for this Contract reflect circumstances or issues for specific Participating Members which may be different from those of other Participating Members and therefore constitute a modification of or requirement in addition to the standard provisions otherwise contained in this Contract. To the extent of any conflict between any Special Provision and any other provision of this Contract, the Special Provision shall control.

# ARTICLE VIII Continuing Disclosure

### Section 8.01 Annual Reports.

The Authority (and each Participating Member if required by the Rule in its Approval Certificate for any series of Bonds) shall file annually with the MSRB, (1) within six months after the end of each Fiscal Year of the Authority ending in or after 2015, financial information and operating data with respect to the Authority of the general type included in the Sale and Offering Documents authorized by Section 28 of the Bond Resolution, being the information described in Exhibit D to the Bond Resolution, and (2) if not provided as part of such financial information and operating data, audited financial statements of the Authority, when and if available. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit D to the Bond Resolution, or such other accounting principles as the Authority may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the Authority commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the Authority shall file unaudited financial statements within such period and audited financial statements for the applicable Fiscal Year to the MSRB, when and if the audit report on such financial statements becomes available. The Authority must have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the Secretary, Board of Directors, within 180 days after the last day of the Authority's Fiscal Year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

If the Authority changes its Fiscal Year, it will file notice of such change (and of the date of the new Fiscal Year end) with the MSRB prior to the next date by which the Authority otherwise would be required to provide financial information and operating data pursuant to this Section.

# Section 8.02 <u>Material Event Notices</u>.

The Authority shall file notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

(1) Principal and interest payment delinquencies;

- Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the Authority, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material.

For these purposes, any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Authority in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Authority, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Authority.

The Authority shall file notice with the MSRB, in a timely manner, of any failure by the Authority to provide financial information or operating data in accordance with this Section by the time required by this Section.

# Section 8.03 <u>Limitations, Disclaimers, and Amendments</u>.

The Authority shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Authority remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the Authority in any event will give notice of any deposit that causes the Bonds to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Authority undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the Authority's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The Authority does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE AUTHORITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE AUTHORITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the Authority in observing or performing its obligations under this Section shall constitute a breach of or default under this Contract for purposes of any other provision of this Contract.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Authority under federal and state securities laws.

The provisions of this Section may be amended by the Authority, with the consent of the Participating Members, from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Authority, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Contract that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the Authority (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The Authority may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the Authority also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the Authority so amends the provisions of this Section,

-21-

the Authority shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

# Section 8.04 <u>Information Format – Incorporation by Reference.</u>

The Authority information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

# Section 8.05 Allocation of Water During Drought.

During drought conditions or in any other condition when water cannot be supplied to meet the demands of all customers, the water to be distributed shall be divided among all customers of stored water pro rata, according to the amount each may be entitled to, subject to reasonable conservation and drought management plans and requirements based on particular purposes of use of the water, so that preference is given to no one and everyone suffers alike.

### Section 8.06 Conservation.

The Authority and Participating Member each agree to provide to the maximum extent practicable for the conservation of water, and each agrees that it will operate and maintain its facilities in a manner that will prevent waste of water. Participating Members further agree to implement water conservation and drought management plans applicable to the use of treated water from the Project that are consistent in purpose, provisions and application with those implemented by other Participating Members to the extent practicable considering any differences in the legal authority of Participating Members and other Participating Members to institute those plans.

### Section 8.07 Term of Contract.

This Contract shall be effective on and from the Contract Date, and shall continue in force and effect for forty (40) years; provided, however, the term of this Contract and the expiration date may be extended for succeeding five (5) year periods at the option of one or more of the Participating Members for as long as an agreement providing an adequate source of raw water remains in effect. It is understood and agreed by the Authority and each Participating Member that the right to receive treated water hereunder shall continue throughout any renewals or extension of this Contract. The Authority's obligation to provide treated water services hereunder shall commence from the date the Project becomes operational and functional as certified by the consulting engineers for the Project or on such other date that one or more of the Participating Members receives treated water by virtue of or in exchange for treated water from the Project.

# Section 8.08 Approval and Consent.

Unless otherwise provided herein, any approval or consent required by the provisions of this Contract by a Participating Member or the Authority shall be evidenced by a written resolution adopted by the governing body of the party giving such approval or consent (or by the General Manager on behalf of the Authority when permitted). Upon receipt of such written resolution duly certified by the appropriate party, the Authority or the Participating Member can conclusively act on the matter requiring such approval.

# Section 8.09 Modification and Amendment.

- A. No change, amendment, or modification of this Contract shall be made or be effective which will affect adversely the prompt payment when due of all money required to be paid by any Participating Member under this Contract or any similar contract, and no such change, amendment, or modification shall be made or be effective which would cause a violation of any provisions of any Bond Resolution.
- B. This Contract may be amended upon the written consent of the Authority and all then Participating Members; provided, however, no amendment to this Contract shall impair the rights of any holder of any of the Bonds.

# Section 8.10 Addresses and Notice.

Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by any party to any other party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties hereto shall, until changed as hereinafter provided, be as follows:

A. If to the Authority, to:

Canyon Regional Water Authority 850 Lakeside Pass New Braunfels, Texas 78130

B. If to the Crystal Clear Special Utility District to:

Crystal Clear Special Utility District 2370 FM 1979 San Marcos, Texas 78666 C. If to the County Line Special Utility District to:

County Line Special Utility District 8870 Camino Real Uhland, Texas 78640

D. If to Green Valley Special Utility District, to:

Green Valley Special Utility District Post Office Box 99 Marion, Texas 78124

E. If to the PUA, to:

Hays Caldwell Public Utility Agency 630 East Hopkins San Marcos, Texas 78666

The parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other parties hereto.

# Section 8.11 State or Federal Laws, Rules, Orders, or Regulations.

This Contract is subject to all applicable federal and state laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state, or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum having jurisdiction.

# Section 8.12 Remedies Upon Default.

It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by any party hereto and shall be cumulative. Recognizing, however, that the PUA's undertaking to provide and maintain the Project is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the PUA has agreed in the PUA Contract, in the event of any default on its part, that each Participating Member shall have available to it the equitable remedy of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination) which may also be available. Recognizing that failure in the performance of any Participating Member's obligations hereunder could not be adequately compensated in money damages alone, each Participating Member agrees in the event of any default on its part that the Authority and the PUA shall have available to it the equitable remedy of mandamus and specific performance in addition to any other legal or equitable remedies (other than termination) which may also be available to the Authority and the PUA. Notwithstanding anything to the contrary contained in this Contract, any right or remedy or any default hereunder, except the right of the Authority to receive the Annual Payment which shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto or of performance by any other party of any duty or obligation hereunder shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character, or description, under any circumstance.

## Section 8.13 Severability.

The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws of the State or the United States of America, or in contravention of any such laws, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

#### Section 8.14 Venue.

All amounts due under this Contract, including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Hays County, Texas, which is the County in which the principal administrative offices of the PUA are located. It is specifically agreed among the parties to this Contract that Hays County, Texas, is the place of performance of this Contract; and in the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same shall be brought in Hays County, Texas.

#### Section 8.15 Assignment.

Neither the Authority nor any Participating Member may assign any interest it may have under this Contract without the prior written consent of the other parties hereto; provided, however, the foregoing restriction shall not prevent the Authority from taking any action in connection with the issuance of the Bonds to secure the payment of the Bonds with amounts to be received by the Authority under this Contract or the PUA Contact.

## Section 8.16 Entire Agreement.

This Contract, certain existing contractual arrangements, and the PUA Contract constitute the entire agreements among the parties with respect to the sale of treated water by the Authority to the Participating Members and the sale of the Bonds by the PUA.

## Section 8.17 Applicable Law.

This Contract shall be governed by and construed in accordance with the laws of the State, and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws without reference to the laws of any other state or jurisdiction, except for applicable federal laws, rules, and regulations.

# Section 8.18 No Sale, Lease, or Other Transfer of Participating Members' Utility System.

Pursuant to the terms of this Contract, a Participating Member, to the extent permitted by law, shall not sell, lease, or otherwise transfer any interest in such Participating Member's actual utility system without the written consent of the Authority.

### Section 8.19 Counterparts.

This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

# Section 8.20 Goods and Services; Waiver of Sovereign Immunity; Limitation on Damages.

The Participating Members under the Contract agree that the mutual commitment stated in the Contract to provide water, emergency water service, water treatment services, and funding for utility system improvements constitute an agreement by each party for providing goods and services to the other parties, and that the Contract, as amended, is subject to Chapter 271, Subchapter I, of the Texas Local Government Code.

# Section 8.21 PUA Third Party Beneficiary of this Contract.

Given that the PUA will sell the Bonds pursuant to the terms of the Bond Resolution to construct the Project, the Authority and each Original Participating Member agrees that the PUA will be a third party beneficiary of this Contract.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Contract to be duly executed as of the day and year first above written.

CANYON REGIONAL WATER AUTHORITY

y: \_\_\_\_\_

President, Board of Directors

ATTEST:

Secretary, Board of Directors

(AUTHORITY SEAL)

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this Contract to be duly executed as of the day and year first above written.

CANYON REGIONAL WATER AUTHORITY

	By:
ATTEST:	
Secretary, Board of Directors	
(AUTHORITY SEAL)	

CRYSTAL CLEAR SPECIAL UTILITY DISTRICT

Bv:

President Board of Directors

ATTEST:

Secretary, Board of Directors

(SEAL)

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COUNTY LINE SPECIAL UTILITY DISTRICT

By:

President, Board of Directors

ATTEST;

Secretary, Board of Directors

(SEAL)



GREEN VALLEY SPECIAL UTILITY DISTRICT

By:

President, Board of Directors

ATTEST:

Secretary, Board of Directors

(SEAL)

Exhibit A

# Allocations and Maximum Rate of Flow

	Plant Capacity	Percent of
Entity	in A/F	Ownership (%)
Crystal Clear Special Utility District County Line Special Utility District Green Valley Special Utility District Totals	5,670	55.263
	1,059	10.322
	<u>3,531</u>	<u>34.415</u>
	10,260	100.00%

#### Exhibit B

# Points of Delivery

Crystal Clear Special Utility District County Line Special Utility District Green Valley Special Utility District Highway 123 storage tank Highway 21 pump station Authority's Wagner pump station Exhibit C

Special Provisions

None

Exhibit D

PUA Contract

#### Attachment B

## AMENDMENT NO. 1 TO CRWA/SUDs TAKE-OR-PAY CONTRACT

This is Amendment No. 1 (this "Amendment") to the CRWA/SUDs TAKE-OR-PAY CONTRACT, as amended (the "Contract") by and among the Canyon Regional Water Authority (the "Authority"), and the Crystal Clear Special Utility District, the County Line Special Utility District, and the Green Valley Special District (collectively, the "Original Participating Members"). The Contract was dated as of (and effective from) October 19, 2015. This Amendment is dated effective as of [December 31, 2023]. Together with any Additional Participating Members (as defined in the Contract), the Original Participating Members may be collectively or individually referred to in this Amendment as the "Participating Members."

#### WITNESSETH:

WHEREAS, the Authority was created to purchase, own, hold, lease, and otherwise acquire sources of a potable water supply; to build, operate, and maintain facilities for the treatment and transportation of water; to sell potable water to local governments, special utility districts, water supply corporations, and other persons in the State of Texas; and to protect, preserve, and restore the purity and sanitary condition to water in the Authority; and

WHEREAS, the Authority is a "Sponsoring Public Entity" of the Alliance Regional Water Authority (formerly known as the Hays Caldwell Public Utility Agency) (the "Agency" or, as used elsewhere in the Contract, the "PUA") and previously entered into a Regional Water Supply Contract with the Agency dated January 1, 2008, as amended by Amendment No. 1 to Regional Water Supply Contract, dated and effective as of October 31, 2009, and as further amended by Amendment No. 2 to Regional Water Supply Contract, of even date herewith (as such contract may be further amended from time to time, the "Agency Contract" or, as such term is used elsewhere in the Contract, the "PUA Contract"); and

WHEREAS, among other things, the Agency Contract obligates the Authority to make Annual Payment Amounts (as defined in the Agency Contract) as set forth more fully therein; and

WHEREAS, the Agency has previously sold, issued and delivered multiple series of Bonds to the Texas Water Development Board (including five series of Bonds for the Authority), with each such issuance structured as a separate series of Bonds for each requesting Sponsoring Public Entity, respectively, and such Bonds payable from and secured by an assignment of such Annual Payment Amounts made under the Agency Contract by the designated Sponsoring Public Entity for which such series of Bonds was issued; and

WHEREAS, the Authority and the Participating Members wish to revise the Contract to authorize the Agency to issue notes or other instruments or evidence of indebtedness in anticipation of, and payable in whole or in part from, proceeds from the sale of future Bonds or other such notes, instruments or evidence of indebtedness; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the sufficiency of which are hereby acknowledged, and upon and subject to the terms and conditions hereinafter set forth, the Authority and each of the Participating Members agree and contract as follows:

1. Section 3.08 of the Contract is added as follows (underlining indicates added text):

<u>Section 3.08</u> <u>Bond Anticipation Notes.</u> <u>Notwithstanding anything contained</u> herein to the contrary:

- (a) The Agency may issue Bond Anticipation Notes (as such term is defined herein below) as a single series or as separate series of each Sponsoring Public Entity (as defined in the Agency Contract) requesting financing by the Agency, in such form as now or hereafter authorized by law.
- (b) In the case of Bond Anticipation Notes issued by the Agency as a single series,
  (i) the Agency may issue such Bond Anticipation Notes pursuant to the terms
  of a single Bond Resolution adopted by the Agency; (ii) the term Bond
  Resolution shall refer to such single Bond Resolution of the Agency; and (iii)
  each Sponsoring Public Entity shall be responsible solely for the Bond
  Payments attributable to its pro rata portion of such Bond Anticipation Note,
  allocated pro rata as if the Bond Anticipation Note were comprised of separate
  series.
- (c) As used in the Contract (including this Amendment), the term "Bond Anticipation Note(s)" means a note or other instrument or evidence of indebtedness issued in anticipation of, and payable in whole or in part from, proceeds from the sale of future Bonds (or other Bond Anticipation Notes).
- Defined Terms. All terms that are defined in the Contract (and not otherwise defined herein) shall have those same definitions in this Amendment. Capitalized terms used but not otherwise defined in this Amendment or in the Contract shall have the meanings given to such terms in the Agency Contract.
- 3. <u>Remaining Provisions</u>. All other provisions of the Contract not amended hereby remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto acting under authority of their respective governing bodies have caused this Amendment to be duly executed as of the day and year first above written.

	CANYON REGIONAL WATER AUTHORITY
ATTEST:	President, Board of Trustees
Secretary, Board of Trustees	

## CRYSTAL CLEAR SPECIAL UTILITY DISTRICT

	By: President, Board of Directors
TTEST:	
7:	

## COUNTY LINE SPECIAL UTILITY DISTRICT

	By: President, Board of Directors
ATTEST:	
By: Secretary, Board of Directors	

## GREEN VALLEY SPECIAL UTILITY DISTRICT

	By:President, Board of Directors
ATTEST:	
By: Secretary, Board of Directors	

### CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	AGENDA NUMBER
12/11/2023	BOND ANTICIPATION NOTE ISSUANCE	CRWA 23-12-084
INITIATED BY	GRAHAM MOORE, EXECUTIVE DIRECTOR OF ALLIANCE REGIO	NAL WATER AUTHORITY

#### RECOMMENDATION

Approve a resolution authorizing the Board of Directors of the Alliance Regional Water Authority to negotiate a short-term financing transaction with Wells Fargo Bank, N.A. through the issuance of Bond Anticipation Notes and to resolve other matters incident and related thereto on behalf of the Alliance Project Sponsoring Public Entities, including Canyon Regional Water Authority.

#### **BACKGROUND INFORMATION**

Pursuant to Chapter 572, as amended, Texas Local Government Code, the Hays Caldwell Public Utility Agency, now known as the Alliance Regional Water Authority, as described more fully herein below (the "Agency"), as a constituted authority and instrumentality and political subdivision of the State of Texas, was created by the Cities of Buda, Kyle and San Marcos, Texas, each Texas home rule municipalities, and the Canyon Regional Water Authority, a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (collectively, the "Sponsors" or "Sponsoring Public Entities" or singularly, a "Sponsor" or "Sponsoring Public Entity").

The Agency and the Sponsors entered into a "Regional Water Supply Contract" dated as of January 9, 2008, as amended by Amendment No. 1 effective as of October 31, 2009, and Amendment No. 2 being authorized this month and as may be further amended (collectively, the "Contract"), pursuant to which the Agency agreed to design, finance, construct, own, acquire, maintain and operate a water supply project in a manner that will allow the Agency to deliver water to the Sponsors on a regional basis and under which each of the Sponsors agree to pay their share of the project costs and to make payments to or on behalf of the Agency in amounts sufficient to meet all of the Agency's obligations under the Contract including those relating to a Sponsor's bonds issued to finance and refinance a Sponsor's share of the Project Costs and to own, operate and maintain the Project.

On June 15, 2017, by special act of the 85<sup>th</sup> Legislature, SB 1198, codified as Chapter 11010, Special District Local Laws Code (the "Act"), the Agency was converted to the Alliance Regional Water Authority, a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution (for purposes of this Resolution and the exhibits attached hereto, the Alliance Regional Water Authority may also be referred to herein as the "Issuer" (in addition to its identification as the "Agency" described herein above).

The Agency has previously sold, issued and delivered multiple series of Bonds to the Texas Water Development Board, with each such issuance structured as a separate series of Bonds for each requesting Sponsor, respectively, and such Bonds payable from and secured by an assignment of the Annual Payment Amounts made under the Contract by the designated Sponsor for which such series of Bonds was issued (by operation of the law pursuant to the Act, the Alliance Regional Water Authority assumed all assets, liabilities, bonds, notes and other obligations of the Hays Caldwell Public Utility Agency including all obligations pursuant to the Contract).

The Agency and the Sponsors intend to approve the form of an amendment to the Contract to authorize the Agency to issue notes or other instruments or evidence of indebtedness in anticipation of, and payable

in whole or in part from, proceeds from the sale of future Bonds or other such notes, instruments or evidence of indebtedness ("Bond Anticipation Note(s)"), which may be issued as a single series (with a single interest rate) or as separate series of each Sponsor requesting financing by the Agency (with a separate interest rate for each such Sponsor), ("Amendment No. 2").

Wells Fargo Bank, N.A. and certain of its subsidiaries (collectively, the "Bank") presented the Agency with a nonbinding term sheet captioned "Summary of Preliminary Terms and Conditions", setting forth certain terms and conditions upon which the Bank wishes to explore and pursue purchasing Bond Anticipation Note(s) from the Agency, including structuring such Bond Anticipation Note(s) as a single series with a single interest rate. A copy of the "Resolution Approving a Resolution by the Board of Directors of the Alliance Regional Water Authority Authorizing the Issuance of Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project), Series 2023; and Resolving Other Matters Incident and Relating to the Issuance, Payment, Security, Sale and Delivery of Such Note" is presented in Attachment A for consideration and approval by the CRWA Board of Trustees. The simple annual interest rate on the Bond Anticipation Note is 4.72%. Approval of a similar resolution is being considered by the Boards of Crystal Clear SUD, County Line SUD and Green Valley SUD at their December Board meetings.

The ARWA Board of Directors wishes to explore, pursue and obtain short-term (or other appropriate) financing for the Project through the sale, issuance and delivery of Bond Anticipation Note(s) to the Bank along the terms and conditions generally provided in the Term Sheet (including structuring such Bond Anticipation Note(s) as a single series with a single interest rate, as authorized by Amendment No. 2) or, as market, legal or other conditions may warrant, a short-term or other appropriate financing transaction along other terms and conditions to be explored and pursued by the Agency's Executive Director and appropriate consultants (collectively, a "Short-Term Financing").

The Agency's Chair, Vice-Chair, Executive Director and appropriate consultants (including the Agency's General Counsel, Financial Advisor and Bond Counsel) are to be authorized by the ARWA Board of Directors to take all action necessary or appropriate to explore, pursue, negotiate and obtain a Short-Term Financing (including through the sale, issuance and delivery of Bond Anticipation Note(s) to the Bank) along the terms and conditions generally provided in the Term Sheet (including structuring such Bond Anticipation Note(s) as a single series with a single interest rate, as authorized by Amendment No. 2), with such changes as to form, scope, structure, timing, terms, and conditions as approved by the Agency's Chair, Vice-Chair, Executive Director or other authorized representatives), in all cases subject to further approval by the Board. Notwithstanding the foregoing, the ARWA Board of Directors in no way intends to limit the ability of the Agency's Chair, Vice-Chair, Executive Director, other authorized representatives, or consultants from exploring and pursuing other necessary or appropriate financings (including financings from the Texas Water Development Board).

#### FINANCIAL IMPACT

There is no financial impact to CRWA by authorizing the issuance of Bond Anticipation Notes and to resolve other matters incident and related thereto. The costs will be allocated to the Sponsors on a pro rata basis with CRWA's share being 30.89%. All fees, charges, and expenses assigned to CRWA associated with the Bond Anticipation Notes shall be paid by Crystal Clear SUD, County Line SUD, and Green Valley SUD, which are participants in the Alliance Project through CRWA. A maturity date of January 15, 2025, is anticipated. Payment will be due on the receipt of State Water Implementation Funds for Texas ("SWIFT") funds or maturity. ARWA is working with the Texas Water Development Board (TWDB) to roll the interest payment into the SWIFT funding so that the initial pays me not be required until August 2025.

#### MOTION

Motion to approve the following resolution.

(P)

#### **CANYON REGIONAL WATER AUTHORITY**

#### **RESOLUTION No. 23-12-084**

BE IT RESOLVED that authorization for the Board of Directors of the Alliance Regional Water Authority to negotiate a short-term financing transaction with Wells Fargo Bank, N.A. through the issuance of Bond Anticipation Notes and to resolve other matters incident and related thereto on behalf of the Alliance Project Sponsoring Public Entities, including Canyon Regional Water Authority, is approved.

	Adopt	ted this 11 <sup>tr</sup>	day of Decer	nber 2023	
	Ayes	_ Nays	Abstained	Absent	
			Approve	ed by:	Timothy D. Fousse, CPM
					President
Certified and attested by: _		Doris Ste	eubing retary		

#### RESOLUTION NO. 23-\_-

RESOLUTION APPROVING A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (REGIONAL WATER SUPPLY CONTRACT PROJECT), SERIES 2023; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SUCH NOTE

CANYON REGIONAL WATER AUTHORITY §

STATE OF TEXAS §

WHEREAS, the Canyon Regional Water Authority ("Canyon Regional") is a sponsor of the Alliance Regional Water Authority (the "Authority"); and

WHEREAS, Canyon Regional has approved and executed the Regional Water Supply Contract dated as of January 9, 2008 (the "Original Contract") for the financing, construction and operation of the Authority's Regional Water Supply Project, as amended by Amendment No. 1 to the Original Contract effective as of October 31, 2009 and Amendment No. 2 effective as of December 21, 2023 and as may be further amended (collectively, the "Contract"); and

WHEREAS, Canyon Regional has previously requested that the Authority issue a single bond anticipation note for the benefit of Canyon Regional (in addition to the benefit of the other respective sponsors) entitled "Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project), Series 2023" (the "Note") to finance Canyon Regional's additional contribution to the design, construction and equipment of the Phase 1B Improvements of the Authority's Water Supply Project pursuant to the Contract which Note is payable from the proceeds of future bonds and/or bond anticipation notes; and

WHEREAS, Canyon Regional entered into a separate take-or-pay contract dated as of October 19, 2015 as amended by Amendment No. 1 effective as of December 21, 2023 with Crystal Clear Special Utility District, County Line Special Utility District and Green Valley Special Utility District that provides for the issuance of the Note (including as a single series with a single interest rate); and

WHEREAS, pursuant to Section 3.1(c) of the Contract, prior to adoption of a Note Resolution for Canyon Regional and the other Sponsors, as the case may be by the Authority's Board of Directors, a substantially final copy of the Note Resolution, as defined herein, for Canyon Regional and the other Sponsors, as the case may be and the sale and offering documents, if any, shall be presented to Canyon Regional for review and approval; and

WHEREAS, a substantially final copy of the Authority's Bond Resolution, as defined in the Contract (which may also be referred to as the "Note Resolution"), authorizing the Note for Canyon Regional's share of the Phase 1B Improvements of the Authority's Water Supply Project has been presented to Canyon Regional for review and approval; and

WHEREAS, the Note is being sold to Wells Fargo Bank, N.A.; Wells Fargo Municipal Capital Strategies, LLC, a wholly owned subsidiary of Wells Fargo Bank, N.A. or any other wholly owned subsidiary of Wells Fargo Bank, N.A. and there are no sale and offering documents, as defined in the Contract to be presented to the City for review and approval; and

**WHEREAS**, it is hereby further officially found and determined that public notice of the time, place, and purpose of this meeting was given, all as required by Texas Government Code, Chapter 551.

# NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF CANYON REGIONAL WATER AUTHORITY:

- **SECTION 1. RECITALS.** The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. Capitalized terms used herein shall have the meaning assigned in the preamble hereof or the Contract, unless otherwise defined.
- **SECTION 2.** <u>NOTE RESOLUTION</u>. The Note Resolution in substantially the form attached hereto as <u>Exhibit "A"</u> is hereby approved with such changes as approved by Canyon Regional's Authorized Representative.
- SECTION 3. <u>CERTIFICATES</u>. Canyon Regional's Authorized Representative is hereby authorized to sign the Approval Certificate attached hereto as <u>Exhibit "B"</u> reflecting the final interest rate and term of the Note. The President and Secretary of its Board of Trustees and its General Manager are each authorized to sign all certificates and are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms of this Resolution and the issuance of the Note as requested by Canyon Regional.
- **SECTION 4**. <u>ANNUAL AUDIT</u>. Within 180 days after Canyon Regional's fiscal year end, Canyon Regional shall provide the Authority a copy of its annual audit.
- **SECTION 5.** <u>IMMEDIATE EFFECT</u>. This Resolution shall take effect immediately from and after its adoption in accordance with the law.

D A	CCED	AND	APPROVED	this	December	, 2023	
	33111	AIVID	ALLIOTED	uiio	D CCCITTO		

President, Board of Trustees Canyon Regional Water Authority

ATTEST:

Secretary, Board of Trustees Canyon Regional Water Authority

# EXHIBIT "A" NOTE RESOLUTION

RESOLUTION NO.	
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A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (REGIONAL WATER SUPPLY CONTRACT PROJECT), SERIES 2023; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE AND DELIVERY OF SUCH NOTE

ADOPTED \_\_\_\_\_\_, 2023

RESOLUTION NO.	
RESOLUTION NO.	

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (REGIONAL WATER SUPPLY CONTRACT PROJECT), SERIES 2023; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH NOTE

#### TABLE OF CONTENTS

		age
DDEAMDLE		1
Section 1.	ANOTHE DUDDOSE AND DESIGNATION OF THE NOTE	
Section 2.	( ) 1 and Designation	
	/1 \ D	3
a .: 2	DATE DENOMINATIONS NITMBERS MATURITIES, AND TERMS	
Section 3.	OF THE NOTE	3
	( ) T	
	4 \ T \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \	
_ ,	D WEDEUT	
Section 4.	PROTORD A TION TO A NICEED AND HX CHANGE: AUTHENTICATION	
Section 5.	( ) D : A / D a gistron	1
	(a) Paying Agent/Registrat(b) Registration Books	4
	(c) Ownership of the Note	5
	(d) Payment of the Note and Interest	5
	(e) Authentication	5
	(e) Authentication	5
	(g) Substitute Paying Agent/Registrar	6
	(g) Substitute Paying Agent/Registral(h) Notice of Redemption	7
	(h) Notice of Redemption	7
	(i) Initial NoteFORM OF NOTE	7
Section 6.	FORM OF NOTE PLEDGE OF FUTURE BOND PROCEEDS	7
Section 7.	PLEDGE OF FUTURE BOND PROCEEDS	7
	(a) Pledge	8
	(a) Pledge	8
Section 8.	DEBT SERVICE FUND AND PROJECT FUND	8
	(a) Debt Service Fund	8
Section 9.	BASTA CENTE OF MOTE	
Section 10.	INVESTMENTS	9
Section 11.	INVESTMENTSISSUANCE OF ADDITIONAL INDEBTEDNESS	ç
Section 12.	MAINTENANCE OF PROJECT - INSURANCE	10
Section 13.	RECORDS AND ACCOUNTS - ANNUAL AUDIT	10
Section 14.	SALE OR ENCUMBRANCE OF SYSTEM	10
Section 15.	SPECIAL COVENANTS	11
	2 5 milit	
	(a) Title(b) Liens	1

		11
	(c) Performance	11
	2 N T	
	( ) D 1 1	
Section 16.	TRATED ODITIONS OF THE AUTHORIT	
Section 17.	DEFAULT AND REMEDIES	11
	( ) Eata of Dofoult	11
	(1) Demodice for Event of Default	
	() Demodice Not Evolucive	. 12
Section 18.	A ACRIDATENT OF DESOLUTION	. 12
	(a) Amendments Without Consent	. 12 12
	as A description of the Consent	. 15
	/ NAT 4:	. 10
	(1) Descript of Concents	****
	( ) FICE 1 - C A and monte	
	(A C	
	(-) O-vin anahin	. 14
Section 19.	COLUMN ANTE DECADING TAX EXEMPTION OF INTENED	
Section 15.	ON THE NOTE	14
	/ N @	
	(1) Delete Fund	
	/ N TO 1	
	(1) Allegation Of and Limitation (In Expenditures for the Floject	10
	( ) Disposition of Project	
	(2 7 1 1	• • • •
Section 20.	PERCELLIPION TO CONCTITUTE A CONTRACT: EQUAL SECURITY	1 /
Section 21.	CENTED A DILITER OF INIVALID PROVISIONS	1 /
Section 21.	TAKE AND DEDEODMANCE ON BUSINESS DAYS	1/
Section 23.	LINGTATION OF RENEFITS WITH RESPECT TO THE RESOLUTION	18
Section 24.	GYAGRODY ADDROYAL BOND COUNSEL'S OPINION, CUSIF	
Beetion 24.	THE REPORT AND DECEMBER AND DEC	18
Section 25.	CONTENT UNIC DISCI OSLIRE LINDERTAKING	10
Section 26.	A DDI LCA TION OF NOTE PROCEEDS	10
Section 27.	SERE AGANCE PROVISIONS	19
Section 28.	CALL OF THE MOTE HIGE OF PROCEEDS	20
Beetion 20.	( ) C 1 . IVI 11. E-200	20
	as at the Durchoser of Sale of the Note	20
	1 n 1	20
	A D CWing Transfer	
	A start Droceeds	20
Section 29.	TIPETED DD CEDITOEC	
Section 30.	PERELL OF CONFLICTING RESOLUTIONS	21
Section 31.	PATRICIA NOTICE	21
Section 31.		21
Section 33.	APPROVAL OF DAVING AGENT/REGISTRAR AGREEMEN 1	21
Section 34.	APPROVAL OF PATING AGENTATION APPROVAL CERTIFICATE	21

EXHIBIT A	DEFINITIONS
EXHIBIT B	FORM OF NOTE
EXHIBIT C	FORM OF PROJECT FUND REQUISITION
EXHIBIT D	CONTINUING DISCLOSURE
EXHIBIT E	REGIONAL WATER SUPPLY CONTRACT
EXHIBIT F	APPROVAL CERTIFICATE
EXHIBIT G	FORM OF NOTE PURCHASE AGREEMENT

RESOLUTION NO.	
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A RESOLUTION BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY AUTHORIZING THE ISSUANCE OF ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (REGIONAL WATER SUPPLY CONTRACT PROJECT), SERIES 2023; AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH NOTE

WHEREAS, pursuant to Chapter 572, as amended, Texas Local Government Code, the Hays Caldwell Public Utility Agency (the "Agency") as a constituted authority and instrumentality and political subdivision of the State of Texas (the "State," was created by the Cities of Buda ("Buda"), Kyle ("Kyle") and San Marcos, Texas ("San Marcos"), each Texas home rule municipalities, and the Canyon Regional Water Authority ("Canyon Regional"), a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (collectively, the "Sponsors" or singularly, a "Sponsor"); and

WHEREAS, the Agency and the Sponsors have entered into a "Regional Water Supply Contract" dated as of January 9, 2008, as amended by Amendment No. 1 and Amendment No. 2 and as may be further amended (collectively, the "Contract") pursuant to which the Agency has agreed to design, finance, construct, own, acquire, maintain and operate a water supply project in a manner that will allow the Agency to deliver water to the Sponsors on a regional basis and under which each of the Sponsors agree to pay their share of the project costs and to make payments to or on behalf of the Agency in amounts sufficient to meet all of the Agency's obligations under the Contract including those relating to a Sponsor's bonds (or a Sponsor's pro rata share of bond anticipation notes issued as a single series) issued to finance and refinance a Sponsor's share of the Project Costs and to own, operate and maintain the Project; and

WHEREAS, on June 15, 2017, by special act of the 85<sup>th</sup> Legislature, SB 1198, codified as Chapter 11010, Special District Local Laws Code (the "Act"), the Agency was converted to the Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution; and

WHEREAS, by operation of the law pursuant to the Act, the Authority assumed all assets, liabilities, bonds, notes and other obligations of the Agency including all obligations pursuant to the Outstanding Bonds and the Contract; and

WHEREAS, at the request of Canyon Regional and Kyle, the Agency issued two series of bonds on November 19, 2015 for such Sponsors share of the Phase 1A Project entitled: \$3,960,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – Canyon Regional Water Authority), Series 2015A and \$3,530,000 Hays Caldwell Public Utility Agency Contract Revenue Bonds (Regional Water Supply Contract Project – City of Kyle, Texas), Series 2015B (collectively, the "Outstanding Bonds"); and

WHEREAS, at the request of the Sponsors, the Authority issued [sixteen] series of bonds, one for each of the Sponsors' share of the Project Costs, to wit: \$9,865,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project -Canyon Regional Water Authority), Series 2017A, \$8,995,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Kyle, Texas), Series 2017B, \$11,450,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2017C, \$1,625,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Buda, Texas), Series 2017D, \$26,530,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - Canyon Regional Water Authority), Series 2019A, \$24,200,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Kyle, Texas), Series 2019B, \$30,800,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2019C and \$4,370,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Buda, Texas), Series 2019D, \$37,865,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - Canyon Regional Water Authority), Series 2020A, \$34,530,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Kyle, Texas), Series 2020B, \$43,955,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2020C and \$6,225,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Buda, Texas), Series 2020D, \$14,830,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - Canyon Regional Water Authority), Series 2022A, \$13,520,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Kyle, Texas), Series 2022B, \$17,210,000 Alliance Regional Water Authority Contract Revenue Bonds (Regional Water Supply Contract Project - City of San Marcos, Texas), Series 2022C and \$2,440,000 Alliance Regional Water Authority Contract Revenue Bonds, (Regional Water Supply Contract Project - City of Buda, Texas), Series 2022D; and

WHEREAS, to finance such water projects, the Act also authorizes the Authority acting through its Board of Directors (the "Board") to issue (i) bonds, notes and other obligations authorized by law, including bond anticipation notes under the Act or Chapter 49 of the Texas Water Code and (ii) revenue bonds to finance such water projects, payable solely from the revenues derived from payments to be made to the Authority by one or more of the respective Sponsors for which a series of bonds are issued, in each case for the purpose of defraying the relevant Sponsor's share of the cost of financing, acquiring, and constructing water supply facilities including the Phase 1B Improvements Water Supply Project (as hereinafter defined); and

WHEREAS, the Authority expects to issue one series of such bond anticipation notes (with a single interest rate) in 2023 for Canyon Regional, Kyle, San Marcos and Buda, collectively, to finance their additional shares of the Phase 1B Improvements Water Supply Project costs, with such series payable from, and to the extent of, and secured solely by proceeds from the sale, issuance and delivery of future Bonds or additional bond anticipation notes; and

WHEREAS, the Sponsors have requested that the Authority issue a single series of bond anticipation notes in the aggregate principal amount of \$46,000,000 pursuant to the Contract to finance their share of certain additional Phase 1B Improvements Water Supply Project Costs (the "Note"); and

WHEREAS, this Resolution constitutes a Bond Resolution as that term is defined in the Contract; and

WHEREAS, the principal of the Note and the interest thereon are and shall be solely payable from, and to the extent of, and secured solely by proceeds from the sale, issuance and delivery of future Bonds or additional bond anticipation notes.

## NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE ALLIANCE REGIONAL WATER AUTHORITY THAT:

**Section 1. DEFINITIONS.** In addition to the definitions set forth in the preamble of this Resolution, the terms used in this Resolution (except as may be otherwise indicated in the FORM OF NOTE) and not otherwise defined herein shall have the meanings given in **Exhibit "A"** to this Resolution attached hereto and made a part hereof.

- Section 2. AMOUNT, PURPOSE AND DESIGNATION OF THE NOTE. (a) Amount and Designation. The Authority's Note issued pursuant to this Resolution shall be entitled "ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (Regional Water Supply Contract Project), Series 2023" and is hereby authorized to be issued in the aggregate principal amount of \$46,000,000.
- (b) *Purpose*. The Note is to be issued for the following purposes: (i) FOR DESIGNING, CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PAYMENT OF PROJECT COSTS FOR THE PHASE 1B IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE NOTE.
- Section 3. DATE, DENOMINATIONS, NUMBERS, MATURITIES AND TERMS OF NOTES. (a) *Terms of Note*. The Note shall initially be issued, sold, and delivered hereunder as a fully registered note, without interest coupons, numbered consecutively from R-1 upward (except the initial Note delivered to the Attorney General of the State which shall be numbered T-1), dated the date of delivery, payable to the respective initial Registered Owners thereof in an Authorized Denomination, on December 21] 2024, in the aggregate principal amount of \$46,000,000.
- b) *In General.* The Note (i) may be redeemed prior to its scheduled maturity date on November 1, 2024 or any Business Day thereafter, (ii) may be assigned and transferred (but only to persons who have been provided sufficient information with which to make an informed decision to invest in the Note) in accordance with Section 5(f) hereof, (iii) may be exchanged for other Note(s), (iv) shall have the characteristics, (v) shall be signed, and the principal of and interest on the Note shall be payable, all as provided, and in the manner required or indicated, in the FORM OF NOTE set forth in Exhibit "B" to this Resolution.

**Section 4. INTEREST**. The Note shall bear interest, calculated on the basis of a 360-day year composed of twelve 30-day months, from its date of delivery at the rate of 4.72%. Interest shall be payable to the Registered Owner of any such Note in the manner provided and, on the dates, stated in the FORM OF NOTE set forth in <u>Exhibit "B"</u> to this Resolution.

Upon the occurrence and during the continuance of an Event of Default (as defined herein), interest on the Note shall accrue at the Default Rate (as defined herein) until such Event of Default has been cured.

In the event of a Determination of Taxability (as defined herein), the interest rate on the Note shall increase to the Taxable Rate (as defined herein).

- Section 5. REGISTRATION, TRANSFER, AND EXCHANGE; AUTHENTICATION. (a) Paying Agent/Registrar. Wells Fargo Bank, National Association (the "Paying Agent/Registrar") is hereby appointed the Paying Agent/Registrar for the Note. The Authority Representative is authorized to enter into and carry out a Paying Agent/Registrar Agreement with the Paying Agent/Registrar with respect to the Note in substantially the form and substance presented to the Board in connection with the approval of this Resolution with such changes as are acceptable to the Authority Representative.
- (b) Registration Books. The Board shall keep or cause to be kept at a designated corporate trust office of the Paying Agent/Registrar in Austin, Texas (the "Designated Trust Office") the Registration Books and the Board hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, exchanges, and replacements under such reasonable regulations as the Board and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, exchanges, and replacements as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Note to which payments with respect to the Note shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Board shall have the right to inspect the Registration Books at the Designated Trust Office of the Paying Agent/Registrar during regular business hours, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. A copy of the Registration Books shall be maintained in the State.
- (c) Ownership of Note. The entity or person in whose name any Note shall be registered in the Registration Books at any time shall be deemed and treated as the absolute owner thereof for all purposes of this Resolution, whether or not such Note shall be overdue, and, to the extent permitted by law, the Board and the Paying Agent/Registrar shall not be affected by any notice to the contrary; and payment of, or on account of, the principal of, premium, if any, and interest on any such Note shall be made only to such Registered Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

- (d) *Payment of Note and Interest*. The Paying Agent/Registrar shall further act as the paying agent for paying the principal of, premium, if any, and interest on the Note, all as provided in this Resolution. The Paying Agent/Registrar shall keep proper records of all payments made by the Board and the Paying Agent/Registrar with respect to the Note.
- (e) Authentication. The Note initially issued and delivered pursuant to this Resolution shall be authenticated by the Paying Agent/Registrar by execution of the Paying Agent/Registrar's Authentication Certificate unless they have been approved by the Attorney General of the State and registered by the Comptroller of Public Accounts of the State, and on each substitute Note issued in exchange for any Note or Notes issued under this Resolution the Paying Agent/Registrar shall execute the Paying Agent/Registrar's Authentication Certificate (the "Authentication Certificate"). The Authentication Certificate shall be in the form set forth in the FORM OF NOTE in Exhibit "B" attached hereto.
- (f) Transfer, Exchange, or Replacement. Each Note issued and delivered pursuant to this Resolution, to the extent of the unpaid or unredeemed principal amount thereof, may, upon surrender of such Note at the Designated Trust Office of the Paying Agent/Registrar, together with a written request therefor duly executed by the Registered Owner or the assignee or assignees thereof, or its or their duly authorized attorneys or representatives, with guarantee of signatures satisfactory to the Paying Agent/Registrar, may, at the option of the Registered Owner or such assignee or assignees, as appropriate, be exchanged for fully registered Notes, without interest coupons, in the appropriate form prescribed in the FORM OF NOTE set forth in Exhibit "B" to this Resolution, in any Authorized Denomination (subject to the requirement hereinafter stated that each substitute Note shall be of the same Series and have a single stated maturity date), as requested in writing by such Registered Owner or such assignee or assignees, in an aggregate principal amount equal to the unpaid or unredeemed principal amount of any Note or Notes so surrendered, and payable to the appropriate Registered Owner, assignee, or assignees, as the case may be. If a portion of any Note shall be redeemed prior to its scheduled maturity as provided herein, a substitute Note or Notes having the same Series designation and maturity date, bearing interest at the same rate, and payable in the same manner, in Authorized Denominations at the request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon surrender thereof for cancellation. If any Note or portion thereof is assigned and transferred, each Note issued in exchange therefor shall have the same Series designation and maturity date and bear interest at the same rate and payable in the same manner as the Note for which it is being exchanged. Each substitute Note shall bear a letter and/or number to distinguish it from each other Note. The Paying Agent/Registrar shall exchange or replace Notes as provided herein, and each fully registered Note delivered in exchange for or replacement of any Note or portion thereof as permitted or required by any provision of this Resolution shall constitute one of the Notes for all purposes of this Resolution and may again be exchanged or replaced. On each substitute Note issued in exchange for or replacement of any Note or Notes issued under this Resolution there shall be printed an Authentication Certificate, in the form set forth in Exhibit "B" to this Resolution. An authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Note, date and manually sign the Authentication Certificate, and, except as provided in (e) above, no such Note shall be deemed to be issued or outstanding unless the Authentication Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all Notes surrendered for transfer, exchange, or replacement. No additional orders or resolutions need be

passed or adopted by the Board or any other body or person so as to accomplish the foregoing transfer, exchange, or replacement of any Note or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Notes in the manner prescribed herein, and said Notes shall be in typed or printed form as determined by the Authority Representative. Pursuant to Subtitle D, Texas Government Code and particularly Section 1201.063, thereof, the duty of transfer, exchange, or replacement of Notes as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of the Authentication Certificate, the exchanged or replaced Note shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Notes which were originally issued pursuant to this Resolution. The Board shall pay the Paying Agent/Registrar's standard or customary fees and charges, if any, for transferring, and exchanging any Note or any portion thereof, but the one requesting any such transfer and exchange shall pay any taxes or governmental charges required to be paid with respect thereto as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, exchange, or replacement of Notes or any portion thereof (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following interest payment date, or (ii) with respect to any Note or portion thereof called for redemption prior to maturity, within 45 days prior to its redemption date. To the extent possible, any new Note issued in an exchange, replacement, or transfer of a Note will be delivered to the Registered Owner or assignee of the Registered Owner not more than three business days after the receipt of the Notes to be canceled and the written request as described above.

The Note may be transferred without limitation to any affiliate of the Purchaser or to a trust or custodial arrangement established by the Purchaser or an affiliate of the Purchaser, each of the beneficial owners of which are "qualified institutional buyers" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended. The Note may be transferred to another purchaser (other than an affiliate of the Purchaser or a trust or custodial arrangement as described in the preceding sentence) in Authorized Denominations if (i) written notice of such transfer, together with addresses and related information with respect to such purchaser, is delivered to the Authority and the Paying Agent/Registrar by such transferor and (ii) such purchaser shall have delivered to the Authority, the Paying Agent/Registrar and the transferor an investor letter in the form of the letter attached as Exhibit A to the Note Purchase Agreement and executed by a duly authorized officer of such purchaser; provided that each such purchaser shall constitute (1) a "qualified institutional buyer" as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, and (2) a commercial bank organized under the laws of the United States, or any state thereof, or any other country which is a member of the Organization for Economic Cooperation and Development, or a political subdivision of any such country, and, in any such case, having a combined capital and surplus, determined as of the date of any transfer pursuant to this Section, of not less than \$5,000,000,000.

(g) Substitute Paying Agent/Registrar. The Board covenants with the Registered Owners of the Notes that at all times while the Notes are outstanding the Board will provide a competent and legally qualified bank, trust company, financial institution, or other Authority to act as and perform the services of Paying Agent/Registrar for the Notes under this Resolution, and that the Paying Agent/Registrar will be one entity. The Board reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than ninety (90) days written notice to the Paying Agent/Registrar, to be effective not later than sixty (60) days prior to the next principal or

interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Board covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other Authority to act as Paying Agent/Registrar under this Resolution. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Notes, to the new Paying Agent/Registrar designated and appointed by the Board. Upon any change in the Paying Agent/Registrar, the Board promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Notes, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Resolution, and a certified copy of this Resolution shall be delivered to each Paying Agent/Registrar.

- (h) *Notice of Redemption*. Each notice of redemption required in the FORM OF NOTE shall contain a description of the Notes to be redeemed including the complete name of the Notes, the Series, the date of issue, the interest rate or rates, the maturity date, the CUSIP number, a reference to the certificate numbers and the amounts called of each certificate, the publication and mailing date for the notice, the date of redemption, the redemption price, the name of the Paying Agent/Registrar and the address at which the Note may be redeemed, including a contact person and telephone number. All redemption payments made by the Paying Agent/Registrar to the registered owners of the Note shall include a CUSIP number relating to each amount paid to such Registered Owner.
- (i) *Initial Note*. The Note herein authorized shall be initially issued as a fully registered note, being one note in the denomination of the aggregate principal amount and the initial Note shall be registered in the name of Wells Fargo Municipal Capital Strategies, LLC (the "Purchaser"). The initial Note shall be the Note submitted to the Office of the Attorney General of the State for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State and delivered to the Registered Owner. Immediately after the delivery of the initial Note, the Paying Agent/Registrar shall cancel the initial Note delivered hereunder and exchange therefor a Note in the form of a separate single fully registered Note registered in the name of the Purchaser.
- Section 6. FORM OF NOTE. The form of the Note, including the form of the Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State, with respect to the Note initially issued and delivered pursuant to this Resolution, shall be, respectively, substantially as set forth in Exhibit "B", with such appropriate variations, omissions, or insertions as are permitted or required by this Resolution.
- Section 7. PLEDGE OF FUTURE BOND PROCEEDS. (a) *Pledge*. The Authority hereby covenants and agrees that the Future Bond Proceeds (when, as and if issued) are hereby irrevocably pledged to the payment and security of the Note including the establishment and maintenance of the special funds or accounts created and established on the books and records of

the Authority for the payment and security thereof, all as hereinafter provided; and it is hereby resolved that the Note, and the interest thereon, shall constitute a lien on and pledge of the Future Bond Proceeds (when, as and if issued) and be valid and binding without any physical delivery thereof or further act by the Authority. The Authority shall deposit the Future Bond Proceeds (when, as and if issued), as collected and received, into a Debt Service Fund (hereinafter defined) or such other appropriate fund or account as authorized by law, to be utilized pursuant to Section 9 hereof to pay the Note. Notwithstanding anything contained herein to the contrary, only the Future Bond Proceeds (when, as and if issued) and no other funds of the Authority shall be encumbered, pledged, committed or used for the payment and security of the Note. Further (and for the avoidance of doubt), the Authority shall never be obligated to pay the principal of or interest on the Note from Bond Payments, and the Registered Owner shall never have the right to demand payment for the Note out of any funds raised or to be raised from taxation by the Sponsors or the Authority.

(b) *Perfection of Pledge*. Chapter 1208, as amended, Texas Government Code, applies to the issuance of the Note and the lien on and pledge of Future Bond Proceeds granted by the Authority under subsection (a) of this Section, and such pledge is therefore valid, effective, and perfected. If State law is amended at any time while the Note is outstanding and unpaid such that the pledge of the Future Bond Proceeds granted by the Authority is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the Registered Owners of the Note the perfection of the security interest in this pledge, the Board agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, as amended, Texas Business & Commerce Code and enable a filing to perfect the security interest in this pledge to occur.

Section 8. DEBT SERVICE FUND AND PROJECT FUND. (a) *Debt Service Fund*. For purposes of providing funds to pay the principal of and interest on the Note as the same become due and payable, the Authority shall maintain, at a Depository, a separate and special fund or account to be created and known as the "Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project) Debt Service Fund" (the "Debt Service Fund"). The Authority shall deposit into the Debt Service Fund (or such other appropriate fund or account as authorized by law) prior to each principal and interest payment date, solely from and to the extent of the available Future Bond Proceeds (when, as and if issued), an amount equal to one hundred per cent (100%) of the amount required to fully pay the interest on and the principal of the Note then falling due and payable.

Any accrued interest received from the Purchaser of the Note shall be deposited into a subaccount of the Debt Service Fund. In addition, any surplus proceeds from the sale of the Note, including investment income therefrom, not expended for authorized purposes shall be deposited into the Debt Service Fund, and such amounts (i.e., accrued and investment interest) so deposited shall reduce the sum otherwise required to be deposited in the Debt Service Fund from Future Bond Proceeds.

(b) *Project Fund.* The Authority hereby creates and establishes and shall maintain on the books and records of the Authority a separate fund or account to be entitled the "Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project), Project Fund" for use by the Authority for payment of the Sponsors' respective shares of the

Project Costs. The Authority shall deposit the net proceeds from the sale of the Note into the Project Fund as provided in this Resolution. Funds in the Project Fund shall be requisitioned for payment of the Sponsors' respective shares of Project Costs in accordance with a requisition in substantially the form set forth in <a href="Exhibit">Exhibit "C"</a> attached hereto with such changes as approved by the Authority Representative. Upon payment of all Project Costs, any moneys remaining on deposit in the Project Fund shall be transferred to the Debt Service Fund.

In the event the Project is not completed for any reason contemplated in the Contract or otherwise or any proceeds from the Note are not used for completion of the Project for any reason, any Note proceeds and earnings therein not used for completion of the Project shall be utilized to pay principal and/or interest on the Note or as otherwise authorized by law.

Any surplus proceeds, including the investment earnings derived from the investment of monies on deposit in the Project Fund, from the Note remaining on deposit in the Project Fund after completing the Project, shall be used as authorized by law.

Section 9. PAYMENT OF THE NOTE. While the Note is outstanding, the Executive Director of the Authority or other authorized Authority official, shall cause to be transferred to the Paying Agent/Registrar therefor, from Future Bond Proceeds (which may be on deposit in a Debt Service Fund or other appropriate fund or account), amounts sufficient to fully pay and discharge promptly each installment of interest on and principal of the Note as such installment accrues or matures, subject to the provisions of Section 7; such transfer of funds must be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Note at the close of the Business Day next preceding the date a debt service payment is due on the Note, subject to the provisions of Section 7.

Section 10. INVESTMENTS. Funds held in any fund or account created, established, or maintained pursuant to this Resolution shall, at the option of the Authority, be invested in time deposits, certificates of deposit, guaranteed investment contracts, or similar contracting arrangements and/or as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, or any other law, and secured (to the extent not insured by the Federal Deposit Insurance Corporation) to the fullest extent required by the Public Funds Collateral Act, as amended, Chapter 2257, Texas Government Code. All interest and income derived from deposits and investments in any fund shall immediately be credited to, and any losses debited from, the fund from which such funds were derived. All such investments shall be sold promptly when necessary to prevent any default in connection with the Note.

Section 11. ISSUANCE OF ADDITIONAL INDEBTEDNESS. While the Note is outstanding, the Authority agrees not to issue additional indebtedness without the consent of the Registered Owners thereof other than Future Bonds; provided, however, the Note may be refunded (pursuant to any law then available) upon such terms and conditions as the Board of the Authority may deem to be in the best interest of the Authority.

Section 12. MAINTENANCE OF PROJECT - INSURANCE. The Authority covenants, agrees, and affirms its covenants that while the Note remains outstanding it will maintain and operate the Project with all possible efficiency and maintain casualty and other insurance on the properties of the Project and its operations of a kind and in such amounts

customarily carried by municipal corporations in the State engaged in a similar type of business (which may include an adequate program of self-insurance) which insurance shall also be sufficient to protect the Purchaser; and that it will faithfully and punctually perform all duties with reference to the Project required by the laws of the State. All money received from losses under such insurance policies, other than public liability policies, shall be retained for the benefit of the Registered Owners of the Note until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses of the Project. Nothing in this Resolution shall be construed as: (i) requiring the Authority to expend any funds which are derived from sources other than the operation of the Project but nothing herein shall be construed as preventing the Authority from doing so or (ii) requiring the purchase of insurance until the Facilities are constructed.

Section 13. RECORDS AND ACCOUNTS - ANNUAL AUDIT. The Authority covenants, agrees, and affirms its covenants that so long as the Note remains outstanding, it will keep and maintain separate and complete records and accounts pertaining to the operations of the Project in which complete and correct entries shall be made of all transactions relating thereto as provided by applicable law. The Registered Owners of any Note or any duly authorized agent or agents of such Registered Owners shall have the right to inspect the Project and all properties comprising the same. The Authority further agrees that following (and in no event later than six (6) months after) the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Expenses incurred in making the annual audit of the operations of the Project are to be regarded as Operation and Maintenance Expenses of the Project.

Section 14. SALE OR ENCUMBRANCE OF SYSTEM. While the Note remains outstanding, the Authority will not sell, dispose of or further encumber the Project or any substantial part thereof; provided, however, that this provision shall not prevent the Authority from (i) pledging the Bond Payments and Funds to Future Bonds issued to refund the Note as set forth in Section 11 of this Resolution or (ii) disposing of any part of the Project which is being replaced or is deemed by the Authority to be obsolete, worn out, surplus or no longer needed for the proper operation of the Project. Any agreement pursuant to which the Authority contracts with a person, corporation, municipal corporation or political subdivision to operate the Project or to lease and/or operate all or part of the Project shall not be considered as an encumbrance of the Project; provided, however, no such agreement shall impair the pledge and lien on Future Bond Proceeds (when, as and if issued), Bond Payments and Funds.

Section 15. SPECIAL COVENANTS. The Authority further covenants and agrees that: (a) *Title*. The Authority lawfully owns or will own and is or will be lawfully possessed of the lands, easements or other property rights (including leasehold interests) upon which its Project is and will be located, and has or will purchase good and indefeasible estate in such lands in fee simple, or has or will lawfully obtain any necessary easements or has or will lawfully obtain property rights (including leasehold interests to operate the Project, and it warrants that it has or will obtain and will defend, the title to all the aforesaid lands, easements and property

rights for the benefit of the Registered Owners of the Note against the claims and demands of all persons whomsoever, that it is lawfully qualified to pledge the Future Bond Proceeds to the payment of the Note, in the manner prescribed herein, and that it has lawfully exercised such rights.

- (b) *Liens*. The Authority will from time to time and before the same become delinquent pay and discharge all taxes, assessments, and governmental charges, if any, which shall be lawfully imposed upon it, or its Project, and it will pay all lawful claims for rents, royalties, labor, materials, and supplies which if unpaid might by law become a lien or charge upon its Project, provided, however, that no such tax, assessment, or charge, and that no such claims which might be or other lien or charge, shall be required to be paid while the validity of the same shall be contested in good faith by the Authority.
- (c) *Performance of Outstanding Bond Requirements*. The Authority will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in the resolutions authorizing the issuance of the Outstanding Bonds, and in each and every Outstanding Bond.
- (d) Legal Authority. The Authority is duly authorized under the laws of the State, including the Act, to issue the Note; that all action on its part for the authorization and issuance of the Note has been duly and effectively taken, and the Note in the hands of the Registered Owners thereof are and will be valid and enforceable special obligations of the Authority in accordance with their terms payable solely from, and to the extent of, Future Bond Proceeds (when, as and if issued).
- (e) *Budget*. The Authority will prepare, adopt, and place into effect an annual budget (the "Annual Budget") for Operation and Maintenance Expenses of the Project for each Fiscal Year, including in each Annual Budget such items as are customarily and reasonably contained in a utility project budget under generally accepted accounting procedures.
- (f) *Permits*. The Authority will comply with all of the terms and conditions of any and all franchises, permits, and authorizations applicable to or necessary with respect to the Project and which have been obtained from any governmental Authority; and the Authority has or will obtain and keep in full force and effect all franchises, permits, authorizations, and other requirements applicable to or necessary with respect to the acquisition, construction, equipment, operation, and maintenance of the Project.
- Section 16. LIMITED OBLIGATIONS OF THE AUTHORITY. The Note is a limited, special obligation of the Authority payable from, and to the extent of, and secured solely by a lien on and pledge of Future Bond Proceeds (when, as and if issued), and the Registered Owners thereof shall never have the right to demand payment of the principal or interest on the Note from the Bond Payments or any funds raised or to be raised through taxation by the Sponsors or the Authority.
- Section 17. DEFAULT AND REMEDIES. (a) *Events of Default*. For purposes of this Resolution and the Note authorized hereby, an "Event of Default" has the meaning set forth in the Form of Note.

#### (b) Remedies for Event of Default.

- (i) Upon the happening and continuance of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the Authority, or any official, officer or employee of the Authority in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Resolution, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies. The Registered Owners are third party beneficiaries to the Contract with the ability to enforce the provisions of the Contract for such period that a default exists under the Contract.
- (ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of the Note.
- (iii) Notwithstanding anything in this Resolution to the contrary, so long as the Purchaser continues to hold the Note, the Purchaser may exercise all remedies available to it in law or equity and any provision in this Resolution or the Note that restricts or limits the Purchaser's full exercise of these remedies shall be of no force and effect.

#### (c) Remedies Not Exclusive.

- (i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Note now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Resolution, the right to accelerate the debt evidenced by the Note shall not be available as a remedy under this Resolution.
- (ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.
- (iii) By accepting the delivery of the Note authorized under this Resolution, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Resolution do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the Authority or the Board.
- (iv) None of the members of the Board, nor any other official or officer, agent, or employee of the Authority, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Resolution, or because of any Event of Default or alleged Event of Default under this Resolution.
- Section 18. AMENDMENT OF RESOLUTION. (a) Amendments Without Consent. This Resolution and the rights and obligations of the Board and of the Registered Owners of the

Note may be modified or amended at any time without notice to or the consent of any Registered Owner of the Note, solely for any one or more of the following purposes:

- (i) To add to the covenants and agreements of the Board contained in this Resolution, other covenants and agreements thereafter to be observed, or to surrender any right or power reserved to or conferred upon the Board in this Resolution;
- (ii) To cure any ambiguity or inconsistency, or to cure or correct any defective provisions contained in this Resolution, upon receipt by the Board of an opinion of counsel, that the same is needed for such purpose, and will more clearly express the intent of this Resolution;
- (iii) To supplement the security for the Note or change the form of the Note or make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Note;
- (iv) To make any changes or amendments requested by any Rating Authority then rating or requested to rate the Note, as a condition to the issuance or maintenance of a rating, which changes or amendments do not, in the judgment of the Board, materially adversely affect the interests of the owners of the Note;
- (v) To make such other changes in the provisions hereof as the Board may deem necessary or desirable and which shall not, in the judgment of the Board, materially adversely affect the interests of the owners of the Note; or
  - (vi) To assign the Contract to a trustee.
- (b) Amendments With Consent. Subject to the other provisions of this Resolution, the Registered Owners of the Note aggregating 51% in outstanding principal amount shall have the right from time to time to approve any amendment, other than amendments described in Subsection (a) of this Section, to this Resolution which may be deemed necessary or desirable by the Board; provided, however, that nothing herein contained shall permit or be construed to permit, without the approval of the owners of the Note, the amendment of the terms and conditions in this Resolution or in the Note so as to:
  - (1) Make any change in the maturity of the Note;
  - (2) Reduce the rate of interest borne by the Note;
  - (3) Reduce the amount of the principal payable on the Note;
  - (4) Modify the terms of payment of principal of or interest on the Note, or impose any conditions with respect to such payment;
  - (5) Affect the rights of the owners of less than all of the Note; or

- (6) Change the minimum percentage of the outstanding principal amount of the Note necessary for consent to such amendment.
- (c) *Notice.* (i) If at any time the Board shall desire to amend this Resolution other than pursuant to (a) above, the Board shall cause notice of the proposed amendment to be published in a financial newspaper or journal of general circulation in The City of New York, New York (including but not limited to, the Bond Buyer and The Wall Street Journal) or the State (including but not limited to the Texas Bond Reporter) once during each calendar week for at least two (2) successive calendar weeks. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all owners of the Note. Such publication is not required, however, if the Board gives or causes to be given such notice in writing to each Registered Owner of the Note.
- (d) **Receipt of Consents.** Whenever at any time not less than thirty (30) days, and within one (1) year, from the date of the first publication of said notice or other service of written notice of the proposed amendment the Board shall receive an instrument or instruments executed by all of the owners or the owners of at least 51% in outstanding principal amount of the Note, as appropriate, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file as aforesaid, the Board may adopt the amendatory resolution in substantially the same form.
- (e) *Effect of Amendments*. Upon the adoption by the Board of any resolution to amend this Resolution pursuant to the provisions of this Section, this Resolution shall be deemed to be amended in accordance with the amendatory resolution, and the respective rights, duties, and obligations of the Board and all the owners of the Note shall thereafter be determined, exercised, and enforced under the resolution and this Resolution, as amended.
- (f) Consent Irrevocable. Any consent given by any owner of the Note pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication or other service of the notice provided for in this Section and shall be conclusive and binding upon all future owners of the same Note during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the owner who gave such consent, or by a successor in title, by filing notice thereof with the Registrar and the Board, but such revocation shall not be effective if the owners of 51% in outstanding principal amount of the Note, prior to the attempted revocation, consented to and approved the amendment.
- (g) *Ownership*. For the purpose of this Section, the ownership and other matters relating to all Notes registered as to ownership shall be determined from the Registration Books kept by the Paying Agent/Registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.
- Section 19. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE NOTE. (a) Covenants. The Authority covenants to take any action necessary to

assure, or refrain from any action which would adversely affect, the treatment of the Note as an obligation described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Authority covenants as follows:

- (1) to take any action to assure that no more than 10 percent of the proceeds of the Note or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Authority, with respect to such private business use, do not, under the terms of this Resolution or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Note, in contravention of section 141(b)(2) of the Code;
- described in subsection (1) hereof exceeds 5 percent of the proceeds of the Note or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;
- (3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Note (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;
- (4) to refrain from taking any action which would otherwise result in the Note being treated as a "private activity bond" within the meaning of section 141(b) of the Code;
- (5) to refrain from taking any action that would result in the Note being "federally guaranteed" within the meaning of section 149(b) of the Code;
- (6) to refrain from using any portion of the proceeds of the Note, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Note, other than investment property acquired with --
  - (A) proceeds of the Note invested for a reasonable temporary period of 5 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Note is issued,
  - (B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

- (C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Note;
- (7) to otherwise restrict the use of the proceeds of the Note or amounts treated as proceeds of the Note, as may be necessary, so that the Note does not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);
- (8) to refrain from using the proceeds of the Note or proceeds of any prior notes to pay debt service on another issue more than 90 days after the date of issue of the Note in contravention of the requirements of section 149(d) of the Code (relating to advance refundings);
- (9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Note) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Note has been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code;
- (b) <u>Rebate Fund</u>. In order to facilitate compliance with the above covenant (9), a "Rebate Fund" is hereby established by the Authority for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the noteholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.
- The Authority understands that the term "proceeds" includes Proceeds. "disposition proceeds" as defined in the Treasury Regulations. It is the understanding of the Authority that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Note, the Authority will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Note under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Note, the Authority agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Note under section 103 of the Code. furtherance of such intention, the Authority hereby authorizes and directs the Executive Director to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Authority, which may be permitted by the Code as are consistent with the purpose for the issuance of the Note.
- (d) <u>Allocation Of, and Limitation On, Expenditures for the Project.</u> The Authority covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 2 of this Resolution (the "Project") on its books and records in

accordance with the requirements of the Internal Revenue Code. The Authority recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Authority recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Note, or (2) the date the Note is retired. The Authority agrees to obtain the advice of nationally recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Note. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest on the Note.

- Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Authority of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Note. For purpose of the foregoing, the Authority may rely on an opinion of nationally recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Note. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Authority shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest on the Note.
- (f) <u>Reimbursement.</u> This Resolution is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

SECURITY. In consideration of the acceptance of the Note, the issuance of which is authorized hereunder, by those who shall hold the same from time to time, this Resolution shall be deemed to be and shall constitute a contract between the Board and the Registered Owners from time to time of the Note and the pledge made in this Resolution by the Board and the covenants and agreements set forth in this Resolution to be performed by the Board shall be for the equal and proportionate benefit, security, and protection of all Registered Owners, except as expressly provided in or permitted by this Resolution.

Section 21. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements, or provisions herein contained shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Note issued hereunder.

Section 22. PAYMENT AND PERFORMANCE ON BUSINESS DAYS. Except as provided to the contrary in the FORM OF NOTE, whenever under the terms of this Resolution or the Note, the performance date of any provision hereof or thereof, including the payment of principal of or interest on the Note, shall occur on a day other than a Business Day, then the performance thereof, including the payment of principal of and interest on the Note, need not be made on such day but may be performed or paid, as the case may be, on the next succeeding Business Day with the same force and effect as if made on the date of performance or payment.

Section 23. LIMITATION OF BENEFITS WITH RESPECT TO THE RESOLUTION. With the exception of the rights or benefits herein expressly conferred, nothing expressed or contained herein or implied from the provisions of this Resolution or the Note is intended or should be construed to confer upon or give to any person other than the Board, the Registered Owners, and the Paying Agent/Registrar, any legal or equitable right, remedy, or claim under or by reason of or in respect to this Resolution or any covenant, condition, stipulation, promise, agreement, or provision herein contained. This Resolution and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the Board, the Registered Owners, and the Paying Agent/Registrar as herein and therein provided.

Section 24. CUSTODY, APPROVAL, BOND COUNSEL'S OPINION, CUSIP NUMBERS AND PREAMBLE. The Authority Representative is hereby authorized to have control of the Note issued hereunder and all necessary records and proceedings pertaining to the Note pending its delivery and approval by the Attorney General of the State. The Authority Representative is hereby authorized, to the extent deemed necessary or advisable thereby, in the discretion thereof, to request that the Attorney General approve the Note as permitted by Chapter 1202, Texas Government Code, in which case the Authority Representative also is authorized to request the Comptroller of Public Accounts register the Note, and to cause an appropriate legend reflecting such approval and registration to appear on the Note and the substitute Notes. The approving legal opinion of the Board's Bond Counsel and the assigned CUSIP numbers may, at the option of the Board, be printed on the Note and on any Notes issued and delivered in exchange or replacement of any Note, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Note. The preamble to this Resolution is hereby adopted and made a part of this Resolution for all purposes.

**Section 25. CONTINUING DISCLOSURE UNDERTAKING.** Except as may otherwise be provided in Exhibit "D" to this Resolution, the Authority is not required to make, and does not make, any continuing disclosure undertaking pursuant to the Rule.

**Section 26. APPLICATION OF NOTE PROCEEDS.** (a) Proceeds from the sale of the Note shall, promptly upon receipt thereof, be applied by the Authority Representative as follows:

- (i) accrued interest, if any, for the Note shall be deposited as provided in Section 9(a);
- (ii) an amount sufficient to accomplish the purposes of Section 2(b) shall be deposited to the Project Fund; and

(iii) any proceeds from the sale of the Note remaining after the deposits provided for in clauses (i) and (ii) above, shall be applied to pay expenses arising in connection with the issuance of the Note.

Any sale proceeds of the Note remaining after making all deposits and payments provided for above shall be applied to the payment of interest on the Note and deposited into the Debt Service Fund.

- Section 27. DEFEASANCE PROVISIONS. (a) Any Note and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Note") within the meaning of this Resolution, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Note, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the Authority with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Notes shall have become due and payable or (3) any combination of (1) and (2). At such time as a Note shall be deemed to be a Defeased Note hereunder, as aforesaid, such Note and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the Future Bond Proceeds as provided in this Resolution, and such principal and interest shall be payable solely from such money or Defeasance Securities.
- (b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Note as aforesaid when proper notice of redemption of such Note shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Resolution. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the Authority also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Note and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the Authority.
- (c) Notwithstanding any provision of any other Section of this Resolution which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Note and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Note and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Notes shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying

Agent/Registrar for such Defeased Notes the same as if they had not been defeased, and the Authority shall make proper arrangements to provide and pay for such services as required by this Resolution.

- (d) Notwithstanding anything elsewhere in this Resolution, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of the Note and such Note shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Note affected thereby.
- (e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Note to be paid at its maturity, the Authority retains the right under State law to later call that Defeased Note for redemption in accordance with the provisions of this Resolution, the Authority may call such Defeased Note for redemption upon complying with the provisions of State law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Note as though it was being defeased at the time of the exercise of the option to redeem the Defeased Note and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Noe.
- Section 28. SALE OF NOTE; USE OF PROCEEDS. (a) Sale to Wells Fargo. The Note is hereby sold to the Purchaser for the price of par. The Note has been purchased by the Purchaser pursuant to the Note Purchase Agreement in substantially the form attached hereto as Exhibit "G," which the Authority Representative is hereby authorized to execute and deliver. The Note initially delivered shall be registered in the name of the Purchaser. The Authority has determined, based upon the advice provided by its financial advisors, that acceptance of the purchase price for the Note is on terms advantageous to, and in the best interests of, the Authority.
- (b) Notice from Purchaser of Sale of the Note. It is the intent of the parties to the sale of the Note that the Note is being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution and that if the Purchaser ever determines to sell, assign or transfer all or a part of the Note, such sale, assignment or transfer shall be in accordance with Section 5(f) of this Resolution.
- (c) *Proceeds.* The proceeds from the sale of the Note shall be used in the manner described in the letter of instructions executed by the Authority, or on behalf of the Authority by its financial advisor.
- (d) *Payment by Wire Transfer*. Payment of amounts due and owing on the Note to the Purchaser shall be made by wire transfer, at no expense to the Purchaser, as provided in the FORM OF NOTE and without presentment or surrender.
- (e) *Investment of Note Proceeds*. Proceeds from the sale of the Note shall be held at a depository or other properly chartered and authorized institution in accordance with Chapter 2256, Texas Government Code, and Chapter 2257, Texas Government Code.

Section 29. FURTHER PROCEDURES. The Authority Representative and all other officers, employees, and agents of the Board, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and on behalf of the Board all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution, the Note, the sale and delivery of the Note and fixing all details in connection therewith. The Authority Representative is authorized to sign this Resolution.

Section 30. REPEAL OF CONFLICTING RESOLUTIONS. All resolutions and all parts of any resolutions which are in conflict or inconsistent with this Resolution are hereby repealed and shall be of no further force or effect to the extent of such conflict or inconsistency.

Section 31. PUBLIC NOTICE. It is hereby found and determined that each of the officers and members of the Board was duly and sufficiently notified officially and personally, in advance, of the time, place, and purpose of the Meeting at which this Resolution was adopted; that this Resolution would be introduced and considered for adoption at said meeting; and that said meeting was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

Section 32. NO PERSONAL LIABILITY. No covenant or agreement contained in the Note, this Resolution or any corollary instrument shall be deemed to be the covenant or agreement of any member of the Board or the Sponsors or any officer, agent, employee or representative of the Board or the Sponsors in their individual capacity, and neither the directors, officers, agents, employees or representatives of the Board or the Sponsors nor any person executing the Note shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountable by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Note.

Section 33. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT. The Paying Agent/Registrar Agreement by and between the Authority and the Paying Agent/Registrar ("Paying Agent Agreement"), in substantially the form and substance submitted to the Board is hereby approved and the Authority Representative is hereby authorized and directed to complete, amend, modify, and execute the Paying Agent Agreement, as necessary.

**Section 34. APPROVAL CERTIFICATE.** Pursuant to Section 3.1 of the Contract, the Sponsors have authorized the execution of an approval certificate attached hereto as <u>Exhibit</u> "F" which evidences the approval of the terms and provisions of the Note as set forth herein by the Sponsors.

### PASSED AND ADOPTED this December \_\_\_, 2023.

ALLIANCE REGIONAL W	ATER
AUTHORITY	

Authority Representative

[Signature Page]

### **EXHIBIT A**

### DEFINITIONS

As used in this Resolution, the following terms and expressions shall have the meanings set forth below, unless the text in this Resolution specifically indicates otherwise.

The term *Authorized Denominations* shall mean the denomination of \$250,000 or any integral multiple of \$5,000 in excess thereof.

The term *Authority* shall mean Alliance Regional Water Authority and any other public Authority succeeding to the powers, rights, privileges and functions of the Authority and, when appropriate, the Board of the Authority.

The term *Authority Representative* shall mean the Chair, Vice Chair or the Executive Director of the Authority or such other person authorized by the Board to act as an Authority Representative.

The term Board shall mean the Board of Directors of the Authority.

The term *Bond Payments* shall mean the payments defined as "Bond Payments" within the Contract.

The term Bonds shall mean the obligations defined as "Bonds" within the Contract.

The term *Business Day* shall mean any day which is not a Saturday, Sunday, legal holiday, or a day on which banking institutions in The City of New York, New York or in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close.

The term Certified Public Accountant shall mean an independent certified public accountants or firm of independent certified public accountants.

The term *Completion Date* shall mean when the Facilities have been substantially complete, the date specified in a certificate of the Authority and Project Engineer that the Project is substantially completed and ready to be placed in service.

The term *Contract* shall mean the Regional Water Supply Contract dated as of January 9, 2008, together with amendments and supplements thereto including Amendment No. 1 and Amendment No. 2 (which by the term of such instrument is designated as a supplement or amendment to such Contract) between the Authority and each Sponsor, conformed copies of the Contract being attached hereto as <u>Exhibit "E"</u> for the purposes of identification.

The term *Debt Service Fund* shall mean the special fund or account created and established by the provisions of Section 9(a) of this Resolution.

The term Default Rate shall mean the "Default Rate" as defined in in the FORM OF NOTE.

The term *Defeasance Securities* shall mean (i) Federal Securities, (ii) noncallable obligations of an Authority or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or notes or otherwise provides for the funding of an escrow to effect the defeasance of the Note are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent, (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the Board adopts or approves proceedings authorizing the issuance of refunding bonds or notes or otherwise provide for the funding of an escrow to effect the defeasance of the Note, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State as eligible for use to accomplish the discharge of obligations such as the Note.

The term Depository shall mean an official depository bank of the Authority.

The term *Designated Trust Office* shall have the meaning ascribed to said term in Section 5(b) of this Resolution.

The term *Determination of Taxability* shall mean a "Determination of Taxability" as defined in in the FORM OF NOTE.

The term *Engineering Report* shall mean the "Final Report of the Plumbing Plan," prepared by Lockwood, Andrews & Newnan, Inc., dated September 21, 2007, as such report may be amended, modified, changed or superseded with the approval of the Authority and Sponsors, at any time prior to the execution of construction contracts for the Project or as modified and changed by change orders issued after the execution of such construction contracts; provided, however, no such change orders shall adversely affect any of the Sponsors without the consent of the Sponsors.

The term *Event of Default* shall mean an "Event of Default" as defined in in the FORM OF NOTE.

The term *Facilities* shall mean the facilities, wells, diversion structures, treatment plants, storage tanks, capacity rights, lines, booster pumps, and other appurtenances sufficient to produce, divert, treat and deliver the water to which the Sponsors are entitled under the Contract and any improvements, additions, or extensions to such Facilities hereafter acquired or constructed to deliver water between such places.

The term *Federal Securities* shall mean direct, non-callable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

The term *Fiscal Year* shall mean the twelve-month accounting period used by the Authority in connection with the operation of the Project, currently ending on September 30th of each year, which may be any twelve consecutive month period established by the Authority, but in no event may the Fiscal Year be changed more than one time in any three-calendar year period.

The term *Funds* shall mean the Debt Service Fund and Project Fund created and held pursuant to this Resolution.

The term *Future Bond Proceeds* shall mean proceeds from the sale, issuance and delivery of the Future Bonds (when, as and if issued) issued to refund the Note in full.

The term *Future Bonds* shall mean the first issuance of Bonds and/or bond anticipation notes of the Authority issued after the date thereof, the proceeds of which shall be used to pay the outstanding principal of and interest on the Note in full.

The term *Government Securities* shall mean (i) direct non-callable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) non-callable obligations of an Authority or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the Authority or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds or notes, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; (iii) non-callable obligations of a state or an Authority or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds or notes, are rated as to investment quality by a nationally recognized investment rating firm not less than "AAA" or its equivalent; or (iv) any additional securities and obligations hereafter authorized by the laws of the State as eligible for use to accomplish the discharge of obligations such as the Note.

The term *Interest Payment Date* shall mean the date interest is payable on the Note, as set forth in the FORM OF NOTE.

The term IRS Code shall mean the Internal Revenue Code of 1986, as amended.

The term *Land Interests* shall mean the easements, right-of-way, and other interests in real property necessary for the acquisition, construction, and operation of the Facilities and the Water Rights for the Project.

The term *Maturity* shall mean the date on which the principal of the Note becomes due and payable as therein and herein provided, whether at Stated Maturity, by redemption or otherwise.

The term *Note Purchase Agreement* shall mean the note purchase agreement dated December [\_\_], 2023, by and between the Authority and the Purchaser, relating to the Note, as the same may be amended, modified or restated from time to time.

The term *Operation and Maintenance Expenses* shall mean all direct costs and expenses incurred by the Authority for its operation and maintenance, including but not limited to, the operation and maintenance of the Project, including (for greater certainty but without limiting the generality of the foregoing) amounts payable under any contract with any person, including, but not limited to any federal, state, or local Authority for the right to produce, withdraw or divert and use water, any contribution or payment in lieu of taxes or any fee or charge by any government authority relating to the Authority's production, withdrawal or diversion of or sale of treated water hereunder, the costs of utilities, supervision, engineering, accounting, auditing, legal services, insurance premiums, supplies, services, and administration of the Project, Overhead Expenses, any required costs of mitigation and land management incidental to Project operation, and costs of operating, repairing, maintaining, and replacing equipment for proper operation and maintenance of the Project. The term "Operation and Maintenance Expenses" does not include depreciation charges or such portion of the above-described costs to the extent such costs are paid pursuant to an agreement other than the Contract.

The term Overhead Expenses shall mean the Authority's reasonable and necessary costs and expenses incurred at any time directly related to the issuance and servicing of the Note, Bonds, the acquisition of Land Interests required for the Project, the design, permitting, financing, acquisition, construction, and ownership of the Project and any other activities required of or involving the Authority in connection with or attributable to the Project, the Notes or Bonds, including, but not limited to: (i) per diem and reimbursable expenses incurred by the Directors of the Authority for special meetings of the Authority's Board related to the Project; (ii) services of the professional, technical skilled and unskilled persons and firms engaged by or associated with the Authority, other than Authority staff personnel, together with their reimbursable expenses paid or required to be paid by the Authority; (iii) salaries of the Authority's staff attributable to the Project or the Note or Bonds based on time expended, as documented or reasonably estimated by the President, Board of the Authority; (iv) the costs of preparing applications for and obtaining all approvals and authorizations required for the Project or [the Notes] or Bonds from the regulatory authorities having jurisdiction; (v) the cost of property casualty and public liability insurance incurred prior to the Completion Date; including any insurance deductible charged to or required to be paid by the Authority; provided that if the Authority is unable to obtain such insurance on an occurrence basis, then any expense incurred by the Authority from and after the Completion Date for casualty and public liability insurance, including any insurance deductible, shall be paid by the Sponsors; (vi) all costs incurred in litigation involving or relating to the Project; and (vii) any and all other costs and expenses, including out-of-pocket expenses, incurred by the Authority attributable to the Project or the Note or Bonds, whether enumerated above or not, and whether or not included in the definition or as a part of Project Costs.

The terms Paying Agent/Registrar, Paying Agent or Registrar shall mean the agent appointed pursuant to Section 5 of this Resolution or any successor to such agent.

The term Sponsors shall mean the "Sponsors" described in the recitals to this Resolution.

The term *Phase 1A Project* shall mean the design and construction of facilities to interconnect the Cities of Kyle and Buda water systems. The Project will use the Phase 1A Project facilities to deliver Carrizo water into the Buda system. Facilities include a possible water pump section, pumps, ground storage tank, chlorine treatment system, yard piping necessary to receive and pump water, fee simple purchase of property for the pump station and new transmission pipeline.

The term *Phase 1B Improvements Project* shall include design, construction and equipment of multiple wells drilled and installed; the primary collection line from the well field to the treatment plant along with the individual collection lines; a sand filter water treatment plant including filters, disinfection equipment, high service pump station, and clearwell storage; plant construction in phases with Phase 1B expected to provide a treatment capacity of approximately 5 MGD, with an ultimate plant buildout of approximately 35 MGD; and transmission mains from the water treatment plant to the Project's Phase 1A infrastructure all as further set forth in the Authority's application to the Texas Water Development Board.

The term *Project* shall mean, collectively, the Land Interests and the Facilities as described in the recitals to the Contract and in the Engineering Report.

The term Project Costs shall mean and includes, without limitation, the following costs incurred for the Project by or on behalf of the Authority or the Sponsors: (i) the cost of acquisition of the Land Interests, including appraisals, closing costs and title insurance policies; (ii) the cost of acquisition, construction, repair, replacement, improvement or decommissioning of the Facilities, and any structure, item of equipment, or other item, used for, or in connection with, the Project; (iii) the cost of site preparation of the Land Interests, including demolition or removal of structures and improvements as necessary or incident to accomplishing the Project; (iv) the cost of engineering, legal, architectural or other related services; (v) the preparation cost of plans, specifications, studies, surveys, cost estimates, and other expenses necessary or incident to planning, providing, or financing the Project; (vi) the cost of machinery, equipment, furnishings, and facilities necessary or incident to placing the Project in operation; (vii) finance charges and interest before, during, and after construction as permitted by the laws of the State; (viii) costs incurred in connection with financing the project, including, without limitation: (1) financing, legal, accounting, financial advisory, rating Authority, and auditing fees, expenses and disbursements; (2) the cost of printing, engraving, and reproduction services; and (3) the cost of a trustee's or paying agent's initial or acceptance fee and subsequent fees; (ix) all costs, fees and expenses of litigation of all kinds; (x) the cost of property casualty and public liability insurance; (xi) the fees and costs of the anticipated Purchaser of the Note (or purchasers of Bonds), including underwriting services, if applicable; (xii) reimbursement of the costs previously incurred by the Sponsors with respect to the Project; and (xiii) other costs generally recognized as a part of Project construction costs.

The term *Project Engineer* shall mean such engineer or engineering firm selected by the Authority.

The term *Purchaser* shall mean the initial purchaser of the Note, Wells Fargo Municipal Capital Strategies, LLC.

The term *Record Date* shall mean the Business Day of each month as set forth in the FORM OF NOTE.

The term *Registration Books* shall mean the books or records relating to the registration, payment and transfer or exchange of the Note maintained by the Paying Agent/Registrar pursuant to Section 5 of this Resolution.

The term *Registered Owner* shall mean the entity or person in whose names the Note is registered in the Registration Books.

The term *Resolution* shall mean this resolution adopted by the Board of the Authority on December [\_\_], 2023.

The term Rule shall mean SEC Rule 15c2-12, as amended from time to time.

The term SEC means the United States Securities and Exchange Commission.

The term State shall mean the State of Texas.

The term *Stated Maturity* shall mean, when used with respect to the Note, the scheduled maturity date of the Note.

The term *Taxable Rate* shall mean the "Taxable Rate" as defined in in the FORM OF NOTE.

The term *Water Rights* shall mean the right to produce, withdraw or divert water, and transport the water from the location where it is produced, withdrawn, or diverted into Caldwell County, Guadalupe County, Hays County, and the surrounding counties. "Water Rights" are a component of "Land Interests."

### EXHIBIT B

### FORM OF NOTE

REGISTERED	)
NO	

REGISTERED PRINCIPAL AMOUNT \$46,000,000

# THE TRANSFERABILITY OF THIS NOTE IS RESTRICTED AS SET FORTH IN SECTION 5(F) OF THE HEREINAFTER DEFINED RESOLUTION

UNITED STATES OF AMERICA
STATE OF TEXAS
ALLIANCE REGIONAL WATER AUTHORITY
BOND ANTICIPATION NOTE
(REGIONAL WATER SUPPLY CONTRACT PROJECT)
SERIES 2023

NOTE DATE STATED MATURITY INTEREST RATE CUSIP NO.

December 21, 2023

4.72%

REGISTERED OWNER: WELLS FARGO MUNICIPAL CAPITAL STRATEGIES, LLC

PRINCIPAL AMOUNT: FORTY-SIX MILLION DOLLARS

The Alliance Regional Water Authority (the "Authority"), a conservation and reclamation district of the State of Texas (the "State"), created by the Cities of Buda, Kyle and San Marcos, Texas and the Canyon Regional Water Authority a conservation and reclamation district and political subdivision of the State created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and existing under the laws of the State, for value received, hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption), and to pay interest on the unpaid principal amount hereof from the Note Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on the Stated Maturity.

Principal and premium, if any, of this Note shall be payable to the Registered Owner hereof (the "Holder") upon presentation and surrender, at a corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Note (or one or more predecessor Notes) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of

business on the Record Date, which is the last Business Day of the month next preceding each interest payment date. All payments of principal of and interest on this Note shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. In addition, principal and interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. The foregoing notwithstanding, so long as Wells Fargo Municipal Capital Strategies, LLC, is the registered owner of 100% in aggregate principal amount of the Note then outstanding, payment of principal and interest on the Note shall be made thereto by wire transfer, at no expense to Wells Fargo Municipal Capital Strategies, LLC, without presentment or surrender. Notwithstanding the foregoing, during any period in which ownership of the Note is determined only by a book entry at a securities depository for the Note, payments made to the securities depository, or its nominee, shall be made in accordance with arrangements between the Authority and the securities depository.

Upon the occurrence and continuance of an Event of Default (as defined below), interest on the Note shall accrue at the Default Rate (as defined below) until such Event of Default has been cured.

"Default Rate" has the meaning set forth in the Note Purchase Agreement (as defined in the Resolution).

"Event of Default" has the meaning set forth in the Note Purchase Agreement (as defined in the Resolution).

In the event of a Determination of Taxability (as defined below), the interest rate on the Note shall increase to the Taxable Rate (as defined below).

"Determination of Taxability" has the meaning set forth in the Note Purchase Agreement (as defined in the Resolution).

"Taxable Rate" has the meaning set forth in the Note Purchase Agreement (as defined in the Resolution).

This Note is issued in the aggregate principal amount of \$46,000,000 pursuant to a resolution adopted by the governing body of the Authority (the "Resolution"), (i) FOR CONSTRUCTING, ACQUIRING, IMPROVING AND/OR EXPANDING THE PROJECT INCLUDING BUT NOT LIMITED TO THE PHASE 1B IMPROVEMENTS WATER SUPPLY PROJECT AND (ii) PAYING THE COSTS OF ISSUANCE OF THE NOTE.

On November 1, 2024, or any Business Day thereafter, the Note may be redeemed prior to its Stated Maturity, at the option of the Authority, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Note to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If this Note is subject to redemption prior

to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Note to the Paying Agent/Registrar at its corporate trust office, a new Note or Notes of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum hereof.

If this Note (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Note (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Note is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Note within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Note is a special obligation of the Authority payable from, and to the extent of, and secured solely by a lien on and pledge of the Future Bond Proceeds received by the Authority. In the Resolution, the Authority reserves and retains the right to refund the Note (pursuant to any law then available) upon such terms and conditions as the Board of the Authority may deem to be in the best interest of the Authority, but subject to any terms, conditions, or restrictions set forth in the Resolution or as may be applicable thereto under law or otherwise. The Note does not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the Authority or System, except with respect to the Future Bond Proceeds.

The Holder hereof shall never have the right to demand payment of this obligation out of Bond Payments (as defined in the Resolution) or any funds raised or to be raised by taxation.

Reference is hereby made to the Resolution, copies of which are on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description and nature of the special payments pledged for the payment of the Note; the terms and conditions under which the Authority may (or may not) issue additional indebtedness while the Note is outstanding; the terms and conditions relating to the transfer or exchange of the Note; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Authority and the Paying Agent/Registrar; the terms and provisions upon which this Note may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer outstanding thereunder; and for the other terms and provisions specified in the Resolution. Capitalized terms used herein and not otherwise defined herein have the same meanings assigned in the Resolution.

This Note, subject to certain limitations contained in the Resolution, may be transferred on the Registration Books upon presentation and surrender at a corporate trust office of the

Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or its duly authorized agent, and thereupon one or more new fully registered Notes of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The Authority and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Note as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity, or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the Authority nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Authority. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Note in order to render the same a legal, valid, and binding special obligation of the Authority have been performed, exist, and have been done, in regular and due time, form, and manner, as required by law, and that issuance of the Note does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Note by a lien on and pledge of the Future Bond Proceeds and as otherwise provided in this Resolution. In case any provision in this Note or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Note and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Board of the Authority has caused this Note to be duly signed with the manual or facsimile signature of the Chair or Vice Chair of the Board of the Authority and countersigned with the manual or facsimile signature of the Secretary of the Board of the Authority.

ALLIANCE REGIONAL WATER

ATTESTED:		
Secretary, Board		
A. Form of Registration Certificate of Cor Note Only.	nptrolle	er of Public Accounts to Appear on Initial
REGISTRATION COMPTROLLER O		
OFFICE OF THE COMPTROLLER OF PUBLIC ACCOUNTS THE STATE OF TEXAS	<i>\$</i>	REGISTER NO
I HEREBY CERTIFY that this Note h General of the State of Texas, and duly registe State of Texas.	as been	n examined and approved by the Attorney the Comptroller of Public Accounts of the
WITNESS my signature and seal of off	ice this	·
	C	omptroller of Public Accounts of the State of Texas
B. Form of Certificate of Paying Agent/Re	egistrar	to Appear on Definitive Note Only.
This Note has been duly issued under the Note or Notes of the above-entitled and approved by the Attorney General of the Sta Public Accounts, as shown by the records of the	designa te of T	exas and registered by the Comptroller of
Registered this date:		
		<b>Vells Fargo Bank, National Association</b> s Paying Agent/Registrar
	F	By:Authorized Signature

# C. Form of Assignment.

# ASSIGNMENT

FOR VALUE RECEIVED the typewrite name, address, and zi	undersigned hereby sells, assigns, and transfers unto (Print or p code of transferee):
attorne	s thereunder, and hereby irrevocably constitutes and appoints by to transfer the within Note on the books kept for registration
thereof, with full power of subs	titution in the premises.
DATED:	
	NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Note in every particular.
Signature guaranteed:	
D. The Initial Note shall be "CUSIP NO." may be deleted).	e in the form set forth in this Exhibit B (except the column labeled

# EXHIBIT C

# FORM OF PROJECT FUND REQUISITION

# PROJECT FUND REQUISITION

DATE: \_\_\_\_\_

Name of Payee

Nature of Disbursement

<u>Amount</u>

# EXHIBIT D

# CONTINUING DISCLOSURE

In connection with the sale of the Note, the Authority is not required to make, and does not make, any continuing disclosure undertaking pursuant to the Rule.

# **EXHIBIT E**

# REGIONAL WATER SUPPLY CONTRACT

# **EXHIBIT F**

# APPROVAL CERTIFICATE

The undersigned Authorized Representative of the [Sponsor] pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project), Series 2023" (the "Note") hereby approves the following terms of the Note:

- (i) the total principal amount of the Note of \$46,000,000;
- (ii) the purchase price for the Note is \$46,000,000 (representing the original principal amount of the Note);
- (iii) the interest rate for the Note is 4.72% and the Note shall mature on December 21, 2024:
  - (iv) the Note is subject to redemption as set forth below:

On November 1, 2024, or any Business Day thereafter, the Note may be redeemed prior to its Stated Maturity, at the option of the Authority, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Note to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If the Note is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum thereof is to be redeemed, there shall be issued, without charge therefor, to the Holder thereof, upon the surrender of the Note to the Paying Agent/Registrar at its corporate trust office, a new Note or Notes of like Stated Maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum thereof.

If the Note (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date the Note (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable thereon from and after the redemption date on the principal amount thereof to be redeemed. If the Note is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange the Note within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance thereof in the event of its redemption in part; and

(v) the Note will be approved by the Texas Attorney General.

# EXECUTED AND DELIVERED THIS \_\_\_\_\_ day of December, 2023. [SPONSOR] Title:

# **EXHIBIT G**

# NOTE PURCHASE AGREEMENT

# NOTE PURCHASE AGREEMENT

between

# ALLIANCE REGIONAL WATER AUTHORITY

and

# WELLS FARGO MUNICIPAL CAPITAL STRATEGIES, LLC

Relating to

ALLIANCE REGIONAL WATER AUTHORITY BOND ANTICIPATION NOTE (REGIONAL WATER SUPPLY CONTRACT PROJECT), SERIES 2023

Dated [December \_\_, 2023]

# ARTICLE I DEFINITIONS

Section 1.01.	Definitions
Section 1.02.	Incorporation of Certain Definitions by Reference; Interpretation7
	ARTICLE II PURCHASE OF NOTE
Section 2.01.	Execution of this Agreement; Purchase of Note
	ARTICLE III CONDITIONS PRECEDENT
Section 3.01.	Conditions Precedent to Execution Date
Section 3.02.	Conditions Precedent to Closing Date
	ARTICLE IV REPRESENTATION AND WARRANTIES
Section 4.01.	The Authority represents and warrants to the Purchaser as follows:9
	ARTICLE V COVENANTS
Section 5.01.	Covenants11
	ARTICLE VI EVENTS OF DEFAULT
Section 6.01.	Events of Default
Section 6.02.	Consequences of an Event of Default
Section 6.03.	Mandamus14
	ARTICLE VII MISCELLANEOUS
Section 7.01.	Amendments and Waivers
Section 7.02.	Counterparts15
Section 7.03.	Notices
Section 7.04.	Severability
Section 7.05.	Governing Law; Waiver of Jury Trial16
Section 7.06.	Complete and Controlling Agreement
Section 7.07.	Indemnification
Section 7.08.	Patriot Act17
Section 7.09.	No Advisory or Fiduciary Responsibility17
Section 7.10.	Contractual Interpretation17
Section 7.11.	EMMA Posting17

Section 7.12.	Electronic Signatures	18
Section 7.13.	Israel Boycott	18
Section 7.14.	Texas Government Code Section 2252.152	18
Section 7.15.	Energy Companies Boycott	18
Section 7.16.	Firearms Entities Boycott	19
T 1 '1 '4 A	E	

Exhibit A Form of Investor Letter

# NOTE PURCHASE AGREEMENT

THIS NOTE PURCHASE AGREEMENT is dated [December \_\_\_, 2023] (as amended, modified or restated from time to time, this "Agreement"), between the ALLIANCE REGIONAL WATER AUTHORITY (the "Authority") and WELLS FARGO MUNICIPAL CAPITAL STRATEGIES, LLC (the "Purchaser").

# WITNESETH:

WHEREAS, pursuant to Chapter 572, as amended, Texas Local Government Code, the Hays Caldwell Public Utility Agency (the "Agency") as a constituted authority and instrumentality and political subdivision of the State of Texas, was created by the Cities of Buda ("Buda"), Kyle ("Kyle") and San Marcos, Texas ("San Marcos"), each Texas home rule municipalities, and the Canyon Regional Water Authority ("Canyon Regional"), a conservation and reclamation district and political subdivision of the State of Texas created and existing pursuant to Article XVI, Section 59 of the Texas Constitution and Chapter 670, Acts of the 71st Legislature, Regular Session, 1989, as amended (collectively, the "Sponsors" or singularly, a "Sponsor");

WHEREAS, on June 15, 2017, by special act of the 85<sup>th</sup> Legislature, SB 1198 (the "Act") the Agency was converted to the Alliance Regional Water Authority, a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution;

WHEREAS, pursuant to the Authority Resolution (as defined herein), the Authority has approved the issuance of its Bond Anticipation Note (Regional Water Supply Contract Project), Series 2023 (the "Note") for the purpose of financing the project costs associated with the final phase of the Phase 1B Improvements Project (as defined herein) and the execution and delivery of this Agreement; and

WHEREAS, the Purchaser hereby agrees to purchase the Note, and as a condition to such purchase, the Purchaser has required the Authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, including the covenants, terms and conditions hereinafter contained, and to induce the Purchaser to purchase the Note, the Purchaser and the Authority agree as follows:

# ARTICLE I

### **DEFINITIONS**

**Section 1.01. Definitions.** In addition to terms defined at other places in this Agreement, the following defined terms are used throughout this Agreement with the following meanings:

"Act" has the meaning set forth in the recitals hereof.

"affiliate" means, with respect to any Person, any other Person directly or indirectly controlling or controlled by or under common control with such Person. Without limiting the

foregoing, the definition of "affiliate" of any Person shall include any subsidiary of such Person and, with respect to the Purchaser, shall include Wells Fargo Securities (a trade name) and Wells Fargo Bank, National Association.

- "Agency" has the meaning set forth in the recitals hereof.
- "Agreement" has the meaning set forth in the introductory paragraph hereof.
- "Amendment No. I" means that certain Amendment No. 1 to the Regional Water Supply Contract dated as of October 31, 2009, among the Authority and the Sponsors, as the same may be amended, modified or restated from time to time.
- "Amendment No. 2" means that certain Amendment No. 2 to the Regional Water Supply Contract dated as of [December \_\_, 2023], among the Authority and the Sponsors, as the same may be amended, modified or restated from time to time.
- "Anti-Corruption Laws" means (a) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (b) the U.K. Bribery Act of 2010, as amended, and (c) any other anti-bribery or anti-corruption laws, regulations or ordinances in any jurisdiction in which the Authority is located or doing business.
- "Anti-Money Laundering Laws" means applicable laws or regulations in any jurisdiction in which the Authority is located or doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.
  - "Authority" means Alliance Regional Water Authority.
- "Authority Representative" means the Chair, Vice Chair or the Executive Directory of the Authority or such other person authorized by the board of the Authority to act as an Authority Representative.
- "Authority Resolution" means, collectively, (i) Resolution No. [\_\_\_\_] adopted by the Board of Directors of the Authority on November 29, 2023, and (ii) Resolution No. [\_\_\_\_] adopted by the Board of Directors of the Authority on [December \_\_\_, 2023], authorizing the issuance of the Note and approving the transactions contemplated hereby.
  - "Bond Counsel" means McCall, Parkhurst & Horton L.L.P.
  - "Bonds" has the meaning set forth in the Regional Water Supply Contract.
  - "Buda" has the meaning set forth in the recitals hereof.
- "Business Day" means a day which is not (a) a Saturday, Sunday or legal holiday on which banking institutions in San Marcos, Texas or New York, New York are authorized by law to close or (b) a day on which the New York Stock Exchange or the Federal Reserve Bank is closed.
  - "Canyon Regional" has the meaning set forth in the recitals hereof.

"Closing Date" means [December 21, 2023], subject to the satisfaction or waiver by the Purchaser of the conditions precedent set forth in Section 3.02 hereof.

"Code" means the Internal Revenue Code of 1986, as amended, and, where appropriate any statutory predecessor or any successor thereto.

"Confidential Information" means any sensitive or confidential information regarding the Issuer, the Purchaser or any affiliate of the Purchaser including, without limitation, address and account information, e-mail addresses, telephone numbers, facsimile numbers, names and signatures of officers, employees.

"Debt" of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, (f) all Guarantees by such Person of Debt of other Persons and (g) all obligations of such Person under any Swap Contract.

"Default Rate" means, for any date of determination, a fluctuating rate of interest per annum equal to the greatest of (i) the Prime Rate plus four percent (4.0%), (ii) the Federal Funds Rate plus five percent (5.0%) or (iii) ten percent (10.0%).

"Determination of Taxability" means a change in law or fact or the interpretation thereof, or the occurrence or existence of any fact, event or circumstance that results in interest on the Note being includable, in whole or in part, in the gross income of the Owners thereof or the Authority at any time takes any action or omits to take any action that results in interest on the Note being includable, in whole or in part, in the gross income of the Owners thereof and any of the Owners, or the Authority either (i) receives notice of a final determination from the Internal Revenue Service or a court of competent jurisdiction, or (ii) reasonably determines, based on an opinion of nationally recognized bond counsel qualified in such matters and selected by the Owner, that the interest on the Note is not excludable from the gross income of the recipient thereof.

"EMMA" means Electronic Municipal Market Access as provided by the Municipal Securities Rulemaking Board.

"Event of Default" with respect to this Agreement has the meaning set forth in Section 6.01 hereof and, with respect to any Related Document, has the meaning set forth therein.

"Execution Date" means [December \_\_\_, 2023], subject to the satisfaction or waiver by the Purchaser of the conditions precedent set forth in Section 3.01 hereof.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that: (a) if such day is not a Business Day, then the Federal Funds Rate for such day shall be such rate on such transactions on

the next preceding Business Day as so published on the next succeeding Business Day; and (b) if no such rate is so published on such next succeeding Business Day, then the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of one-hundredth of one percent) charged to Wells Fargo Bank, National Association on such day on such transactions as determined by Wells Fargo Bank, National Association.

"Future Bonds" means the first issuance Bonds and/or bond anticipation notes of the Authority issued after the Closing Date, the proceeds of which shall be used to pay the outstanding principal of and interest on the Note in full.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including, without limitation, the Financial Conduct Agency, the Prudential Regulation Authority and any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee" means, as to any Person, any (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to obtain any such lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Investor Letter" has the meaning set forth in Section 2.01(b) hereof.

"Kyle" has the meaning set forth in the recitals hereof.

"Maximum Federal Corporate Tax Rate" means, for any day, the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, as in effect as of such day (or, if as a result of a change in the Code, the rate of income taxation imposed on corporations

generally shall not be applicable to the Purchaser, the maximum statutory rate of federal income taxation which could apply to the Purchaser as of such day).

"Note" has the meaning set forth in the recitals hereof.

"Owner" means the registered owner of the Note.

"Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Title III of Pub. L. 107 56 (signed into law October 26, 2001).

"Person" means any individual, corporation, not for profit corporation, partnership, limited liability company, joint venture, association, professional association, joint stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other form of entity.

"Phase 1B Improvements Project" has the meaning set forth in the Resolutions.

"Prime Rate" means on any day, the rate of interest per annum then most recently established by Wells Fargo Bank, National Association as its "prime rate." Any such rate is a general reference rate of interest, may not be related to any other rate, and may not be the lowest or best rate actually charged by Wells Fargo Bank, National Association to any customer or a favored rate and may not correspond with future increases or decreases in interest rates charged by other lenders or market rates in general, and that Wells Fargo Bank, National Association may make various business or other loans at rates of interest having no relationship to such rate. If Wells Fargo Bank, National Association ceases to establish or publish a prime rate from which the Prime Rate is then determined, the applicable variable rate from which the Prime Rate is determined thereafter shall be instead the prime rate reported in The Wall Street Journal (or the average prime rate if a high and a low prime rate are therein reported), and the Prime Rate shall change without notice with each change in such prime rate as of the date such change is reported.

"Property" means, when used in connection with any Person, any and all rights, title and interests of such Person in and to any and all property (including cash) whether real, personal or mixed, or tangible or intangible, and wherever situated.

"Purchaser" means, Wells Fargo Municipal Capital Strategies, LLC, and its successors and assigns.

"Purchase Price" has the meaning set forth in Section 2.01(b) hereof.

"Regional Water Supply Contract" means that certain Regional Water Supply Contract dated as of January 9, 2008, by and among the Authority and the Sponsors, as amended by Amendment No. 1 and Amendment No. 2, and as the same may be further amended, modified or restated from time to time.

"Related Documents" means, collectively, this Agreement, the Resolutions, the Regional Water Supply Contract, the Note and any exhibits, schedules, instruments or agreements relating

thereto, as the same may be amended, modified or supplemented in accordance with the terms thereof and hereof.

"Resolutions" means, collectively, the Authority Resolution, the Sponsor Resolutions and the Special Utility District Resolutions.

"Sanction" or "Sanctions" means any and all economic or financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes and restrictions and anti-terrorism laws imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC), the U.S. Department of State, the U.S. Department of Commerce, or through any existing or future statute or Executive Order, (b) the United Nations Security Council, (c) the European Union, (d) the United Kingdom, or (e) any other Governmental Authority with jurisdiction over the Authority.

"San Marcos" has the meaning set forth in the recitals hereof.

"Sanctioned Target" means any target of Sanctions, including: (a) Persons on any list of targets identified or designated pursuant to any Sanctions, (b) Persons, countries or territories that are the target of any territorial or country-based Sanctions program, (c) Persons that are a target of Sanctions due to their ownership or control by any Sanctioned Target(s), or (d) otherwise a target of Sanctions, including vessels and aircraft, that are designated under any Sanctions program.

"Special Utility Districts" means, collectively, Crystal Clear Special Utility District, Green Valley Special Utility District, County Line Special Utility District and Martindale Water Supply Corporation.

"Special Utility District Resolutions" means, collectively, (i) Resolution No.
1 adopted by Crystal Clear Special Utility District on December,
2023], (ii) Resolution No. [] and Resolution No. [] adopted by Green Valley Special Utility District on [December, 2023] and (iii) Resolution No. [] and Reso
No. [] adopted by County Line Special Utility District on [December, 2023], approving the issuance of the Note and the amendment of the Regional Water Supply Contract by
Canyon Regional.
"A see the maning set forth in the recitals hereof.

"Sponsors" has the meaning set forth in the recitals hereof.

"Sponsor Resolutions" means, collectively, (i) Resolution No. [\_\_\_\_\_] adopted by Canyon Regional on [December \_\_, 2023], (ii) Resolution No. [\_\_\_\_\_] adopted by Buda on [December \_\_, 2023], (iii) Resolution No. [\_\_\_\_\_] adopted by Kyle on [December \_\_, 2023] and (iv) Resolution No. [\_\_\_\_\_] adopted by San Marcos on [December \_\_\_, 2023], approving the issuance of the Note by the Authority and the amendment of the Regional Water Supply Contract.

"Sponsoring Public Entity's Utility Bonds" has the meaning set forth in the Regional Water Supply Contract.

"State" means the State of Texas.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Taxable Rate" means, for each day, a rate of interest per annum equal to the product of (a) the interest rate on the Note for such day and (b) the quotient of (i) one divided by (ii) one minus the Maximum Federal Corporate Tax Rate in effect as of such day.

Section 1.02. Incorporation of Certain Definitions by Reference; Interpretation. Each capitalized term used herein and not otherwise defined herein shall have the meaning provided therefor in the Resolutions, unless the context otherwise requires. In the event of any conflict between the terms and provisions of this Agreement and the provisions of the Resolutions, the provisions of the Resolutions shall be controlling.

# ARTICLE II

# PURCHASE OF NOTE

# Section 2.01. Execution of this Agreement; Purchase of Note.

- (a) Execution of this Agreement. On the Execution Date, the Purchaser hereby agrees to purchase the Note on the Closing Date, subject to the satisfaction of or waiver by the Purchaser of the conditions precedent set forth in Article III hereof.
- (b) Purchase of Note. On the Closing Date, upon the terms and conditions and based on the representations, warranties and covenants of the Authority set forth herein, the Purchaser hereby agrees to purchase from the Authority and the Authority hereby agrees to issue to the Purchaser, the Note at the purchase price of \$46,000,000 representing the aggregate principal amount of the Note (the "Purchase Price"). On the Closing Date, the Authority shall deliver to the Purchaser the documents described in and satisfy the conditions set forth in Article III. Upon delivery of such documents and satisfaction of such conditions, the Purchaser will pay the Purchase Price for the Note in immediately available federal funds at the direction of the Authority. One fully registered Note, in the aggregate principal amount equal to the Purchase Price, shall be issued to and registered in the name of the Purchaser, and shall be delivered at the direction of the Purchaser. Upon

purchase of the Note, the Purchaser shall deliver to the Authority a letter in the form of Exhibit A (the "Investor Letter").

### ARTICLE III

# CONDITIONS PRECEDENT

- **Section 3.01. Conditions Precedent to Execution Date.** On the Execution Date, the Purchaser agrees to purchase the Note on the Closing Date pursuant to the terms hereof so long as the Purchaser shall have received an executed original of this Agreement.
- Section 3.02. Conditions Precedent to Closing Date. The Purchaser's obligation to purchase the Note and the Authority's obligation to issue and deliver the Note, is subject to the conditions precedent set forth below, and that the Purchaser shall have received, on or before the Closing Date, the following items, each dated and in form and substance as is satisfactory to the Purchaser:
  - (a) an executed original of Amendment No. 2;
  - (b) certified copies of the Authority Resolution, the Sponsor Resolutions, and the Special Utility District Resolutions and all other proceedings of the Authority, Sponsors and Special Utility Districts, if any, relating to approvals or authorizations for the Note and the execution and delivery of this Agreement;
  - (c) the Note in physical form, duly executed and registered in the name of the Purchaser;
  - (d) a certificate from an Authority Representative, dated the Closing Date, certifying that: (i) that each representation and warranty of the Authority in this Agreement is true and correct in all material respects; (ii) no Event of Default has occurred and is continuing or would result from the execution or performance of this Agreement or the Related Documents; and (3) the names and signatures of the persons authorized to sign on behalf of the Authority all of the Related Documents to which the Authority is a party;
  - (e) the opinion or opinions of Bond Counsel, dated the Closing Date and addressed to the Purchaser, (i) as to the due authorization, execution, delivery and enforceability of the Related Documents to which the Authority is a party and (ii) to the effect that the interest on the Note is excludable from gross income for federal income tax purposes and, in each case, such other customary matters as the Purchaser may reasonably request;
  - (f) a copy of the opinion of the attorney general of the State evidencing the attorney general's approval of the transaction contemplated by this Agreement;
  - (g) evidence that a non-DTC registered CUSIP shall have been obtained and reserved from Standard & Poor's CUSIP Service for the Note;

- (h) the Purchaser shall have received reimbursement of the fees and expenses of Kutak Rock LLP, as counsel to the Purchaser, incurred in connection with the preparation, review, negotiation, execution and delivery of this Agreement and the Related Documents which fees may be paid directly to Kutak Rock LLP; and
- (i) such additional certificates, instruments, opinions or other documents as the Purchaser may reasonably request.

# ARTICLE IV

# REPRESENTATION AND WARRANTIES

Section 4.01. The Authority represents and warrants to the Purchaser as follows:

- (a) Organization and Power. The Authority is a conservation and reclamation district to accomplish the purposes set forth in the Act and of Article XVI, Section 59, Texas Constitution. The Authority has the power and authority under the laws of the State to issue the Note and perform its obligations under this Agreement and the other Related Documents to which it is a party.
- (b) Authority; No Conflict With Other Instruments or Law. The execution, delivery and performance of this Agreement and the other Related Documents to which it is a party have been duly authorized and the consummation of the transactions contemplated hereby and thereby (i) are within the power and authority of the Authority, (ii) have been duly authorized by all necessary action on the part of the Authority, and (iii) do not violate provisions of statutory laws or regulations applicable to the Authority.
- (c) Enforceability. This Agreement and the other Related Documents to which it is a party constitute the legal, valid and binding obligations of the Authority enforceable against the Authority in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws, statutes or rules of general application affecting the enforcement of creditor's rights or general principles of equity.
- (d) Governmental Approval. The execution and delivery of this Agreement and the other Related Documents to which it is a party and the transactions contemplated hereby, do not require any authorization, exemption, counsel or approval of, notice to, or declaration or filing with, any Governmental Authority other than those obtained on or before the date hereof.
- (e) Litigation; Legislation. (i) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending, or, to the best knowledge of the Authority, threatened against or affecting the Authority wherein an unfavorable decision, ruling or finding would have a material adverse effect on (1) the transactions contemplated by, or the validity or enforceability of, this Agreement, or the other Related Documents or (2) the tax-exempt status of interest on the Note.

- (ii) There is no amendment, or to the knowledge of the Authority, proposed amendment to the Constitution of the State or any State law or any administrative interpretation of the Constitution of the State or any State law, or any legislation that has passed either house of the legislature of the State, or any judicial decision interpreting any of the foregoing, the effect of which will materially adversely affect the issuance of any of the Note, or the Authority's obligations under this Agreement or the other Related Documents to which it is a party, or the Authority's ability to repay when due its obligations under the Note.
- (f) Financial Statements. The audited financial statements of the Authority for the fiscal year ended September 30, 2022, heretofore furnished to the Purchaser, fairly present the financial condition of the Authority in all material respects as of such dates and the results of its operations for the periods then ended in conformity with GAAP. Since September 30, 2022, there has been no change in the financial condition or operations of the Authority that could reasonably be expected to result in a material adverse change in the operations, business, properties, liabilities or condition of the Authority.
- (g) No Default. No Event of Default or any event that, with the giving of notice or the lapse of time or both, would constitute an Event of Default has occurred and is continuing.
- (h) *Usury*. The interest rate for the Note does not violate any applicable State law regarding permissible maximum rates of interest.
- (i) Security. The Note will be secured by a pledge of the proceeds of the Future Bonds as set forth in Section 7 of the Authority Resolution.
- (j) Anti-Corruption Laws and Anti-Money Laundering Laws. The Authority has instituted, maintains and complies with policies, procedures and controls reasonably designed to assure compliance with Anti-Money Laundering Laws and Anti-Corruption Laws. To the best of the Authority's knowledge, after due care and inquiry, the Authority is not under investigation for an alleged violation of Anti-Money Laundering Laws or Anti-Corruption Laws by a Governmental Authority that enforces such laws.
- (k) Sanctions. (i) The Authority is not a Sanctioned Target, (ii) the Authority is not owned or controlled by, or is acting or purporting to act for or on behalf of, directly or indirectly, a Sanctioned Target, (iii) the Authority has instituted, maintains and complies with policies, procedures and controls reasonably designed to assure compliance with Sanctions, and (iv) to the best of Authority's knowledge, after due care and inquiry, the Authority is not under investigation for an alleged violation of Sanction(s) by a Governmental Authority that enforces Sanctions. The Authority shall notify the Purchaser in writing not more than one Business Day after first becoming aware of any breach of this Section.

### ARTICLE V

### COVENANTS

- Section 5.01. Covenants. The Authority covenants and agrees that it will comply with the following covenants until the date on which no amount is due or owing to the Purchaser under this Agreement or the other Related Documents, unless the Purchaser shall otherwise consent in writing:
  - (a) Financial Reporting and Notices. (i) The Authority shall provide to the Purchaser within two hundred seventy (270) days of the end of each fiscal year of the Authority, a copy of its audited financial statements for such fiscal year along with a certificate executed by an Authority Representative certifying that no Event of Default or event that with the lapse of time or the giving of notice would constitute an Event of Default has occurred, or if any such default has occurred, specifying the nature of such default, the period of its existence, the nature and status thereof and any remedial steps taken or proposed to correct such default.
    - (ii) The Authority shall provide to the Purchaser the Authority's annual budget within sixty (60) days of the end of each fiscal year of the Authority.
    - (iii) The Authority shall provide prompt written notice to the Purchaser of (1) any Event of Default or event that with the lapse of time or the giving of notice would constitute an Event of Default, and (2) all actions, suits or proceedings pending against the Authority in any court before any governmental authority which could reasonably be expected to result in a material adverse effect upon the operations, business, properties, liabilities or condition of the Authority or a material impairment of the ability of the Authority to perform its obligation under this Agreement, the Note and the Related Documents.
  - (b) Existence, Etc. The Authority shall maintain its existence pursuant to its authorizing legislation and the laws of the State.
  - (c) Compliance with Laws. The Authority shall comply in all material respects with all applicable laws, ordinances, rules, regulations and requirements of any governmental authority unless noncompliance would not have a material a material impairment on the ability of the Authority to perform its obligations under this Agreement, or the other Related Documents to which it is a party or a material adverse effect upon the legality, validity, binding effect or enforceability against the Authority of this Agreement, or the other Related Documents to which it is a party.
  - (d) Maintenance of Books and Records; Inspections. The Authority shall maintain adequate books, accounts and records, and prepare all financial statements required under this Agreement in accordance with generally accepted accounting principles and in compliance with the regulations of any governmental authority having jurisdiction over it. The Authority shall permit any employee or representative of the Purchaser to visit and inspect any of its properties, to examine and audit its books of account, records, reports

and other papers, to make copies and extracts therefrom, and to discuss its affairs, finances and accounts with its officers and, upon prior notice to the Authority, its independent public accountants (and by this provision the Authority authorizes said accountants to discuss its finances and affairs with the Purchaser and to provide the Purchaser with access to such accountants' work papers), all upon reasonable notice and during business hours and as often as may be reasonably requested.

- (e) Immunity. To the extent permitted by law, with respect to its obligations arising under this Agreement and the other Related Documents to which the Authority is a party, the Authority agrees that it will not claim any immunity on the grounds of sovereignty or other similar grounds from any action, suit or proceeding arising under or relating to this Agreement or the other Related Documents to which it is a party, whether to enforce the provisions hereof or thereof or to recover damages for the breach hereof or thereof.
- (f) Bonding Capacity. (i) The Authority shall at all times maintain the ability under the Regional Water Supply Contract to issue Bonds in an amount at least equal to the sum of (x) the aggregate principal amount of the Note, plus (y) the aggregate amount of accrued interest to maturity on all Note.
  - (ii) The Authority shall at all times cause the Sponsors to maintain the ability to issue Sponsoring Public Entity's Utility Bonds in an amount at least equal to the sum of (x) the aggregate principal amount of the Note, plus (y) the aggregate amount of accrued interest to maturity on all Note.
- (g) Limitation on Additional Debt. Other than the Future Bonds, the Authority shall not issue Bonds or incur any other Debt until the principal of and interest on the Note has been paid in full.
- (h) Obligation to Issue the Future Bonds. On or prior to the maturity date of the Note, the Authority shall issue the Future Bonds and cause the proceeds thereof to be applied to pay the principal of and interest on the Note in full.
- (i) Texas Water Development Board. The Authority shall at all times comply with existing Texas Water Development Board Contract Revenue Bond requirements, shall make application to the Texas Water Development Board by the respective deadline and provide a copy of the same to the Purchaser.
- (j) Anti-Money Laundering and Anti-Corruption Laws; Sanctions. (i) The Authority will not use any of the proceeds of the Note to fund, finance or facilitate any activities, business or transactions that would be prohibited by Anti-Money Laundering Laws or Anti-Corruption Laws.
  - (ii) The Authority will not use any of the proceeds of the Note to fund, finance or facilitate any activities, business or transactions: (i) that are prohibited by Sanctions, (ii) that would be prohibited by U.S. Sanctions if conducted by a U.S. Person, or (iii) that would be prohibited by Sanctions if conducted by the Purchaser, or any other party to this Agreement. The Authority shall notify the Purchaser in

writing not more than one Business Day after first becoming aware of any breach of this Section.

(k) Source of Repayment and Collateral. The Authority will not fund any repayment of the Note with proceeds, or provide as collateral any Property, that is directly or indirectly derived from any transaction or activity that is prohibited by Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws, or that could otherwise cause the Purchaser or any other party to this Agreement to be in violation of Sanctions, Anti-Money Laundering Laws or Anti-Corruption Laws.

### ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.01. Events of Default**. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of law) shall be an "Event of Default", unless waived in writing by Purchaser:

- (a) the Authority shall fail to pay the principal of or interest on any Note when due;
- (b) any representation or warranty made by or on behalf of the Authority in this Agreement or any certificate or document delivered to the Purchaser related thereto shall provide to have been incorrect or untrue in any material respect when made;
- (c) the Authority shall fail to observe or perform any other covenant, restriction or agreement set forth in this Agreement and such failure shall remain unremedied for a period of thirty days after the occurrence thereof;
- the Authority or any Sponsor shall (i) have entered involuntarily against it (d) an order for relief under the United States Bankruptcy Code, as amended, (ii) become insolvent or shall not pay, or be unable to pay, or admit in writing its inability to pay, its debts generally as they become due, (iii) make an assignment for the benefit of creditors, (iv) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any substantial part of its property, (v) institute any proceeding seeking to have entered against it an order for relief under the United States Bankruptcy Code, as amended, to adjudicate it insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, marshalling of assets, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (vi) take any corporate action in furtherance of any matter described in parts (i) through (v) above, or (vii) fail to contest in good faith any appointment or proceeding described in paragraph (e) below;
- (e) a custodian, receiver, trustee, examiner, liquidator or similar official shall be appointed for the Authority, any Sponsor or any substantial part of their respective property, or a proceeding described in paragraph (d)(v) above shall be instituted against

the Authority or any Sponsor and such proceeding continues undischarged or any such proceeding continues undismissed or unstayed for a period of thirty (30) or more days;

- (f) a debt moratorium, debt restructuring, debt adjustment or comparable restriction is imposed on the repayment when due and payable of the principal of or interest on any indebtedness of the Authority by the Authority or any Governmental Authority with appropriate jurisdiction;
- (g) any material provision of this Agreement or the other Related Documents to which the Authority is a party shall at any time for any reason cease to be valid and binding on the Authority, or shall be declared in a final non-appealable judgment by any court with competent jurisdiction to be null and void, invalid, or unenforceable, or the validity or enforceability thereof shall be publicly contested by the Authority;
- (h) any final, unappealable judgment or judgments, writ or writs or warrant or warrants, or any similar process or processes, which are not covered in full by insurance, with written acknowledgement of such coverage having been provided by the provider of such insurance coverage to the Purchaser, in an aggregate amount not less than \$1,000,000 shall be entered or filed against the Authority or against any of its property and remain unpaid, unvacated, unbonded or unstayed for a period of sixty (60) days;
- (i) the Authority shall (i) default on any other Debt owed to the Purchaser or any of its affiliates, (ii) default on the payment of the principal of or interest on any Debt, beyond the period of grace, if any, provided in the instrument or agreement under which such Debt was created or incurred; or (iii) default in the observance or performance of any agreement or condition relating to any Debt or contained in any instrument or agreement evidencing, securing or relating thereto, or any other default, event of default or similar event shall occur or condition exist, the effect of which default, event of default or similar event or condition is to permit (determined without regard to whether any notice is required) any such Debt to become due and payable in full prior to its stated maturity as the result of the acceleration, mandatory redemption or mandatory tender of such Debt or other remedial action to be taken with respect to such Debt; or
- (j) any "event of default" under any Related Document (as defined respectively therein) shall have occurred.
- Section 6.02. Consequences of an Event of Default. Upon the occurrence and during the continuance of an Event of Default the interest rate on the Note shall increase to the Default Rate as more fully set forth in the Note, and the Purchaser may exercise, or cause to be exercised, any and all remedies as it may have under the other Related Documents and as otherwise available at law and at equity.
- Section 6.03. Mandamus. The duties and obligations of the Authority under this Agreement and the other Related Documents to which it is a party that are clearly defined and non-discretionary and for which there is no other remedy available at law shall be enforceable by mandamus in any court of competent jurisdiction. Without limiting any other remedies set forth herein or in the other Related Documents, in the case of a breach or default by the Authority under

this Agreement or any other Related Document to which it is a party, the Purchaser shall be entitled to file a mandamus action in any court of competent jurisdiction.

# ARTICLE VII MISCELLANEOUS

Section 7.01. Amendments and Waivers. No amendment or waiver of any provision of this Agreement or consent to any departure by the Authority from any such provision shall in any event be effective unless the same shall be in writing and signed by the Purchaser. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In the event any agreement contained in this Agreement should be breached by the Authority and thereafter waived by the Purchaser, such waiver shall be limited to the particular breach so waived for the specific period set out in such waiver and such waiver shall not constitute a waiver of such breach for any other period and shall not waive any other or similar breach hereunder.

Section 7.02. Counterparts. This Agreement may be signed in any number of counterpart copies (and by different parties on different counterparts), each of which shall constitute an original but all such copies shall constitute one and the same instrument.

Section 7.03. Notices. All notices, requests, demands, directions and other communications (collectively "notices") under the provisions of this Agreement shall be in writing (including facsimile communication), unless otherwise expressly permitted hereunder, and shall be properly addressed and sent by registered or certified mail or by express courier for next Business Day delivery and shall be deemed received as follows: (a) if by registered or certified mail, five (5) days after mailing; (b) if by express courier, on the next Business Day; and (c) if by facsimile, when confirmation of transmission is obtained if prior to 5:00 p.m. local time on a Business Day, and otherwise, on the next Business Day; provided that service of a notice prescribed by any applicable law shall be considered complete when the requirements of such applicable law are met. Notices by electronic mail (e mail) shall not constitute notice under this Agreement and are only to be used in addition to notice given as prescribed under subsections (a), (b) or (c) of this Section. All notices shall be sent to the applicable party at the following address or in accordance with the last unrevoked written direction from such party to the other party hereto:

if to the Authority, addressed to it at:

Alliance Regional Water Authority 630 E. Hopkins Street San Marcos, TX 78666 Attention: Graham Moore, Executive Director

Telephone: (512) 294-3214

Email: gmoore@alliancewater.org

or if to the Purchaser, addressed to if at:

Wells Fargo Municipal Capital Strategies, LLC c/o Wells Fargo Bank, National Association

2300 S IH 35, 2<sup>nd</sup> Floor Round Rock, Texas 78681 Attention: Ryan Hazlett Telephone: (512) 704-5639

Email: Ryan.Hazlett@wellsfargo.com

The Purchaser may in its sole discretion rely on any notice (including telephone communication or e-mail communication) purportedly made by or on behalf of the Authority, but it shall have no duty to accept any notice not given as prescribed in this Section and shall have no duty to verify the identity or authority of the Person giving such notice, unless such actions or omissions would amount to gross negligence or intentional misconduct.

Section 7.04. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction.

Section 7.05. Governing Law; Waiver of Jury Trial. (a) This Agreement shall be governed by, and construed in accordance with, the laws of the State without giving effect to conflicts of laws provisions.

(b) To the extent permitted by applicable law, each of the parties hereto hereby waives its right to a jury trial of any claim or cause of action based upon or arising out of this Agreement, the other Related Documents or any of the transactions contemplated hereby or thereby, including contract claims, tort claims, breach of duty claims, and all other common law or statutory claims.

Section 7.06. Complete and Controlling Agreement. This Agreement and the other Related Documents completely set forth the agreements between the Purchaser and the Authority and fully supersede all prior agreements, both written and oral, between the Purchaser and the Authority relating to all matters set forth herein and in the other Related Documents.

Section 7.07. Indemnification. In addition to any and all rights of reimbursement, indemnification, subrogation or any other rights pursuant hereto or under law or equity, the Authority hereby agrees (to the extent permitted by State law) to indemnify and hold harmless the Purchaser and its officers, directors and agents (each, an "Indemnitee") from and against any and all claims, damages, losses, liabilities, reasonable costs or expenses whatsoever (including reasonable attorneys' fees) which may incur or which may be claimed against an Indemnitee by any Person or entity whatsoever (collectively, the "Liabilities") by reason of or in connection with (a) the execution and delivery of, or payment or failure to pay under, this Agreement or any other Related Document; (b) the issuance and sale of the Note; and (c) the use of the proceeds of the Note; provided that the Authority shall not be required to indemnify an Indemnitee for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by the willful misconduct or negligence of such Indemnitee. The obligations of the Authority under this Section shall survive the payment of the Note and the termination of this Agreement.

Section 7.08. Patriot Act. The Purchaser hereby notifies the Authority that pursuant to the requirements of the Patriot Act it is required to obtain, verify and record information that identifies the Authority, which information includes the name and address of the Authority and other information that is necessary for the Purchaser to identify the Authority in accordance with the requirements of the Patriot Act. The Authority hereby agrees that it shall promptly provide such information upon request by the Purchaser.

Section 7.09. No Advisory or Fiduciary Responsibility. In connection with all aspects of the transactions contemplated by this Agreement and the other Related Documents (including in connection with any amendment, waiver or other modification of this Agreement or of any Related Document), the Authority acknowledges and agrees that: (a)(i) any arranging, structuring and other services regarding this Agreement and the Related Documents provided by the Purchaser or any affiliate of the Purchaser are arm's length commercial transactions between the Authority on the one hand, and the Purchaser and any affiliate of the Purchaser on the other hand, (ii) the Authority has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Authority is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and the Related Documents; acknowledges that (b)(i) the Purchaser and each affiliate of the Purchaser is and has been acting solely as a principal and has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Authority or any other Person and (ii) neither the Purchaser nor any affiliate of the Purchaser has any obligation to the Authority with respect to the transactions contemplated by this Agreement and the Related Documents, except those obligations expressly set forth herein; and acknowledges that (c) the Purchaser and each affiliate of the Purchaser may be engaged in a broad range of transactions that involve interests that differ from those of the Authority, and neither the Purchaser nor any affiliate of the Purchaser has any obligation to disclose any of such interests to the Authority. To the fullest extent permitted by applicable laws, the Authority hereby waives and releases any claims that it may have against the Purchaser and each affiliate of the Purchaser with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the transactions contemplated by this Agreement and the Related Documents.

Section 7.10. Contractual Interpretation. The parties acknowledge that they have read and fully understand the terms of this Agreement, have consulted with such attorneys, accountants, advisors, or other professionals as they have deemed appropriate prior to executing this Agreement with adequate opportunity and time for review thereof, and are fully aware of its contents and of its legal effect. Accordingly, neither this Agreement nor any ambiguity herein shall be construed against any party on the grounds that such party drafted this Agreement and instead, this Agreement shall be interpreted as though drafted equally by all parties.

Section 7.11. EMMA Posting. In the event the Authority files with EMMA this Agreement or any other Related Document or any description of the material terms thereof or notice of any agreement to covenants, events of default, remedies, priority rights or other similar terms, either voluntarily or as required pursuant a continuing disclosure agreement or Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "Rule") (each such posting, an "EMMA Posting"), the Authority shall (i) provide the Purchaser with a copy of each EMMA Posting prior to submitting or posting on EMMA and (ii) shall not file or permit the filing of any EMMA Posting that includes Confidential Information. The Authority acknowledges and agrees that although the Purchaser may request review, edits or redactions of

such materials prior to filing, the Purchaser is not responsible for the Authority's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with any continuing disclosure agreement or any applicable securities or other laws, including, but not limited to, those relating to the Rule.

Section 7.12. Electronic Signatures. The parties agree that the electronic signature of a party to this Agreement shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. The parties agree that any electronically signed document (including this Agreement) shall be deemed (i) to be "written" or "in writing," (ii) to have been signed and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Such paper copies or "printouts", if introduced as evidence in any judicial, arbitral, mediation or administrative proceeding, will be admissible as between the parties to the same extent and under the same conditions as other original business records created and maintained in documentary form. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule. For purposes hereof, "electronic signature" means a manually signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the internet as a "pdf" (portable document format) or other replicating image attached to an e mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

Section 7.13. Israel Boycott. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2271.002, Texas Government Code, the Purchaser hereby verifies that it, its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to enable the Authority to comply with such Section and to the extent such Section does not contravene applicable Federal or State law. As used in the foregoing verification, "boycott Israel," a term defined in Section 2271.001, Texas Government Code, by reference to Section 808.001(1), Texas Government Code, 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.

Section 7.14. Texas Government Code Section 2252.152. The Purchaser hereby acknowledges to its best knowledge that (a) the Purchaser does not engage in business with Iran, Sudan or any foreign terrorist organization except to the extent required or otherwise permitted by applicable Federal law and (b) the Purchaser is not listed by the Texas Comptroller as described in Section 2252.152 of the Texas Government Code. The term "foreign terrorist organization" as used in this Section has the meaning assigned to such term in Section 2251.152 of the Texas Government Code.

Section 7.15. Energy Companies Boycott. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government

Code, as amended, the Purchaser hereby verifies that it, its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the Authority to comply with such Section and to the extent such Section does not contravene applicable Federal or State law. As used in the foregoing verification, "boycott energy companies," a term defined in Section 2274.001(1), Texas Government Code (as enacted by such Senate Bill) by reference to Section 809.001, Texas Government Code (also as enacted by such Senate Bill), shall mean, without an ordinary business purpose, 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 with a company because the company (a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and State law; or (b) does business with a company described by (a) above.

Section 7.16. Firearms Entities Boycott. To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Purchaser hereby verifies that it, its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The foregoing verification is made solely to enable the Authority to comply with such Section and to the extent such Section does not contravene applicable Federal or State law.

As used in the foregoing verification and the following definitions,

- "discriminate against a firearm entity or firearm trade association," a term defined in Section 2274.001(3), Texas Government Code (as enacted by such Senate Bill), (i) means, with respect to the firearm entity or firearm trade association, to (A) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (B) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (C) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (ii) does not include (A) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (B) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (1) to comply with federal, State, or local law, policy, or regulations or a directive by a regulatory agency; or (2) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association;
- (b) "firearm entity," a term defined in Section 2274.001(6), Texas Government Code (as enacted by such Senate Bill), means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (defined in Section 2274.001(4), Texas Government Code,

as enacted by such Senate Bill, as weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (defined in Section 2274.001(5), Texas Government Code, as enacted by such Senate Bill, as devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (defined in Section 2274.001(1), Texas Government Code, as enacted by such Senate Bill, as a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (defined in Section 250.001, Texas Local Government Code, as a business establishment, private club, or association that operates an area for the discharge or other use of firearms for silhouette, skeet, trap, black powder, target, self-defense, or similar recreational shooting); and

(c) "firearm trade association," a term defined in Section 2274.001(7), Texas Government Code (as enacted by such Senate Bill), means any person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual); (ii) has two or more firearm entities as members; and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Note Purchase Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

ALLIANCE REGIONAL WATER AUTHORITY

Ву:	
Name:	
Γitle:	

# WELLS FARGO MUNICIPAL CAPITAL STRATEGIES, LLC

#### **EXHIBIT A**

# FORM OF INVESTOR LETTER

### [December 21, 2023]

Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract Project), Series 2023

#### Ladies and Gentlemen:

Wells Fargo Municipal Capital Strategies, LLC ("Purchaser") has agreed to purchase the above-referenced note (the "Note") pursuant to the Note Purchase Agreement dated [December 21, 2023] (the "Agreement") between the Purchaser and Alliance Regional Water Authority (the "Authority") issued by the Authority pursuant to the Resolutions. All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Agreement or the Resolutions. The undersigned, an authorized representative of the Purchaser, hereby represents to you that:

- 1. The Purchaser has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase of the Note.
- 2. The Purchaser has authority to purchase the Note and to execute this letter and any other instruments and documents required to be executed by the Purchaser in connection with the purchase of the Note.
- 3. The undersigned is a duly appointed, qualified and acting representative of the Purchaser and is authorized to cause the Purchaser to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Purchaser.
- 4. The Purchaser is a "qualified institutional buyer" within the meaning of Rule 144A of the Securities Act of 1933, as amended (a "Qualified Institutional Buyer").
- 5. The Purchaser understands that no official statement, prospectus, offering circular, or other comprehensive offering statement is being provided with respect to the Note. The Purchaser has made its own inquiry and analysis with respect to the Authority, the Note, and the security therefor, and other material factors affecting the security for and payment of the Note.
- 6. The Purchaser acknowledges that it has either been supplied with or been given access to information, including financial statements and other financial information regarding the Authority as requested by the Purchaser, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the Authority, the Authority, the Note and

Alliance Regional Water Authority Wells Fargo Municipal Capital Strategies, LLC [December 21, 2023] Page 2

the security therefor, so that, as a reasonable investor, it has been able to make its decision to purchase the Note.

- 7. The Purchaser understands that the Note (i) is not registered under the 1933 Act and is not registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state, (ii) is not listed on any stock or other securities exchange, and (iii) carries no rating from any credit rating agency.
- 8. The Note is being acquired by the Purchaser for investment for its own account and not with a present view toward resale or distribution; provided, however, that the Purchaser reserves the right to sell, transfer or redistribute the Note, but agrees that any such sale, transfer or distribution by the Purchaser shall be to a Person:
  - (a) that is an affiliate of the Purchaser that is a Qualified Institutional Buyer;
  - (a) that is a trust or other custodial arrangement established by the Purchaser or one of its affiliates, the owners of any beneficial interest in which are limited to Qualified Institutional Buyers; or
  - (b) that is a Qualified Institutional Buyer that is a commercial bank having a combined capital and surplus of \$5,000,000,000 or more who executes an investor letter substantially in the form of this letter.

WELLS FARGO MUNICIPAL CAPITAL STRATEGIES, LLC

Name:	Brian Goins	
Title:	Vice President	

By

#### EXHIBIT "B"

#### APPROVAL CERTIFICATE

The undersigned Authorized Representative of the Canyon Regional Water Authority pursuant to the resolution (the "Resolution") authorizing the issuance of obligations designated as "Alliance Regional Water Authority Bond Anticipation Note (Regional Water Supply Contract), Series 2023" (the "Note") hereby approves the following terms of the Note:

	(i)	the total principal amount of the Note is \$;
	(ii)	the purchase price for the Note is \$ (representing the original principal amount of the Note);
2024:	(iii)	the interest rate for the Note is% and the Note shall mature on [December 20].
	(iv)	the Note is subject to redemption as set forth below:

On November 1, 2024, or any date thereafter, the Note may be redeemed prior to its Stated Maturity, at the option of the Authority, in whole or in part in an Authorized Denomination (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar) at the redemption price of par, together with accrued interest to the date of redemption, and upon thirty (30) days prior written notice being given by United States mail, first-class postage prepaid, to Holders of the Note to be redeemed, and subject to the terms and provisions relating thereto contained in the Resolution. If the Note is subject to redemption prior to Stated Maturity and in an Authorized Denomination thereof may be redeemed, and, if less than all of the principal sum thereof is to be redeemed, there shall be issued, without charge therefor, to the Holder thereof, upon the surrender of the Note to the Paying Agent/Registrar at its corporate trust office, a new

Note or Notes of like Stated Maturity and interest rate in any authorized denominations provided

in the Resolution for the then unredeemed balance of the principal sum thereof.

If the Note (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date the Note (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if money for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable thereon from and after the redemption date on the principal amount thereof to be redeemed. If the Note is called for redemption, in whole or in part, the Authority or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange the Note within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance thereof in the event of its redemption in part; and

(v) the Note will be approved for issuance by the Texas Attorney General.

EXECUTED AND DELIVER	ED THIS day of December 2023.
	CANYON REGIONAL WATER AUTHORITY
	Title:

# CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	AGENDA NUMBER

12/11/2023

MANAGING RAW WATER SUPPLIES

CRWA 23-12-085

INITIATED BY

**DORIS STEUBING** 

#### RECOMMENDATION

Consider, discuss, and possibly take action directing CRWA Staff to develop a standard operating procedure for managing and tracking use of contracted raw water supplies under the contracts applicable to the Hays Caldwell project, Lake Dunlap project, and Wells Ranch project to ensure that the Authority maintains an adequate supply of raw water to meet its contractual obligations to deliver specified volumes of treated water to each participant under such projects.

#### BACKGROUND INFORMATION

This agenda item is to address concerns about the management of raw water supplies.

#### FINANCIAL IMPACT

There is no anticipated financial impact to CRWA by this resolution.

#### MOTION

Motion to approve the following resolution.



# **CANYON REGIONAL WATER AUTHORITY**

#### **RESOLUTION No. 23-12-085**

BE IT RESOLVED that the CRWA Staff is directed to develop a standard operating procedure for managing and tracking use of contracted raw water supplies under the contracts applicable to the Hays Caldwell project, Lake Dunlap project, and Wells Ranch project to ensure that the Authority maintains an adequate supply of raw water to meet its contractual obligations to deliver specified volumes of treated water to each participant under such projects.

	Adop	ted this 1	$1^{ m tn}$ day of Decer	nber 2023	
	Ayes	_ Nays	Abstained	Absent	-
			Approve	ed by:	Timothy D. Fousse, CPM
					President
Certified and attested by:		Doris S	Steubing		
		Se	ecretary		

# CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

DATE	SUBJECT	AGENDA NUMBER	
DATE			

12/11/2023

ANNUAL REPORTING OF WATER USE

CRWA 23-12-086

INITIATED BY

**DORIS STEUBING** 

#### RECOMMENDATION

Consider, discuss and possibly take action directing CRWA Staff to, on an annual basis, generate a report of water use for the Hays Caldwell project, Lake Dunlap project, and Wells Ranch project identifying the allocation of raw water delivered to each project participant, the quantity of water that is "lost" (whether by non-use or otherwise), and all other information reasonably required to identify use of all raw water received by CRWA under a project.

#### BACKGROUND INFORMATION

This agenda item is to address concerns about annual reporting of water use.

### FINANCIAL IMPACT

There is no anticipated financial impact to CRWA by this resolution.

#### MOTION

Motion to approve the following resolution.



# **CANYON REGIONAL WATER AUTHORITY**

#### **RESOLUTION No. 23-12-086**

BE IT RESOLVED that the CRWA Staff is directed to, on an annual basis, generate a report of water use for the Hays Caldwell project, Lake Dunlap project, and Wells Ranch project identifying the allocation of raw water delivered to each project participant, the quantity of water that is "lost" (whether by non-use or otherwise), and all other information reasonably required to identify use of all raw water received by CRWA under a project.

	Ado	pted this 1	1 <sup>th</sup> day of Dece	mber 2023	
	Ayes	Nays	Abstained	Absent	
			Approv	ed by:	Timothy D. Fousse, CPM
					President
Certified and attested by:			Steubing		
			ecretary		

# CANYON REGIONAL WATER AUTHORITY BOARD COMMUNICATION

UBJECT	AGENDA NUMBER
2	SUBJECT

12/11/2023

Annual Overage Charge Procedure Developed by NewGen Strategies & Solutions, LLC

CRWA 23-11-078

INITIATED BY

**DORIS STEUBING** 

#### STAFF RECOMMENDATION

Approve the annual overage charge procedure developed by NewGen Strategies & Solutions, LLC that shall be applied when the contractual annual allocation of treated water is exceeded by a participating member of the Hays Caldwell Amended and Restated Regional Water Supply and Treatment Contract, February 9, 2021. [NOTICE: Action on this item was previously postponed to the January 2024 BOT Meeting.]

#### BACKGROUND INFORMATION

This overage charge procedure was developed by NewGen Strategies & Solutions, LLC pursuant to CRWA Resolution No. 23-09-057.

The purpose of the overage charge procedure is to determine the fixed costs associated with a measured overage of the subscribed annual allocation of treated water in acre-feet, as defined in Exhibit A of the 2021 Hays Caldwell Contact. The calculation procedure is based on cost factors in the approved annual budget. CRWA's annual budget runs on a fiscal year that starts on October 1 and ends on September 30.

#### FINANCIAL IMPACT

There is no financial impact to CRWA.

#### MOTION

Motion to approve the following resolution.

@

# **CANYON REGIONAL WATER AUTHORITY**

# **RESOLUTION No. 23-11-078**

BE IT RESOLVED that the annual overage charge procedure developed by NewGen Strategies & Solutions, LLC for application when the contractual annual allocation of treated water is exceeded by a participating member of the Hays Caldwell Amended and Restated Regional Water Supply and Treatment Contract, February 9, 2021, is approved.

	Adop	ted this 11 <sup>th</sup>	<sup>h</sup> day of Decen	nber 2023	
	Ayes	Nays	_ Abstained	_ Absent	
			Approve	d by:	Timothy D. Fousse, CPM President
Certified and attested by:		Doris Ste			