

**GREATER TEXOMA UTILITY AUTHORITY  
BOARD MEETING  
JULY 24, 2023**

**GTUA BOARD ROOM  
5100 AIRPORT DRIVE  
DENISON, TEXAS 75020**



**AMENDED AGENDA  
NOTICE OF PUBLIC MEETING  
OF THE BOARD OF DIRECTORS OF THE  
GREATER TEXOMA UTILITY AUTHORITY  
GTUA BOARD ROOM  
5100 AIRPORT DRIVE  
DENISON, TEXAS 75020  
Monday, July 24, 2023, 12:00 p.m.**

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Notice is hereby given that a meeting of the Board of Directors of the Greater Texoma Utility Authority will be held on the 24th day of July, 2023, at 12:00 p.m. in the Administrative Offices of the Greater Texoma Utility Authority, 5100 Airport Drive, Denison TX, 75020, at which time the following items may be discussed, considered and acted upon, including the expenditure of funds:

**Agenda:**

- I. Call to Order.
- II. Pledge of Allegiance.
- III. Administer Oath of Office.
- IV. Consent Agenda
  - \* Items marked with an asterisk (\*) are considered routine by the Board of Directors and will be enacted in one motion without discussion unless a Board Member or a Citizen requests a specific item to be discussed and voted on separately.
- V. \* Consider and act upon approval of Minutes June 19, 2023, Meeting.
- VI. \* Consider and act upon approval of accrued liabilities for June 2023.
- VII. Citizens to be Heard.
- VIII. Consider all matters incident and related to the issuance and sale of “Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)”, including the adoption of a resolution approving the issuance of such bonds.
- IX. Consider and act upon the Guaranteed Maximum Price Three (GMP 3.00) for Garney Companies, Inc. for the City of Sherman 36-inch West Sherman Water Main Project.
- X. Consider and act upon authorizing the Award of Contract with Veolia WTS Solutions USA, Inc. on behalf of the City of Sherman.
- XI. Consider and act upon authorizing the Award of Contract for CGMA Bloomdale Pump Station Phase 2 Improvements Contract B.

- XII. Consider and act upon Change Order No. 2 to the contract with THI Water Well for the City of Whitewright Well No. 5 Project.
- XIII. Consider and act upon a Water Production Services Agreement for Weston Water Supply Corporation.
- XIV. Consider and act upon appointments to the Budget and Finance Committee for fiscal year 2023-2024.
- XV. Discussion and possible action on the Authority's health insurance plan.
- XVI. Consider and act upon all matters incident and related to the request for proposals related to investment advising services for the Authority, including appointing a selection committee.
- XVII. Receive General Manager's Report: The General Manager will update the Board on operational and other activities of the Authority.
- XVIII. Adjourn.

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<sup>1</sup>The Board may vote and/or act upon each of the items listed in this agenda.

<sup>2</sup>At any time during the meeting or work session and in compliance with the Texas Open Meetings Act, Chapter 551, Government Code, Vernon's Texas Codes, Annotated, the Greater Texoma Utility Authority Board may meet in executive session on any of the above agenda items or other lawful items for consultation concerning attorney-client matters (§551.071); deliberation regarding real property (§551.072); deliberation regarding prospective gifts (§551.073); personnel matters (§551.074); and deliberation regarding security devices (§551.076). Any subject discussed in executive session may be subject to action during an open meeting.

<sup>3</sup>PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING, AND WHO MAY NEED ASSISTANCE, ARE REQUESTED TO CONTACT VELMA STARKS AT (903) 786-4433 TWO (2) WORKING DAYS PRIOR TO THE MEETING, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

**AGENDA ITEM V**

**MINUTES OF THE BOARD OF DIRECTORS' MEETING  
GREATER TEXOMA UTILITY AUTHORITY**

**MONDAY, JUNE 19, 2023**

**AT THE ADMINISTRATIVE OFFICES  
5100 AIRPORT DRIVE  
DENISON TX 75020**

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Members Present: Brad Morgan, Ken Brawley, Scott Blackerby, Robert Hallberg, and Stanley Thomas

Members Absent: Matt Brown and Donald Johnson

Staff: Paul Sigle, Nichole Murphy, Tasha Hamilton, Lisa Cranfill, Debi Atkins, and Velma Starks

General Counsel: Mike Wynne, Wynne and Smith

Bond Counsel:

Visitors: David Gattis, Freeman-Millican, Inc.

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I. Call to Order

Board President Brad Morgan called the meeting to order at 12:00 p.m.

II. Pledge of Allegiance

Board President Brad Morgan led the group in the Pledge of Allegiance.

III. Consent Agenda

\*Items marked with an asterisk (\*) are considered routine by the Board of Directors and are enacted in one motion without discussion unless a Board Member or a Citizen requests a specific item to be discussed and voted on separately.

IV. \* Consider and act upon approval of Minutes of May 15, 2023, Meeting.

V. \* Consider and act upon approval of accrued liabilities for May 2023.

Board Member Ken Brawley made the motion to approve the Consent Agenda as presented. Board Member Scott Blackerby seconded the motion. Motion passed unanimously.

VI. Citizens to be Heard.

No citizens wished to be heard.

VII. Consider and act upon authorizing the Award of Contract for CGMA Bloomdale Pump Station Phase 2 Improvements Contract A.

General Manager Paul Sigle provided background information for the Board. Contract A consists of purchasing and installing the 4<sup>th</sup> pump, motor and VFD, rehabbing the existing 3 pumps and adding additional stages, new VFDs for the existing pump and motors, new SCADA system, backup generator, and the foundation for the 500,000-gallon storage tank. The Authority opened bids on June 8 for Contract A and received one bid from Red River Construction Company with a base bid of \$5,385,800. An additive alternate in the amount of \$41,000 for five-year extended warranties for the VFDs and generator was included in the bid. Construction time for the project is 730 days. The long completion time is due to the prolonged delivery of 70 weeks for the generator. Discussion was held. Board Member Robert Hallberg made the motion to award the contract to Red River Construction Company. Board Member Stanley Thomas seconded the motion. Motion passed unanimously.

VIII. Consider and act upon Change Order No. 2 to the contract with Garney Companies, Inc. for the City of Sherman Major Infrastructure Improvements Project.

General Manager Paul Sigle provided background information for the Board. Pape-Dawson, the City of Sherman's Project Manager for the City's Major Infrastructure Improvements Project, has recommended adding the Water Treatment Plant Concentrate Discharge Project to Garney Construction's scope of work. The Water Treatment Plant Concentrate Discharge System is a pipeline that will discharge the concentrate from the City's Water Treatment Plant into a tributary of Lake Texoma. Change Order No. 2 will add \$278,000 to the contract pre-construction services fees. Discussion was held. Board Member Scott Blackerby made the motion to approve Change Order No. 2. Board Member Robert Hallberg seconded the motion. Motion passed unanimously.

IX.. Consider and act upon Change Order No. 1 and No. 2 to the contract with BELT Construction of Texas, LLC for the City of Princeton Water Main CIP Projects 6, 8, and 17.

General Manager Paul Sigle provided background information for the Board. Change Order No. 1 is the extended bore about 20 feet and the moving of a fire hydrant about 5 feet. The change is due to a monument sign located on the path of the 24" water line. This change order increases the contract price by \$54,156.44, resulting in a total contract price of \$3,533,849.44. Change Order No. 2 is to increase paving repair footage to replace concrete to existing joints and the addition of a sidewalk. Discussion was held. Board Member Scott Blackerby made a motion to approve Change Order No. 1 and Change Order No. 2. Board Member Robert Hallberg seconded the motion. Motion passed unanimously.

X. Consider and act upon the Authority's Policy on Minimum Insurance and Bonding Requirements for Construction Projects.

General Manager Paul Sigle provided background information for the Board. TWCA Risk Management, the Authority's insurance provider, recommended changes to the policy. For a project larger than \$100 million, the recommendations included increasing the required A.M. Best Insurance Guide rating and adding a \$5 million per occurrence umbrella policy. Other general changes recommended by TWCA Risk Management were included in the draft updated policy. Discussion was held. Board Member Ken Brawley made the motion to approve the

changes recommended. Board Member Stanley Thomas seconded the motion. Motion passed unanimously.

XI. Discussion and possible action on Board Appointments from Home-Rule Cities.

General Manager Paul Sigle provided background information for the Board. The Authority’s enabling legislation outlines the makeup of the Board of Directors, with three directors appointed by the City of Denison, three directors appointed by the City of Sherman, two directors appointed by the home-rule member cities, and one director appointed by members cities other than home-rule municipalities. Until 2022, the City of Gainesville and Anna were the only two member cities that were home-rule municipalities. The City of Van Alstyne is now the third home-rule member city for the Authority. Discussion was held. The suggestion was made that a rotation system with the cities of Anna, Gainesville and Van Alstyne be created. Anna’s representative would stay on the Board as long as he/she is reappointed by Anna. Gainesville’s representative would serve as long as he/she is reappointed by Gainesville. Should either of these representatives resign, die, or not be reappointed, Van Alstyne would then appoint a representative to fill that position, serving as long as reappointed by Van Alstyne. Legal Counsel Mike Wynne and General Manager Paul Sigle were asked to create a draft rotation plan to be presented to the Board at the August meeting.

XII. Discussion and possible action on July Meeting Date.

Discussion was held. The next meeting will be on Monday, July 24, 2023. Board Member Ken Brawley made the motion to change the meeting date to Monday, July 24, 2023. Board Member Robert Hallberg seconded the motion. Motion passed unanimously.

XIII. Receive General Manager’s Report: The General Manager will update the Board on operational and other activities of the Authority.

City of Sherman project July 11 closing date.

CGMA certified easement issue letters were mailed on Friday June 16, 2023.

XXIV Adjourn

Board Member Ken Brawley made the motion to adjourn. Board Member Scott Blackerby seconded the motion. Board President Brad Morgan declared the meeting adjourned at 1:01 p.m.

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\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Secretary-Treasurer

## **AGENDA ITEM VI**



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION BY THE BOARD OF DIRECTORS OF THE  
GREATER TEXOMA UTILITY AUTHORITY AUTHORIZING  
PAYMENT OF ACCRUED LIABILITIES FOR THE MONTH OF JUNE

The following liabilities are hereby presented for payment:

CURRENT PRIOR MONTH PRIOR YEAR

	CURRENT	PRIOR MONTH	PRIOR YEAR
<b>GENERAL:</b>			
<u>Dues and Subscriptions</u>			
Notary Public Underwriters (VS Notary renewal license for 2023)	148.95		
<u>Fuel and Reimbursements for Mileage</u>			
Paul Sigle (Fuel)	189.82		
Velma Starks (Reimbursement for mileage)	6.48		
Valero Fleet Plus (Fuel - operations vehicles)	1,620.58		
<u>Insurance</u>			
<u>Leases/Rental Fees</u>			
Pitney-Bowes (Mailing system)	105.00		
North Texas Regional Airport (Lease - administrative offices)	2,456.72		
<u>Legal Fees</u>			
Wynne & Smith, LLC (Agenda, Board Meeting)	243.75		
<u>Maintenance Agreements</u>			
Novatech (Konika-Minolta copier)	306.00		
<u>Meetings and Conferences</u>			
Red River Valley Association Conference	127.12		
<u>Postage</u>			
United States Postal Service (Meter Refill)	500.00		
<u>Professional Services</u>			
Final Details (Cleaning Service)	585.00		
Gonzalez Landscape (Lawn Care, April & May)	291.66		
<u>Repair &amp; Maintenance - Administrative and Operations Vehicles</u>			
Bank of Texas Visa (LED lights for trucks)	66.43		
Whistlestop Car Spa - (2016 F150 oil change filter replacement & truck wash)	108.82		
<u>Supplies</u>			
American Express (Zoom, GoDaddy Renewals)	208.67		
Bank of Texas Visa (General Office Supplies, misc. janitorial supplies, Adobe Acrobat)	469.70		
Lowe's (New refrigerator for office, LED lights for office)	757.90		
USA Bluebook (Water Tests Kits for Knollwood, Munson, Whitewright & Pappy Point)	86.52		
<u>Utilities</u>			
Sparklight (Internet)	131.44		
AT&T Mobility (Cell Phones)	81.41		
City of Denison (Water)	226.69		
City of Sherman (Trash services)	85.00		
Shell Energy (Electric)	397.70		
ATMOS Energy (Gas)	102.48		
<b>TOTAL:</b>	<b>\$ 9,303.84</b>	<b>\$ 26,863.71</b>	<b>\$ 24,408.72</b>

<b>SOLID WASTE:</b>			
<u>Supplies</u>			
Lowe's (Weed Killer)	59.96		
Matheson Tri Gas (Acetyl Cyl bottles )	195.00		
<u>Utilities</u>			
Grayson-Collin Electric	142.15		
Starr Water Supply	68.34		
<b>TOTAL:</b>	<b>\$ 465.45</b>	<b>\$ 2,263.55</b>	<b>\$ 4,611.12</b>

<b>WASTEWATER:</b>			
<u>Construction Contracts</u>			
Archer Western (Sherman 2022 - WTP Expansion Pkg #1, Pay app #4)	152,377.15		
Lynn Vessels (Sherman 2021 - Northwest Lift Station pay app #12, project 65% complete)	66,965.12		

	CURRENT	PRIOR MONTH	PRIOR YEAR
Lynn Vessels (Sherman 2021 - 95% complete NW Sewer and Force Main pay app #13)	46,546.89		
City of Sherman (Sherman 2021 - Texoma PKWY Sycamore to Evergreen Overflow Sewer Main along East Service Rd Hwy 75)	142,120.00		
City of Sherman (Sherman 2021 - WTP Vulnerability Assessment Security upgrades)	14,150.43		
City of Sherman (Sherman 2022 - Expansion of Shepherd Dr. Sewer Line project)	316.80		
City of Sherman (Sherman 2023 - Exp Hickory Hill Utility Improvements)	260,012.75		
City of Sherman (Sherman 2023 - Plummer-WTP Brine Discharge Study & Permitting services)	39,700.00		
City of Sherman (Sherman 2023 - Exp Southside Industrial sewer, Amtek info ser.)	99.99		
City of Sherman (Sherman 2023 - WTP Concentrate Discharge & Outfall Design)	324,877.83		
Red River Construction (Sherman 2020 - Post Oak WTP Equalization Basin Improvements Pay App #2)	104,500.00		
Susan Brannum (Sherman 2019 - Sanitary Sewer Easement from Rosedale to First Sewer proj. Eng. File NO. 1436-U)	11,000.00		
<b>Engineering Fees</b>			
Antero Group (Bells 2022 - Bells Wastewater engineering Personnel expenses dated 6/13/23)	7,954.16		
Binkley & Barfield (Sherman 2021 - South side Sanitary Sewer Replacement for engineering services for 5/31/23)	2,450.00		
Cohn & Gregory (Sherman 2021 - WTP 304 strut, and Plat fender washer)	369.80		
Cohn & Gregory (Sherman 2021 - Materials for WTP)	759.50		
D & S Engineering (Sherman 2021 - NW Sewer and Lift Station Geo Tech testing for May 2023)	737.00		
Elliot Electric Supply (Sherman 2021 - Misc. electrical materials for WTP Vulnerability Assessment Security upgrade)	226.69		
Freese & Nichols (Sherman 2021 - Lab Services, Bldg Addition & Remodel basic services 85% complete)	18,616.50		
Garver (Sherman 2022 - WTP Expansion engineering services through 5/26/23)	716,603.55		
Mead & Hunt (Sherman 2020 - Post Oak Equalization Basin Improvements for May 2023)	1,006.62		
Mead & Hunt (Sherman 2017 - Post Oak WWTP Aeration & Secondary Treatment services for May 2023)	2,652.50		
Pape-Dawson (City of Sherman 2023 - WTP Concentrate Discharge & Outfall Design services through 4/28/23)	103,724.90		
Plummer (Pottsboro 2019 - WWTP PH2 construction phase services through 5/26/23)	17,227.50		
Plummer (Pottsboro 2019 - WWTP PH2 RPR Services through 5/26/23)	4,830.00		
Plummer (Sherman 2022 - WWTP Electrical Switchgear Design for electrical generator services through 5/26/23)	28,505.55		
<b>TOTAL:</b>	<b>\$ 2,068,331.23</b>	<b>\$ 2,455,419.89</b>	<b>\$ 221,946.90</b>

<b>WATER:</b>			
<b>Advertising</b>			
Bank of Texas Visa (CGMA - Bids for Bloomdale Pump Station PH2 in Gainesville Daily)	2,736.12		
<b>Construction Costs</b>			
Archer Western (Pottsboro 19 - WWTP Expansion & Rehab for .65 MGD flow rate. Pay App #2)	910,107.05		
City of Sherman (Sherman 2023 - West Sherman Water Main, Stake Centerline of Waterline on Plainview Rd.)	525.00		
City of Sherman (Sherman 2023 - Lead & Copper Rule revision PH 2)	16,373.66		
Hayter Engineering (Gober 2021- Water System Improvements engineering services for Oct 2022 to Jan 2023)	3,640.26		
Landmark Structures (Princeton 22 OM - 2.5 MG Elevated Storage Tank. Pay App #13)	63,070.50		
Landmark Structures (Princeton 22 OM - 2.5 MG Elevated Storage Tank. Pay App #14)	194,170.60		
Oncor Electric Delivery Company (Sherman 2023 - Encroachment for 9 easements 36" West Sherman Water Main)	2,250.00		
Oncor Electric Delivery Co. - Trans ROW (Sherman 2023 - 36" West Sherman Water Main Permits for submittal)	500.00		
Shri Sai Acreage (Sherman 2022 - purchase easement Abstract # 347 & 1208)	13,700.00		
Underwood (Whitewright 2019 DWSRF - Water line improvement project Pay App #11)	18,245.94		
<b>Engineering Fees</b>			
Freese & Nichols (Sherman 2022 - LK Texoma Pump Station Expansion. Amend. #1 COSH. Services for 4/30/23)	31,756.96		
Freese & Nichols (Sherman 2022 - LK Texoma Pump Station Expansion. Amend. #1 COSH. Services for 5/31/23)	105,707.03		
Freese & Nichols (Sherman 2022 - Northwest & Southwest Transmission Pipeline engineering services through 5/26/23)	342,077.21		
Freese & Nichols (Sherman 2022 - Shepherd 2.0 MG elevated Storage Tank for services through 5/26/23)	34,480.36		
Pape-Dawson (Sherman 2022 - Sherman Program Management services through 4/23/23. TI infrastructure improv. program.)	279,640.62		
Pape-Dawson (Sherman 2022 - Sherman Program Management services through 5/26/23. TI infrastructure improvements program.)	256,089.83		
Pape-Dawson (Sherman 2023 - WTP Concentrate Discharge & Outfall Design services through 5/26/23)	143,582.50		
Plummer (Sherman 2022 - Industrial WW Support, WW treatment & Water Reuse Master Plan service through 5/26/23)	28,847.84		
Plummer (Sherman 2023 - Industrial WW support Post Oak Expansion services through 5/26/23)	114,500.12		
Parkhill (Sherman 2021 - Sherman emergency power generation for May 2023 engineering services)	4,180.48		
Spirars Engineering (Sherman 2023 - 30% of Water & WW for Hickory Hill Thoroughfare & Utility Improvements)	7,200.00		
<b>Groundwater</b>			
American Express (NTGCD - GoDaddy website renewal, Woodlands Resort Conference TAGD)	285.08		
American Express (RRGCD - Woodlands Resort Conference TAGD)	45.20		
AT & T Mobility (NTGCD - W. Parkman - cell phone)	74.39		
Bank of Texas Visa (NTGCD - BOD Chick-Fil-A, Grayson County Posting)	288.02		
Bank of Texas Visa (RRGCD - Bay At the Lake, Grayson Cty posting)	238.96		
Valero Fleet Plus (NTGCD - Fuel)	150.99		
Velma Starks (NTGCD - mileage reimbursement)	13.96		
Velma Starks (RRGCD - mileage reimbursement)	13.46		
<b>Legal</b>			
Lloyd Gosselink (Lake Texoma 2010 - For professional legal services through 4/30/23)	137.50		
Wynne & Smith (CGMA - City of Anna Development Corp - receipt & review of draft letter to homeowners for Anna Easement issue.)	150.00		
<b>Miscellaneous</b>			
BLX Group (Gober 2021 - Interim Arbitrage Rebate report for period ending 9/30/22)	500.00		
BLX Group (Princeton 2018 - Interim Arbitrage Rebate Report for period ending 3/27/23)	1,000.00		
Gonzalez Landscape (Sherman 2012 - Pump Station mowing, April & May)	400.00		
<b>Paying Agent Fees</b>			
Bank of Texas Trust (Dorchester2002 - GRETEUTIL02 6/1/2)	200.00		
Bank of Texas Trust (Dorchester 2022- GTUADORCH22 6/1/23)	300.00		
Bank of Texas Trust (Gober 2021 - GTUAGOBBER21 6/1/23)	300.00		

	CURRENT	PRIOR MONTH	PRIOR YEAR
Bank of Texas Trust (Tom Bean 2015 - GTUATEBEAN15 7/1/23)	300.00		
Bank of Texas Trust (Tom Bean 2017 - GTUATBEAN17 7/1/23)	300.00		
<b>CGMA Equipment</b>			
Tractor Supply (CGMA - Gas Auger)	284.67		
Stewart & Stevenson (CGMA - Bloomdale emergency generator lease from 2/27/23-3/26/23)	6,489.00		
American Express (CGMA Zimmer Kubota, Tractor lease to clean up water lines and pump stations)	8,550.84		
<b>CGMA Repair &amp; Maintenance</b>			
Berntsen International (CGMA - 200 each sign "call 800 #" decals )	1,121.25		
Environmental Monitoring Lab (CGMA - Special samples for 5/23/23, 16 locations, Nitrate Nitrogen, Nitrite Nitrogen)	1,148.00		
Gonzalez Landscape (CGMA - Mowing Howe Pump Station April & May)	333.34		
Kemp Lawn Maintenance (CGMA - Bloomdale Pump Station, Dec. )	380.00		
Matheson Tri Gas (CGMA - 1 cylinder of Nitrogen)	30.21		
Texas Excavation Safety System, Inc. (CGMA - Message Fees)	124.45		
<b>Supplies</b>			
Lowe's (CGMA - Materials for May 2023 water line repairs & general maintenance)	642.60		
USA Bluebook (CGMA - Water Test kit, Rhino Hybrid 3 rail marking post white)	1,041.23		
USA Bluebook (CGMA - Blue 66" fibercurve marking post and Custom Printed 23" Blue Flag shooter)	2,533.68		
<b>CGMA Utilities</b>			
A1 Little John (CGMA - Bloomdale P.S. - Portable toilet rental from 4/25/23-5/22/23)	130.44		
AT & T Mobility (CGMA - Emergency back up lines)	112.46		
AT & T U-Verse (CGMA - Bloomdale Pump Station, Internet)	63.80		
Waste Connections (CGMA - Bloomdale Pump Station trash service)	97.22		
Shell Energy (Bloomdale Pump Station)	16,589.99		
<b>TOTAL:</b>	<b>\$ 2,617,752.82</b>	<b>\$ 7,280,355.08</b>	<b>\$ 454,736.03</b>
<b>GRAND TOTAL:</b>	<b>\$ 4,695,853.34</b>	<b>\$ 9,764,902.23</b>	<b>\$ 705,702.77</b>

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY THAT the Secretary-Treasurer is hereby authorized to make payments in the amounts listed above.

On motion of \_\_\_\_\_ and

seconded by \_\_\_\_\_, the foregoing

Resolution was passed and approved on this, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by the following vote:

AYE:  
NAY:

At a regular meeting of the Board of Directors of the Greater Texoma Utility Authority.

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary/Treasurer

## **AGENDA ITEM VIII**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. VII

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF  
“GREATER TEXOMA UTILITY AUTHORITY CONTRACT REVENUE BONDS, SERIES 2023  
(GOBER MUNICIPAL UTILITY DISTRICT PROJECT)”, INCLUDING THE ADOPTION OF A  
RESOLUTION APPROVING THE ISSUANCE OF SUCH BONDS.**

**ISSUE**

Consider all matters incident and related to the issuance and sale of “Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)”, including the adoption of a resolution approving the issuance of such bonds.

**BACKGROUND**

The Gober MUD Board President, Jan Johnson, contacted the Authority General Manager requesting assistance in obtaining funding for improvements to the District’s water system. These improvements include the construction of new water lines, electrical work, new generator, and a ground storage tank liner.

The Texas Water Development Board (TWDB) Drinking Water State Revolving Fund (DWSRF) was selected as the funding source for these improvements. The DWSRF program offers below-market interest rates and is often the best source for funding projects of this nature. Unfortunately, the water system improvements project came in over budget, and no additional funds were available in the issuance for the electrical improvements project.

Gober MUD’s Board of Directors has requested assistance obtaining funding for the Electrical Improvements Project. After discussing the project with Gober MUD, Authority Staff has determined that funding through Texas Water Development Board’s Texas Water Development Fund (DFund) meets the needs of Gober MUD.

**CONSIDERATIONS**

To proceed with the Bond issuance, the Authority, and the Gober MUD need to adopt a resolution authorizing the issuance. The Gober MUD is set to consider this at their July 27, 2023, Board of Directors meeting. The interest rate we received was 4.2% for the \$505,000 on a 30-year term.

Kristen Savant, the Authority’s Bond Counsel, will be available via phone to assist with any questions the Board may have.

**STAFF RECOMMENDATIONS**

The Authority Staff recommends that the Board of Directors approve the Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project).

**ATTACHMENTS**

Debt Schedule  
Bond Resolution

Rates Provided by the TWDB on 7/17/23

## Greater Texoma Utility Authority

\$505,000 Contract Revenue Bonds, Series 2023

(Gober Municipal Utility District Project)

TWDB - DFund and September 18, 2023 Closing

## Debt Service Schedule

Part 1 of 3

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
09/18/2023	-	-	-	-	-
12/01/2023	-	-	4,281.15	4,281.15	-
06/01/2024	15,000.00	3.400%	10,556.25	25,556.25	-
09/30/2024	-	-	-	-	29,837.40
12/01/2024	-	-	10,301.25	10,301.25	-
06/01/2025	10,000.00	3.300%	10,301.25	20,301.25	-
09/30/2025	-	-	-	-	30,602.50
12/01/2025	-	-	10,136.25	10,136.25	-
06/01/2026	10,000.00	3.210%	10,136.25	20,136.25	-
09/30/2026	-	-	-	-	30,272.50
12/01/2026	-	-	9,975.75	9,975.75	-
06/01/2027	10,000.00	3.130%	9,975.75	19,975.75	-
09/30/2027	-	-	-	-	29,951.50
12/01/2027	-	-	9,819.25	9,819.25	-
06/01/2028	10,000.00	3.100%	9,819.25	19,819.25	-
09/30/2028	-	-	-	-	29,638.50
12/01/2028	-	-	9,664.25	9,664.25	-
06/01/2029	10,000.00	3.100%	9,664.25	19,664.25	-
09/30/2029	-	-	-	-	29,328.50
12/01/2029	-	-	9,509.25	9,509.25	-
06/01/2030	10,000.00	3.110%	9,509.25	19,509.25	-
09/30/2030	-	-	-	-	29,018.50
12/01/2030	-	-	9,353.75	9,353.75	-
06/01/2031	10,000.00	3.100%	9,353.75	19,353.75	-
09/30/2031	-	-	-	-	28,707.50
12/01/2031	-	-	9,198.75	9,198.75	-
06/01/2032	10,000.00	3.110%	9,198.75	19,198.75	-
09/30/2032	-	-	-	-	28,397.50
12/01/2032	-	-	9,043.25	9,043.25	-
06/01/2033	10,000.00	3.170%	9,043.25	19,043.25	-
09/30/2033	-	-	-	-	28,086.50
12/01/2033	-	-	8,884.75	8,884.75	-
06/01/2034	15,000.00	3.370%	8,884.75	23,884.75	-
09/30/2034	-	-	-	-	32,769.50
12/01/2034	-	-	8,632.00	8,632.00	-
06/01/2035	15,000.00	3.600%	8,632.00	23,632.00	-
09/30/2035	-	-	-	-	32,264.00
12/01/2035	-	-	8,362.00	8,362.00	-
06/01/2036	15,000.00	3.790%	8,362.00	23,620.00	-
09/30/2036	-	-	-	-	31,724.00

2023 \$505k rev DFund (7/1 | SINGLE PURPOSE | 7/18/2023 | 11:10 AM

Rates Provided by the TWDB on 7/17/23

## Greater Texoma Utility Authority

\$505,000 Contract Revenue Bonds, Series 2023

(Gober Municipal Utility District Project)

TWDB - DFund and September 18, 2023 Closing

## Debt Service Schedule

Part 2 of 3

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
12/01/2036	-	-	8,077.75	8,077.75	-
06/01/2037	15,000.00	3.980%	8,077.75	23,077.75	-
09/30/2037	-	-	-	-	31,155.50
12/01/2037	-	-	7,779.25	7,779.25	-
06/01/2038	15,000.00	4.110%	7,779.25	22,779.25	-
09/30/2038	-	-	-	-	30,558.50
12/01/2038	-	-	7,471.00	7,471.00	-
06/01/2039	15,000.00	4.200%	7,471.00	22,471.00	-
09/30/2039	-	-	-	-	29,942.00
12/01/2039	-	-	7,156.00	7,156.00	-
06/01/2040	15,000.00	4.280%	7,156.00	22,156.00	-
09/30/2040	-	-	-	-	29,312.00
12/01/2040	-	-	6,835.00	6,835.00	-
06/01/2041	15,000.00	4.350%	6,835.00	21,835.00	-
09/30/2041	-	-	-	-	28,670.00
12/01/2041	-	-	6,508.75	6,508.75	-
06/01/2042	20,000.00	4.400%	6,508.75	26,508.75	-
09/30/2042	-	-	-	-	33,017.50
12/01/2042	-	-	6,068.75	6,068.75	-
06/01/2043	20,000.00	4.440%	6,068.75	26,068.75	-
09/30/2043	-	-	-	-	32,137.50
12/01/2043	-	-	5,624.75	5,624.75	-
06/01/2044	20,000.00	4.630%	5,624.75	25,624.75	-
09/30/2044	-	-	-	-	31,249.50
12/01/2044	-	-	5,161.75	5,161.75	-
06/01/2045	20,000.00	4.630%	5,161.75	25,161.75	-
09/30/2045	-	-	-	-	30,323.50
12/01/2045	-	-	4,698.75	4,698.75	-
06/01/2046	20,000.00	4.630%	4,698.75	24,698.75	-
09/30/2046	-	-	-	-	29,397.50
12/01/2046	-	-	4,235.75	4,235.75	-
06/01/2047	20,000.00	4.630%	4,235.75	24,235.75	-
09/30/2047	-	-	-	-	28,471.50
12/01/2047	-	-	3,772.75	3,772.75	-
06/01/2048	25,000.00	4.640%	3,772.75	28,772.75	-
09/30/2048	-	-	-	-	32,545.50
12/01/2048	-	-	3,192.75	3,192.75	-
06/01/2049	25,000.00	4.730%	3,192.75	28,192.75	-
09/30/2049	-	-	-	-	31,385.50
12/01/2049	-	-	2,601.50	2,601.50	-

2023 \$505k rev DFund (7/1 | SINGLE PURPOSE | 7/18/2023 | 11:10 AM

Rates Provided by the TWDB on 7/17/23

## Greater Texoma Utility Authority

\$505,000 Contract Revenue Bonds, Series 2023

(Gober Municipal Utility District Project)

TWDB - DFund and September 18, 2023 Closing

## Debt Service Schedule

Part 3 of 3

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
06/01/2050	25,000.00	4.730%	2,601.50	27,601.50	-
09/30/2050	-	-	-	-	30,203.00
12/01/2050	-	-	2,010.25	2,010.25	-
06/01/2051	25,000.00	4.730%	2,010.25	27,010.25	-
09/30/2051	-	-	-	-	29,020.50
12/01/2051	-	-	1,419.00	1,419.00	-
06/01/2052	30,000.00	4.730%	1,419.00	31,419.00	-
09/30/2052	-	-	-	-	32,838.00
12/01/2052	-	-	709.50	709.50	-
06/01/2053	30,000.00	4.730%	709.50	30,709.50	-
09/30/2053	-	-	-	-	31,419.00
<b>Total</b>	<b>\$505,000.00</b>	<b>-</b>	<b>\$407,244.90</b>	<b>\$912,244.90</b>	<b>-</b>

### Yield Statistics

Bond Year Dollars	\$9,144.90
Average Life	18.109 Years
Average Coupon	4.4532447%
DV01	609.75
Net Interest Cost (NIC)	4.4532447%
True Interest Cost (TIC)	4.4002140%
Bond Yield for Arbitrage Purposes	4.4002140%
All Inclusive Cost (AIC)	4.4002140%

### IRS Form 8038

Net Interest Cost	4.4532447%
Weighted Average Maturity	18.109 Years

2023 \$505k rev DFund (7/1 | SINGLE PURPOSE | 7/18/2023 | 11:10 AM



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**BOND RESOLUTION**

**\$505,000**

**GREATER TEXOMA UTILITY AUTHORITY  
CONTRACT REVENUE BONDS  
SERIES 2023  
(GOBER MUNICIPAL UTILITY DISTRICT PROJECT)**

**Adopted: July 24, 2023**

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A RESOLUTION by the Board of Directors of the Greater Texoma Utility Authority authorizing the issuance of "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)" for the construction, acquisition, and improvement of water system facilities and necessary appurtenances for use by the Gober Municipal Utility District; pledging the Pledged Revenue to the payment of the principal of and interest on said Bonds; and resolving other matters incident and related to the issuance, sale, and delivery of said bonds

WHEREAS, the Board of Directors of the Greater Texoma Utility Authority (the "Authority") has determined that \$505,000 in principal amount of bonds should be issued at this time to provide funding for the Series 2023 Project more fully described in Section 1 hereof; and

WHEREAS, the Board of Directors of the Authority has determined that the Bonds herein authorized may and shall be issued as Additional Bonds (herein defined) on a parity with the Outstanding Previously Issued Bonds (herein defined) in that:

(a) The Authority is not now in default as to any covenant, condition or obligation prescribed in a resolution authorizing the issuance of the Outstanding Bonds Similarly Secured or the Contract (herein defined), including any amendment or supplement thereto;

(b) A consulting engineer has certified to the Authority the need for an estimated amount of additional financing required for completion, expansion, enlargement or improvement of the Series 2023 Project (herein defined);

(c) The District shall have approved the resolution authorizing the issuance of the Additional Bonds as to form and content and acknowledged that the payment of principal of and interest on such Additional Bonds is payable, in whole or in part, from payments to be made by the District, under and pursuant to the Contract;

(d) The Additional Bonds are made to mature on June 1 or December 1 or both in each of the years in which they are scheduled to mature;

(e) The resolution authorizing the issuance of the Additional Bonds provides for deposits to be made to the Bond Fund in amounts sufficient to pay the Debt Service on such Additional Bonds as the same become due.

(f) The resolution authorizing the issuance of the Additional Bonds provides that the amount to be accumulated and maintained in the Reserve Fund shall be in an amount equal to not less than the Average Annual Debt Service requirement (calculated on a Fiscal Year basis on the Outstanding Bonds Similarly Secured as of the date of the last series of Bonds Similarly Secured after giving effect to the issuance of the Additional Bonds) for the payment of principal of and interest on all obligations to be secured by a first lien on and pledge of the Pledged Revenue, and provides that any additional amount to be maintained in the Reserve Fund shall be accumulated within not more than sixty (60) months from the date of the passage of the resolution authorizing the issuance of the proposed Additional Bonds. For purposes of calculating the interest requirement on any Bonds Similarly Secured bearing interest at a variable rate, the interest rate shall be calculated at 5.00%.

(g) The Authority demonstrated to the Texas Water Development Board's Executive Administrator that the Pledged Revenues will be sufficient to pay the Previously Issued Bonds and the Bonds.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE GREATER TEXOMA UTILITY AUTHORITY:

SECTION 2: Authorization - Designation - Principal Amount - Purpose. Revenue bonds of the Authority shall be and are hereby authorized to be issued as a series in the aggregate principal amount of \$505,000 to be designated and bear the title "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)," (hereinafter referred to as the "Bonds"), for the construction, acquisition, and improvement of water system facilities and necessary appurtenances for use by the Gober Municipal Utility District, including installing a variable frequency drive to run the well and service pumps, installing variable frequency drive controllers, and installing a generator with an automatic transfer switch, and the payment of all costs incident and related to the construction, acquisition and financing thereof, pursuant to authority conferred by and in conformity with the Constitution and the laws of the State of Texas, including Texas Special District Local Laws Code, Chapter 8283.

SECTION 3: Interest Rates – Payment Dates – Fully Registered Obligations - Bond Date - Authorized Denominations - Stated Maturities. The Bonds shall be issued as fully registered obligations only, shall be dated August 15, 2023 (the "Bond Date"), shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on June 1 in each of the years and in principal installments (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the following schedule:

<u>STATED MATURITY</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>INTEREST RATE (%)</u>
2024	15,000	3.400
2025	10,000	3.300
2026	10,000	3.130
2027	10,000	3.100
2028	10,000	3.100
2029	10,000	3.110
2030	10,000	3.110
2031	10,000	3.170
2032	10,000	3.370
2033	10,000	3.600
2034	15,000	3.790
2035	15,000	3.980
2036	15,000	4.110
2037	15,000	4.200
2038	15,000	4.280
2039	15,000	4.350
2040	15,000	4.400
2041	15,000	4.440
2042	20,000	4.630
2043	20,000	4.630
2044	20,000	4.630
2045	20,000	4.630

2046	20,000	4.630
2047	20,000	4.630
2048	25,000	4.640
2049	25,000	4.730
2050	25,000	4.730
2051	25,000	4.730
2052	30,000	4.730
2053	30,000	4.730

The Bonds shall bear interest on the unpaid principal amounts from the date of delivery to the initial Purchaser (which date shall be the date noted in the Registration Certificate of the Paying Agent/Registrar appearing on the definitive Bonds delivered in exchange for the Initial Bond, and is anticipated to be September 18, 2023), and interest shall be calculated upon the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bonds shall be payable on December 1, 2023, and on each December 1 and June 1 thereafter until maturity or prior redemption.

**SECTION 4: Terms of Payment - Paying Agent/Registrar.** The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books (the "Security Register") maintained by the Paying Agent/Registrar, and the payment thereof 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, and shall be without exchange or collection charges to the Holders. A copy of the Security Register shall be maintained within the State of Texas at all times.

The selection and appointment of BOKF, NA, Houston, Texas, as Paying Agent/Registrar for the Bonds is hereby approved and confirmed, and the Authority agrees and covenants to cause to be kept and maintained at the Designated Payment/Transfer Office (identified below) of the Paying Agent/Registrar books and records (the "Security Register") for the registration, payment and transfer of the Bonds, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and Authority may prescribe; and the President or Vice President and Secretary or Assistant Secretary of the Board of Directors of the Authority are authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The Authority covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the Authority agrees to promptly cause a written notice thereof to be sent to each Holder by United States mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or the redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated office in St. Paul, Minnesota (the "Designated Payment/Transfer Office"). Interest on each Bond shall be paid to the Holder whose name appears in the Security Register at the close of business on the Record Date (the 15<sup>th</sup> day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States mail, first class postage prepaid, to the address of the Holder recorded in the

Security Register, or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. Provided, however, while the Texas Water Development Board (the "Board") is the registered owner of the Bonds, payments on the Bonds shall be made by wire transfer without expense to the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day that is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment 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 (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 15<sup>th</sup> day next preceding the date of mailing of such notice.

#### SECTION 5: Redemption.

(a) Optional Redemption. The Bonds having Stated Maturities on and after June 1, 2034, shall be subject to redemption prior to maturity, at the option of the Authority, in whole or in part, in inverse order of maturity if fewer than all, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on December 1, 2033 or on any date thereafter at the redemption price of par plus accrued interest to the date of redemption.

(b) Exercise of Redemption Option. At least forty-five (45) days prior to a redemption date for the Bonds (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the Authority shall notify the Paying Agent/Registrar of the decision to redeem Bonds, the principal amount of each Stated Maturity to be redeemed, and the date of redemption therefor. The decision of the Authority to exercise the right to redeem Bonds shall be entered in the minutes of the governing body of the Authority.

(c) Selection of Bonds for Redemption. If fewer than all Outstanding Bonds of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding, which is obtained by dividing the principal amount of such Bonds by \$5,000, and shall select the Bonds to be redeemed within such Stated Maturity by lot.

(d) Notice of Redemption. Not fewer than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States mail, first class postage prepaid, in the name of the Authority and at the Authority's expense, to each Holder of a Bond to be redeemed in whole or in part at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder.

All notices of redemption shall (i) specify the date of redemption for the Bonds, (ii) identify the Bonds to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Bonds, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Bonds, or the principal amount thereof to be redeemed, shall be made at the Designated Payment/Transfer Office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder. If a Bond is subject by its terms to prior redemption and has been called for redemption and notice of redemption thereof has been duly given as hereinabove provided, such Bond (or the principal amount thereof to be redeemed) shall become due and payable and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys sufficient for the payment of such Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price are held for the purpose of such payment by the Paying Agent/Registrar.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Resolution have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied or sufficient moneys are not received, such notice shall be of no force and effect, the Authority shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

**SECTION 6: Registration - Transfer - Exchange of Bonds - Predecessor Bonds.** A Security Register relating to the registration, payment, and transfer or exchange of the Bonds shall at all times be kept and maintained by the Authority at the Designated Payment/Transfer Office of the Paying Agent/Registrar, as provided herein and in accordance with rules and regulations as the Paying Agent/Registrar and the Authority may prescribe. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Bonds issued under and pursuant to the provisions of this Resolution, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the single Initial Bond authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and being of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the single Initial Bond authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and being of a like aggregate principal amount



as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued in any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the Authority, evidencing the same obligation to pay, and entitled to the same benefits under this Resolution, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 30 hereof, and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the Authority nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 7: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in this Resolution relating to the payment and transfer/exchange of the Bonds, the Authority hereby approves and authorizes the use of the "Book-Entry Only" securities clearance, settlement, and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in a Blanket Issuer Letter of Representations by and between the Authority and DTC (the "Depository Agreement").

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, the Authority covenants and agrees with the Holders of the Bonds to cause Bonds to be

printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3, 4 and 5 hereof.

The Authority agrees it will not discontinue its use of the DTC Book-Entry-Only System with respect to the Bonds without prior notice to and consent from the Texas Water Development Board while the Board is the Holder of any of the Bonds.

**SECTION 8: Execution - Registration.** The Bonds shall be executed on behalf of the Authority by the President or Vice President of the Board of Directors under its seal reproduced or impressed thereon and attested by the Secretary or Assistant Secretary of the Board of Directors. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the Authority on the date of the adoption of this Resolution shall be deemed to be duly executed on behalf of the Authority, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial Holders and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Resolution, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate upon any Bond duly signed shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

Notwithstanding the above and foregoing paragraph, the Initial Bonds authorized for delivery to the initial purchasers in Section 8 hereof shall have printed thereon both Certificates of Registration appearing in Section 9(c) and 9(d) hereof, and both such certifications shall be required to be manually executed in connection with the initial delivery of the Initial Bonds and both such certifications appearing on the Initial Bonds, duly signed, shall be conclusive evidence that such Initial Bonds have been duly certified, registered and delivered.

**SECTION 9: Initial Bond(s).** The Bonds herein authorized shall be initially issued either (i) as a single fully registered Bond in the total principal amount of \$505,000 with principal installments to become due and payable as provided in Section 2 hereof and numbered T-1, or (ii) as multiple fully registered Bonds, being one bond for each year of maturity in the applicable principal amount and numbered consecutively from T-1 and upward (hereinafter called the "Initial Bond") and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to

and in accordance with such written instructions from the initial Purchaser, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 10: Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to appear on the Initial Bond, the Registration Certificate of Paying Agent/Registrar to appear on the definitive Bonds, and the form of Assignment to appear on each of the Bonds shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Resolution, and the Bonds may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association if available, and otherwise the reference to CUSIP NO. in the form of Bond may be omitted from the Bonds) and such legends and endorsements (including insurance legends in the event the Bonds are purchased with insurance and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the Authority or determined by the officers executing such Bonds as evidenced by their execution. Any portion of the text of any Bond may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The Bonds shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Bond.

REGISTERED  
NO. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas  
Counties of Collin, Cooke, Fannin, and Grayson  
Greater Texoma Utility Authority  
Contract Revenue Bonds, Series 2023  
(Gober Municipal Utility District Project)

Bond Date: \_\_\_\_\_, 2023      Interest Rate: \_\_\_\_\_%      Stated Maturity: June 1, 20\_\_\_\_      CUSIP NO. \_\_\_\_\_

Registered Owner:

Principal Amount:

The Greater Texoma Utility Authority (hereinafter referred to as the "Authority"), for value received, hereby promises to pay to the Registered Owner of this Bond named above (the "Holder") or the registered assigns thereof, solely from the revenues hereinafter identified, on the Stated Maturity date specified above, the Principal Amount hereinabove stated (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 interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is the delivery date of this Bond to the initial Holder (which delivery date is anticipated to be September 18, 2023) or this Bond bears the originally executed Registration Certificate of the Comptroller of Public Accounts, in which case it shall bear interest from such date) at the per annum rate of interest specified above computed upon the basis of a 360-day year consisting of twelve (12) 30-day months; such interest being payable on December 1, 2023, and on each December 1 and June 1 thereafter until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity date or date of redemption to the Holder hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the Registration Certificate hereon, or its successor. Interest is payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Resolution) 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 15th day of the month next preceding each interest payment date, and interest and principal due shall be paid by the Paying Agent/Registrar by check sent United States mail, first class postage prepaid, at the expense of the Authority or by such other method acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of the Holder. All payments of principal of, premium, if any, and interest on this Bond 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.

If the date for payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day

that is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of nonpayment 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 (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.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$505,000 (herein referred to as the "Bonds") pursuant to a Resolution adopted by the governing body of the Authority (herein referred to as the "Resolution"), for the construction, acquisition, and improvement of water system facilities and necessary appurtenances for use by the Gober Municipal Utility District, including installing a variable frequency drive to run the well and service pumps, installing variable frequency drive controllers, and installing a generator with an automatic transfer switch,, and the payment of all costs incident and related to the construction, acquisition and financing thereof, under and in strict conformity with the Constitution and laws of the State of Texas.

The Bonds maturing on and after June 1,2034, may be redeemed prior to their Stated Maturities, at the option of the Authority, in whole or in part, in inverse order of maturity if fewer than all, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar) on December 1, 2033, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

Not fewer than thirty (30) days prior to a redemption date for the Bonds, a notice of redemption shall be sent by United States Mail, first class postage prepaid, in the name of the Authority and at the Authority's expense, to each Registered Owner of a Bond to be redeemed and subject to the terms and provisions relating thereto contained in the Resolution. If this Bond (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 Bond (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are 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.

In the event of a partial redemption of the principal amount of this Bond, payment of the redemption price of such principal amount shall be made to the Holder only upon presentation and surrender of this Bond to the Paying Agent/Registrar at the Designated Payment/Transfer Office, and there shall be issued, without charge therefor to the Holder hereof, a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Resolution for the then unredeemed balance of the principal sum hereof. If this Bond is selected for redemption, in whole or in part, the Authority and the Paying Agent/Registrar shall not be required to transfer this Bond to an assignee of the Holder within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be

applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Resolution have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption are not satisfied or sufficient moneys are not received, such notice shall be of no force and effect, the Authority shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds constitute special obligations of the Authority, and, together with the any Additional Bonds, if issued, are payable as to principal and interest solely from and equally secured by a first lien on the Pledged Revenue of the Authority (identified and defined in the Resolution, and including revenues to be received under and pursuant to an Water Facilities Contract between the Authority and the Gober Municipal Utility District, dated as of November 19, 2020, together with all amendments thereto). Reference is hereby made to the Resolution, copies of which are on file in the Designated Payment/Transfer 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 of and the nature and extent of the revenues pledged for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; 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 Bond may be discharged at or prior to its maturity or redemption, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions thereof. Capitalized terms used herein have the same meanings assigned in the Resolution.

The Authority expressly reserves the right to issue further and additional revenue bond obligations in all things on a parity with the Bonds, payable solely from and equally secured by a lien on the Pledged Revenue described above; provided, however, that any and all such Additional Bonds may be so issued only in accordance with and subject to the covenants, conditions, limitations and restrictions relating thereto which are set out and contained in the Resolution, to which reference is hereby made for more complete and full particulars.

The Holder hereof shall never have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.

This Bond, subject to certain limitations contained in the Resolution, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon 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 his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and being of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The Authority and the Paying Agent/Registrar, and any agent of either, shall treat the Holder whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to 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 for all other purposes, and neither the Authority nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to or in the issuance of this Bond in order to render the same a legal, valid and binding 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 the issuance of the Bonds does not exceed any constitutional or statutory limitation. In case any provision in this Bond or any application thereof shall be 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 Bond 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 Directors of the Authority has caused this Bond to be duly executed under the official seal of the Authority.

GREATER TEXOMA UTILITY AUTHORITY

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President, Board of Directors

ATTEST:

---

Secretary, Board of Directors

(SEAL)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

REGISTRATION CERTIFICATE OF  
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER (   
OF PUBLIC ACCOUNTS (   
THE STATE OF TEXAS ( REGISTER NO. \_\_\_\_\_

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(SEAL)

(d) Form of Registration Certificate of Paying Agent/Registrar.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued under the provisions of the within-mentioned Resolution; the bond or bonds of the above entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Register in St. Paul, Minnesota is the "Designated Payment/Transfer Office" for this Bond.

BOKF, NA, Houston, Texas,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Signature

Registration Date:

\_\_\_\_\_



(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_

\_\_\_\_\_  
attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:  
  
\_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

Heading and paragraph one shall be amended to read as follows:

REGISTERED  
NO. T-1

REGISTERED  
\$505,000

United States of America  
State of Texas  
Counties of Collin, Cooke, Fannin, and Grayson  
Greater Texoma Utility Authority  
Contract Revenue Bonds, Series 2023  
(Gober Municipal Utility District Project)

Bond Date: August 15, 2023

Registered Owner: Texas Water Development Board

Principal Amount: FIVE HUNDRED FIVE THOUSAND DOLLARS

The Greater Texoma Utility Authority (hereinafter referred to as the "Authority"), for value received, hereby promises to pay to the Registered Owner named above (the "Holder") or the registered assigns thereof, solely from the revenues hereinafter identified, on June 1 in each of the years and in principal amounts in accordance with the following schedule:

STATED MATURITY                      PRINCIPAL AMOUNT                      INTEREST RATE

(Information to be inserted from schedule in Section 2 hereof.)

(or so much thereof as shall not have been paid upon prior prepayment) and to pay interest on the unpaid principal amount hereof from the date of delivery of this Bond to the initial purchasers (which delivery date is anticipated to be September 18, 2023) at the per annum rates of interest specified above computed upon the basis of a 360-day year consisting of twelve (12) 30-day months; such interest being payable on December 1, 2023, and on each December 1 and June 1 thereafter until maturity or prior prepayment. Principal of and premium, if any, on this Bond shall be payable at the Stated Maturities or the date(s) of prepayment thereof by BOKF, NA, Houston, Texas (the "Paying Agent/Registrar"), only upon presentation and surrender of this Bond to its designated offices in St. Paul, Minnesota (the "Designated Payment/Transfer Office"), or its successor. Interest is payable to the Holder of this Bond (or one or more Predecessor Bonds, as defined in the Resolution) 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 15<sup>th</sup> day of the month next preceding each interest payment date, and interest and principal due shall be paid by the Paying Agent/Registrar by check sent United States mail, first class postage prepaid, at the expense of the Authority or by such other method acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of the Holder. All payments of principal of, premium, if any, and interest on this Bond 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.

**SECTION 11: Certain Definitions.** In addition to terms defined elsewhere in this Resolution, for all purposes of this Resolution and in particular for clarity with respect to the issuance of the Bonds and the pledge and appropriation of the Pledged Revenue therefor, the following definitions are provided:

(a) The term "Additional Bonds" shall mean parity revenue bonds issued in accordance with the terms and conditions prescribed in Section 19 hereof.

(b) The term "Authorized Investments" shall mean the obligations identified in the "Public Funds Investment Act" (Texas Government Code, Chapter 2256), as amended.

(c) The term "Bonds" shall mean the "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)" authorized by this Resolution.

(d) The term "Bonds Similarly Secured" shall mean the Previously Issued Bonds, the Bonds and Additional Bonds..

(e) The term "Contract" or "Water Facilities Contract" shall mean that certain contract, dated as of November 19, 2020, by and between the Authority and the Gober Municipal Utility District, together with amendments and supplements thereto (which by the term of such instrument is designated as a supplement to such Contract), a copy of such Contract being attached hereto as **Exhibit B** for the purposes of identification.

(f) The term "District" shall mean the Gober Municipal Utility District.

(g) The term "Cost of the Project" shall have the meaning assigned such term in Section 1.01 of the Contract.

(h) The term "Debt Service" shall mean as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the Authority as of such date or in such period for the payment of the principal

of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of Bonds Similarly Secured without a fixed numerical rate, that such obligations bear, or would have borne, interest at the highest rate reached, or that would have applied to such obligations (using the index or method for computing interest applicable to such obligations) during the twenty four (24) month period next preceding the date of computation; and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed prior to maturity in accordance with the mandatory redemption provisions applicable thereto.

(i) The term "Depository Bank" means, currently, BOKF, Houston, Texas. The Authority reserves its right to change from time to time its depository bank to any other bank having trust powers. In the event of any change in the Authority's depository bank, the Authority shall timely notify any parties affected by such change.

(j) The term "Fiscal Year" shall mean the twelve month operational period of the Authority commencing October 1 of each year; provided, however, the Authority may change the fiscal year to another period of not less than twelve (12) calendar months but in no event may the fiscal year be changed more than one time in any three calendar year period.

(k) The term "Government Obligations" as used herein, means (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the Authority, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the Authority, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other authorized securities or obligations under applicable laws of the State of Texas that may be used to defease obligations such as the Bonds.

(l) The term "Maintenance and Operation Expense of the Project" shall have the meaning assigned such term in Section 1.01 of the Contract.

(m) The term "Outstanding" shall mean when used in this Resolution with respect to Bonds or Bonds Similarly Secured, as of the date of determination, all Bonds or Bonds Similarly Secured theretofore issued and delivered, except:

(i) those Bonds or Bonds Similarly Secured canceled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(ii) those Bonds or Bonds Similarly Secured paid or deemed to be paid in accordance with the provisions of Section 29 hereof; and

(iii) those Bonds or Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 30 hereof or similar provisions with respect to Bonds Similarly Secured.

(n) The term "Pledged Revenue" shall mean (i) the amount received by the Authority as monthly amortization payments by reason of Section 3.01(a) of the Contract, less the fees and

charges of any paying agent/registrar with respect to Bonds Similarly Secured; plus (ii) the amounts deposited into the Bond Fund referenced in Section 12(b) of this Resolution and the amounts described in Section 3.01(b) of the Contract and deposited into the Reserve Fund referenced in Section 12(c) of this Resolution; plus (iii) any amounts on deposit in the Construction Fund, created and established by Section 26 of this Resolution, pending the application of such money for the payment of the Cost of the Project.

(o) The term "Previously Issued Bonds" shall mean the Outstanding "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2021 (Gober Municipal Utility District Project)", dated February 1, 2021, heretofore issued which are in every respect on a parity with the Bonds.

(p) The term "Project" shall mean, with respect to the Bonds, the Series 2023 Project, and, with respect to the Bonds Similarly Secured, collectively, the Projects described as such in the exhibits attached to the ordinances of the District that have from time to time approved the issuance of Bonds Similarly Secured by the Authority for the financing of such Projects.

(q) The term "Series 2023 Project" shall mean, with respect to the Bonds, the project described in Section 1 hereof.

**SECTION 12: Pledge.** The Authority hereby covenants and agrees that all of the Pledged Revenue is hereby irrevocably pledged for the payment of the Bonds Similarly Secured, and the interest thereon, and it is hereby declared and resolved that the Bonds Similarly Secured and the interest thereon shall constitute a first lien upon said Pledged Revenue.

Texas Government Code, Chapter 1208, as amended, applies to the issuance of the Bonds Similarly Secured and the pledge of the Pledged Revenue granted by the Authority under this Section of this Resolution, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are Outstanding and unpaid such that the pledge of the revenues granted by the Authority under this Section of this Resolution is to be subject to the filing requirements of Texas Business & Commerce Code, Chapter 9, as amended, then in order to preserve to the Holders of the Bonds the perfection of the security interest in said pledge, the Authority agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Texas Business & Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

**SECTION 13: Fund Designations.** The Authority hereby covenants and agrees with the Holders of the Bonds Similarly Secured that all income, receipts and revenues derived from the operation and ownership of the Project shall be kept separate from other funds or accounts of the Authority. To that end the following special Funds (herein so called), are created and established by a resolution authorizing Previously Issued Bonds and shall exist and govern the application of the Pledged Revenue while the Bonds Similarly Secured are Outstanding, to wit:

(a) Greater Texoma Utility Authority Revenue Fund, hereinafter called "Revenue Fund". This Fund shall be kept in the Authority's Depository Bank.

(b) Greater Texoma Utility Authority Bond Interest and Sinking Fund, hereinafter called "Bond Fund". This Fund shall be deposited with the Depository Bank of the Authority, or other authorized depository, as trustee of the Pledged Revenue, and moneys deposited therein shall be used to pay principal of and interest on Bonds Similarly Secured when and as the same shall become due and payable.

(c) Greater Texoma Utility Authority Bond Reserve Fund, hereinafter called "Reserve Fund". This Fund shall be deposited with a depository of the Authority and money deposited therein shall be used to pay the principal of and interest on Bonds Similarly Secured falling due at any time when there is insufficient money available in the Bond Fund.

SECTION 14: Revenue Fund. All revenues and income of any kind or character received by the Authority by reason of (i) its ownership of all or a part of the Project, (ii) the operation of the Project, or (iii) the Contract, shall be deposited in the Revenue Fund.

Investment income and profits from the investment of the Revenue Fund shall be retained therein until used as provided in this Section 13.

Money in the Revenue Fund shall be used in the following order of priority:

1. Payments into the Bond Fund, as provided by Section 14;
2. Payments into the Reserve Fund, as provided by Section 15;
3. The curing of any deficiencies, as provided by Section 16;
4. The payment of other costs of the Project including maintenance and operation expenses not paid by the Authority and those purposes for which provision is made by Section 3.01(c) through 3.01(e) of the Contract; and
5. Applied as provided in Section 18.

SECTION 15: Bond Fund. The Authority hereby covenants and agrees to deposit into the Bond Fund amounts sufficient to pay the principal of and interest on the Outstanding Bonds Similarly Secured as the same become due. There shall be deposited in the Bond Fund, by reason of the issuance of the Bonds, the following amounts:

From the Pledged Revenue on deposit in the Revenue Fund there shall be deposited in the Bond Fund (i) beginning on or before the first (1st) day of the month next following delivery of the Bonds and on or before the first (1st) day of each following month until and including the first interest payment date, an amount equal to not less than the fractional amount required in order to have the amount of the first installment of interest on deposit by the first (1st) day of the month next preceding the first interest payment date, and thereafter on the first (1st) day of each following month, an amount equal to not less than one sixth (1/6) of the next installment of interest; (ii) beginning on or before the first (1st) day of the month next following delivery of the Bonds, and on or before the first (1st) day of each following month until and including the first principal payment date, an amount equal to not less than the fractional amount required in order to have the amount of the first installment of principal on deposit by the first (1st) day of the month preceding the first principal payment date, and thereafter on or before the first (1st) day of each month, an amount equal to one twelfth (1/12) of the next annual principal payment to become due on the Bonds.

Except in compliance with the rules of the Texas Water Development Board, no bond proceeds will be deposited to the Bond Fund.

The monthly deposits to the Bond Fund for the payment of principal and interest on the Bonds shall continue to be made as hereinabove provided until such time as (i) the total amount

on deposit in the Bond Fund is equal to the amount required to pay all Outstanding Bonds Similarly Secured (principal and interest) for which said Fund was created and established or (ii) the Bonds Similarly Secured are no longer Outstanding.

SECTION 16: Reserve Fund. The Authority hereby covenants and agrees with the Holders of the Bonds Similarly Secured that it will provide for the accumulation of, and when accumulated, will thereafter continuously maintain in the Reserve Fund an amount equal to the Average Annual Debt Service requirement of all Bonds Similarly Secured (the "Required Reserve Fund Amount"). For purposes of calculating the interest requirement on any Bonds Similarly Secured bearing interest at a variable rate, the interest rate shall be calculated at 5.00%. The Average Annual Debt Service requirement shall be calculated on a Fiscal Year basis on the Outstanding Bonds Similarly Secured on the date of the last series of Bonds Similarly Secured (after giving effect to the issuance of such last series); provided, however, the average annual requirement shall also be calculated at the end of each Fiscal Year or upon the redemption or defeasance of any Bonds Similarly Secured. If any Bonds Similarly Secured are subject to mandatory redemption, the amount required to be redeemed in any Fiscal Year shall be treated as if it matured in that Fiscal Year. Any amounts on deposit in the Reserve Fund in excess of such requirement shall be transferred to the Revenue Fund.

Beginning on or before the first day of the first month following the delivery of the Bonds, and on or before the 1<sup>st</sup> day of each month thereafter, there shall be deposited in the Reserve Fund an amount equal to not less than one-sixtieth (1/60) of the Required Reserve Fund Amount, and such monthly deposits shall take into account the amounts already on deposit in said Reserve Fund.

When the Required Reserve Fund Amount has been fully accumulated, said monthly payments to said Fund may be terminated; provided, however, should the amount in such fund be reduced, after the Required Reserve Fund Amount has been accumulated, monthly deposits shall be resumed and continued to be made in an amount not less than one-twelfth (1/12) of the amount of the deficiency, on or before the 1<sup>st</sup> day of each month until the Required Reserve Fund Amount has been fully restored.

Investment income and profits realized from the investment of the Reserve Fund shall be retained therein as may be necessary to fully fund or restore the Required Reserve Fund Amount and thereafter shall be transferred to the Revenue Fund.

SECTION 17: Investments - Security of Funds. Money deposited to the credit of any Fund referenced in this Resolution may, at the option of the Authority, be invested in Authorized Investments; provided that all such investments shall be made in such a manner that the money required to be expended from said Funds will be available at the proper time or times. Such investments (except State and Local Government Series investments held in book entry form, which shall at all times be valued at cost) shall be valued in terms of current market value. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the Bond Fund. All interest and interest income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 15 hereof, be credited to and deposited in the Revenue Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds.

All moneys on deposit in the special Funds for which this Resolution makes provision (except any portions thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of

public funds, and moneys in such special Funds shall be used only for the purposes permitted by this Resolution.

SECTION 18: Transfer of Funds - Deficiencies in Funds. (a) While any of the Bonds are Outstanding, the Board of Directors shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Bond Fund and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity, such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the business day next preceding the date of payment for the Bonds.

(b) If in any month the Authority shall, for any reason, fail to pay into the Bond Fund and Reserve Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into said Funds from the first available and unallocated Pledged Revenue of the following month or months, and such payments shall be in addition to the amount hereinabove provided to be otherwise paid into said Funds during such month or months.

SECTION 19: Remainder of Revenues. Money remaining in the Revenue Fund, after making the payments required in items (1) through (4) of the last paragraph of Section 13, shall be transferred to any other fund referenced in this Resolution and used as a credit to the amount that would otherwise be required to be paid by the District under Section 3.01 of the Contract.

SECTION 20: Issuance of Additional Parity Bonds. In addition to the right to issue bonds of inferior lien as authorized by the laws of this State, the Authority reserves the right hereafter to issue Additional Bonds. The Additional Bonds, when issued, shall be payable from and secured by a first lien on and pledge of the Pledged Revenue in the same manner and to the same extent as are the Bonds and the Previously Issued Bonds. Bonds Similarly Secured shall in all respects be of equal dignity. The Additional Bonds may be issued in one or more installments provided, however, that no Additional Bonds shall be issued unless and until the following conditions have been met:

(a) The Authority is not then in default as to any covenant, condition or obligation prescribed in a resolution authorizing the issuance of the Outstanding Bonds Similarly Secured or the Contract (including any amendment or supplement thereto).

(b) A consulting engineer certifies to the Authority the need for an estimated amount of additional financing required for completion, expansion, enlargement or improvement of the Project .

(c) The District shall have approved the resolution(s) authorizing the issuance of the Additional Bonds as to form and content and acknowledged that the payment of principal of and interest on such Additional Bonds is payable, in whole or in part, from payments to be made by the District, under and pursuant to the Contract.

(d) The Additional Bonds are made to mature on June 1 or December 1 or both in each of the years in which they are scheduled to mature.

(e) The resolution authorizing the issuance of the Additional Bonds provides for deposits to be made to the Bond Fund in amounts sufficient to pay the Debt Service on such Additional Bonds as the same become due.

(f) The resolution authorizing the issuance of the Additional Bonds provides that the amount to be accumulated and maintained in the Reserve Fund shall be in an amount equal to not less than the Average Annual Debt Service requirement (calculated on a Fiscal Year basis on the Outstanding Bonds Similarly Secured as of the date of the last series of Bonds Similarly Secured after giving effect to the issuance of the Additional Bonds) for the payment of principal of and interest on all obligations to be secured by a first lien on and pledge of the Pledged Revenue, and provides that any additional amount to be maintained in the Reserve Fund shall be accumulated within not more than sixty (60) months from the date of the passage of the resolution authorizing the issuance of the proposed Additional Bonds. For purposes of calculating the interest requirement on any Bonds Similarly Secured bearing interest at a variable rate, the interest rate shall be calculated at 5.00%.

(g) The Authority will demonstrate to the Board's Executive Administrator that the Pledged Revenues will be sufficient to pay the Previously Issued Bonds, the Bonds and the proposed Additional Bonds.

Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the governing body of the Authority may deem to be in the best interest of the Authority, and if fewer than all such Outstanding Bonds Similarly Secured are refunded the proposed refunding bonds shall be considered as "Additional Bonds" under the provisions of this section but the certificate required in subparagraph (b) above shall not be required or be applicable to the issuance of such refunding bonds.

SECTION 21: Insurance. The Authority covenants that it will at all times keep insured such of its plants, structures, buildings, stations, machinery, equipment, apparatus, distribution pipelines and equipment, as are usually insured by corporations 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 corporations operating like properties, and will also at all times maintain worker's compensation insurance and insurance against public liability and property damages to the extent permitted by law, in a reasonable amount with a responsible insurance company or companies; provided, however, that any time while the District or any contractor engaged in construction work shall be fully responsible therefor, or the Authority has assumed such responsibility, the Authority shall not be required to carry such insurance. The Authority further covenants that such insurance with respect to the Project shall be in an amount sufficient to protect the Board's interest in the Project.

SECTION 22: Records - Accounts - Accounting Reports. The Authority hereby covenants and agrees that so long as any of the Bonds Similarly Secured or any interest thereon remain Outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts on a Fiscal Year basis pertaining to the operation of the Project separate and apart from all other records and accounts of the Authority in accordance with accepted accounting practices and complete and correct entries shall be made of all transactions relating to said Project. The Holder or Holders of any Bonds Similarly Secured, or any duly authorized agent or agents of such Holders, shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto and to inspect the Project and all properties comprising same. The Authority further agrees that within ninety (90) days following the close of each Fiscal Year, or as soon thereafter as possible, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants or Licensed Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the Accountant shall particularly include the following:



- (a) A detailed statement of the receipts and disbursements from the Revenue Fund.
- (b) A balance sheet as of the end of such Fiscal Year.
- (c) The Accountant's comments regarding the manner in which the Authority and the District have complied with the covenants and requirements of this Resolution and the Contract and his recommendations for any changes or improvements in the operation, records and accounts of the Authority.
- (d) A list of the insurance policies in force (if obtained by the Authority) at the end of the Fiscal Year on the Project properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer, and the policy's expiration date.
- (e) A list of the securities that have been on deposit as security for money in the Bond Fund and Reserve Fund throughout the Fiscal Year, a list of the securities, if any, in which money in the Bond Fund and Reserve Fund has been invested, and a statement of the manner in which money in the Revenue Fund has been secured in such Fiscal Year.

Expenses incurred in making the audits referred to above are to be regarded as Maintenance and Operating Expenses of the Project and paid as such. Copies of the aforesaid annual audit shall be immediately furnished to the Executive Director of the Municipal Advisory Council of Texas at his or her office in Austin, Texas, the Texas Water Development Board, Attention: Executive Administrator, and, upon written request, to the initial Holder and any subsequent Holder of the Bonds Similarly Secured.

By its approval of this Resolution, the District agrees (a) to provide the Texas Water Development Board with annual audit reports, to be submitted without charge, within one hundred twenty (120) days of the close of each fiscal year, (b) in order to secure its obligations under the Contract, to maintain rates and charges for its utility system sufficient to pay all of its obligations secured by and made payable from the revenues derived from the operation of its utility system and (c) to implement any water conservation program required by the Board until all financial obligations to the Board have been discharged..

SECTION 23: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the Authority covenants and agrees particularly that in the event the Authority (a) defaults (i) in payments to be made to the Bond Fund or Reserve Fund as required by this Resolution, or (ii) in the observance or performance of any other of the covenants, conditions or obligations set forth in this Resolution or (b) the District defaults under the Contract, any Holder shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the Board of Directors and other officers of the Authority to observe and perform any covenant, condition or obligation prescribed in this Resolution.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 24: Special Covenants. The Authority hereby further covenants as follows:

(a) It has the lawful power to pledge the revenues supporting this issue of Bonds and has lawfully exercised said power under the Constitution and laws of the State of Texas; that the Bonds, the Previously Issued Bonds and the Additional Bonds, when issued, shall be ratably secured under said pledge of the Pledged Revenue in such manner that one bond shall have no preference over any other bond of said issues.

(b) Other than for the Bonds and the Previously Issued Bonds, the Pledged Revenue has in no manner been committed or pledged to the payment of any debt or obligation of the Authority.

(c) So long as any of the Bonds or any interest thereon remain Outstanding, the Authority will not sell or encumber the Project or any substantial part thereof; provided, however, this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the Project, and, also, with the exception of the Additional Bonds expressly permitted by this Resolution to be issued, it will not encumber the Pledged Revenue unless such encumbrance is made junior and subordinate to all of the provisions of this Resolution.

(d) The Authority will maintain rates and charges to the District sufficient to meet the debt service requirements on the Outstanding obligations of the Authority that are supported by such revenues and the establishment of the special funds maintained for the payment and security of such obligations.

None of the special covenants herein appearing shall be construed in any manner which would deprive the Authority of its right to pledge any revenues produced by modification of the Contract and specifically designated to meet obligations incurred in providing the Authority with enlarged or additional facilities; further, that none of said covenants shall be construed in any manner that would deprive the Authority of its right to pledge that part of any revenue or income derived by it from other future contracts with other cities, towns or villages or the Authority or others and required to satisfy conditions for payment of other bonds or obligations issued by the Authority and such right is especially reserved.

SECTION 25: Bonds are Special Obligations. The Bonds are special obligations of the Authority payable from the Pledged Revenue and the Holders thereof shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

SECTION 26: Bonds are Negotiable Instruments. Each of the Bonds herein authorized shall be deemed and construed to be a "Security" and as such a negotiable instrument, within the meaning of Texas Business and Commerce Code, Chapter 8, as amended.

SECTION 27: Construction Fund. The Authority hereby creates a construction fund account in a depository of the Authority, which is known as the "Construction Fund," into which shall be deposited all remaining proceeds derived from the sale of the Bonds in accordance with Section 34 of this Resolution and this Section. To the extent of any conflict between this Section and Section 34, Section 34 controls. In this Section, when the term "Cost(s) of the Project" is used, the reference is to the Series 2023 Project.

Moneys on deposit in the Construction Fund shall be disbursed only for payment of the respective Costs of the Project financed. All expenditures for construction, labor, and materials shall be disbursed only upon receipt of a certificate of the Engineer (as defined in the Contract) based upon estimates of work and material furnished as approved by such Engineers and

submitted to the Authority and the District's Engineer for approval prior to payment. The Authority shall keep records of the nature and amount of all Construction Fund expenditures and make the same available to the District and the engineers at all reasonable times. Should there be any balance in the Construction Fund after all such Costs of the Project have been paid, such balance shall be deposited in the Bond Fund or the Reserve Fund subject to tax law limitations.

All earnings realized from these investments shall be retained in the Construction Fund until completion of the Series 2023 Project and shall be treated in the same manner as other moneys in the Construction Fund are treated as pursuant to this Resolution.

SECTION 28: Notices to Holders-Waiver. Wherever this Resolution provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Holder as it appears in the Security Register.

In any case in which notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Resolution provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 29: Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the Authority, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The Authority may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered that the Authority may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the Authority.

SECTION 30: Satisfaction of Obligation of Authority. If the Authority shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Resolution, then the pledge of the Pledged Revenue under this Resolution and all other obligations of the Authority to the Holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been

duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The Authority covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit that would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent, pursuant to this Section that is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the Authority or deposited as directed by the Authority. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the Authority, be remitted to the Authority against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Authority shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 31: Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the Authority and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the Authority and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Resolution equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 32: Sale of the Bonds. The sale of the Bonds to the Texas Water Development Board (herein referred to as the "Purchaser" and the "initial Holder") pursuant to a loan commitment received from said Board, at the price of par, is hereby confirmed and declared to be in the best interests of the Authority. Delivery of the Bonds to said Purchaser shall occur as soon as possible upon payment being made therefor in accordance with the terms of sale.

SECTION 33: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial Purchaser against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (i) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (ii) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The Authority shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on (1) any Bond issued hereunder or (2) any series of bonds or obligations issued or incurred by the Texas Water Development Board or the Texas Water Resources Finance Authority to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the Authority receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the Authority shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Authority shall at all times prior to the last Stated Maturity of Bonds:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the Authority or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the Authority shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the Authority shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the Authority shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The Authority shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The Authority shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six (6) years after the day on

which the last outstanding Bond is discharged. However, to the extent permitted by law, the Authority may commingle Gross Proceeds of the Bonds with other money of the Authority, provided that the Authority separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the Authority shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The Authority shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six (6) years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the Authority shall pay to the United States out of the Construction Fund, other appropriate fund or, if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Bond Fund, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The Authority shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Elections. The Authority hereby directs and authorizes the President, Secretary and/or Assistant Secretary of the Board of Directors of the Authority, and the General Manager of the Authority, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(j) Nonpurpose Investments. No portion of the proceeds of the Bonds will be used, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire Nonpurpose Investments which produce a yield materially higher than the yield on the Board's bonds that were issued to provide financing for the Bonds (the "Source Series Bonds"), other than Nonpurpose Investments acquired with:

(i) proceeds of the Board's Source Series Bonds invested for a reasonable temporary period of up to three (3) years (reduced by the period of investment by the Board) until such proceeds are needed for the facilities to be financed;

(ii) amounts invested in a bona fide debt service fund, within the meaning of § 1.148-1(b) of the IRS Regulations; and

(iii) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed the least of maximum annual debt service on the Bonds, 125% of average annual debt service on the Bonds, or 10 percent of the stated principal amount (or, in the case of a discount, the issue price) of the Bonds.

**SECTION 34: Control and Custody of Bonds.** The President of the Board of Directors of the Authority shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing and supply of definitive Bonds, and shall take and have charge and control of the Initial Bond(s) pending approval by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchaser.

Furthermore, the President, Vice President, Secretary, and/or Assistant Secretary of the Board of Directors of the Authority, and the General Manager of the Authority, are hereby authorized and directed to furnish and execute such documents relating to the Authority and its financial affairs as may be necessary for the issuance of the Bonds, the approval of the Bonds by the Attorney General and their registration by the Comptroller of Public Accounts and, together with the Authority's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for printing of the definitive Bonds and the delivery of the Initial Bond(s) to the initial Purchaser and the exchange thereof for definitive Bonds.

**SECTION 35: Rules and Regulations of the Texas Water Development Board.** In compliance with the published rules and regulations of the Texas Water Development Board (the "Board"), the Authority agrees and covenants as follows:

(a) To the extent there are unused funds remaining and enhancements to the Series 2023 Project are needed or desired to be paid with the proceeds of the Bonds, the Authority shall request such enhancements be authorized by the Executive Administrator, or

(b) If the Authority determines that no enhancements are needed or if no enhancements are authorized by the Executive Administrator, the Authority shall cause to be prepared and submitted to the Board (i) a final accounting of the total costs of the Series 2023 Project and the expenditure of funds therefor and (ii) a copy of the construction plans for the Series 2023 Project as built and completed. In addition to other information required by the Board, said final accounting shall identify (i) all funds utilized or represented to be available in the Authority's application, from whatever source derived, and (ii) all Series 2023 Project costs contained and approved in the Authority's application to the Board or approved in subsequent change orders. If the total cost of the Series 2023 Project is less than the amount of the Series 2023 Project funds available, then the Authority may use such surplus proceeds remaining after completion of the Series 2023 Project for the following purposes as approved by the Executive Administrator: (1) to redeem Bonds, in inverse annual order of stated maturities, (2) to deposit



into the Bond Fund for the payment of capitalized interest or principal on the Bonds, or (3) to deposit into the Reserve Fund within tax law limitations.

(c) Execution and delivery of an Escrow Agreement, substantially in the form attached hereto as **Exhibit C**, by the President, Secretary, and/or Assistant Secretary of the Board of Directors of the Authority, is hereby approved. The Construction Fund shall be held subject to the Escrow Agreement and moneys deposited therein shall be kept separate from other funds and accounts of the Authority. The Authority further covenants and agrees (i) that certain proceeds of sale of the Bonds shall be deposited in the Construction Fund created by Section 26 of this Resolution and established with a depository of the Authority, and (ii) all funds deposited in such Construction Fund shall be disbursed only for the Series 2023 Project the Bonds and, as is appropriate, in accordance with the provisions of Chapter 15 or 17 of the Texas Water Code.

(d) The Authority further agrees and covenants as follows:

(i) to comply with all applicable laws of the State of Texas and all applicable rules and policies of the Board with respect to the acquisition and construction of the Series 2023 Project and the loan of funds to the Authority by the Board evidenced by the Bonds.

(ii) no bond proceeds will be used for sampling, testing, removing or disposing of contaminated soils and/or media at the project site and, to the extent permitted by law, to indemnify, hold harmless and protect the Board from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport and/or removal and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the Authority, its contractors, consultants, agents, officials and employees as a result of activities relating to the project.

(iii) all laborers and mechanics employed by contractors and subcontractors for the Series 2023 Project shall be paid wages at rates not less than prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The Authority, all contractors, and all subcontractors shall ensure that all Project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the Series 2023 Project shall include in full in any contract in excess of \$2,000 the contracts clauses as provided by the Board.

(iv) the Authority will abide by all applicable construction contract requirements related to the use or iron and steel products produced in the United States, as required by 31 TAC § 371.4 and related State Revolving Fund Policy Guidelines.

(v) the Contract shall not be amended or revised in a manner to affecting the financial condition of the Authority and its ability to pay the Bonds without the prior written approval of the Board's Executive Administrator.

(vi) the Authority shall provide the Board with documentation that it has met all applicable state procurement requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program.

(vii) the Authority shall provide the Board with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The Authority shall obtain a Data Universal Numbering System ("DUNS") Number and shall register the System for Award Management ("SAM"), and maintain current registration at all times while the Bonds are outstanding.

(viii) all proceeds of the Bonds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d) and the Authority will adhere to the approved project schedule.

(ix) the Board may exercise all remedies available to it in law or equity, and any provision of the Bonds that restricts or limits the Board's full exercise of these remedies shall be of no force and effect.

(x) the Authority will comply with the requirements set forth in 33 U.S.C. § 1382 *et seq.* related to maintaining project accounts containing financial assistance for planning, design, acquisition, or construction, as applicable, in accordance with generally accepted accounting principles (GAAP).

(xi) neither the Authority nor a related party thereto will acquire any of the Board's bonds that were issued to provide financing for the Bonds in the amount of the Bonds to be acquired from the Authority by the Board.

(xii) prior to any action by the Authority to convey the project (including the related obligation to repay the Bonds) to another entity, the conveyance and assumption must be approved by the Board.

(xiii) the Authority must notify the Board's Executive Administrator prior to taking actions to alter the Authority's legal status in any manner, such as by conversion to a conversation and reclamation district or a sale-transfer-merger with another retail public utility.

(xiv) depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

**SECTION 36: Legal Opinion.** The Purchaser's obligation to accept delivery of the Bonds is subject to its being furnished a final opinion of Norton Rose Fulbright US LLP, Attorneys, concerning the validity of the Bonds, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds by the Purchasers. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Bonds, or an executed counterpart thereof shall accompany the global Bonds deposited with the Depository Trust Company.

**SECTION 37: CUSIP Numbers.** CUSIP numbers may be printed or typed on the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the Authority nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the Bonds.

**SECTION 38: Effect of Headings.** The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 39: Resolution a Contract - Amendments. This Resolution shall constitute a contract with the Holders from time to time, be binding on the Authority, and shall not be amended or repealed by the Authority so long as any Bond remains Outstanding except as permitted in this Section and in Section 40 hereof. The Authority, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Resolution in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Authority may, with the written consent of Holders holding a majority in aggregate principal amount of the Bonds Similarly Secured then outstanding, amend, add to, or rescind any of the provisions of this Resolution; provided that, without the consent of all Holders of the Bonds then outstanding, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 40: Continuing Disclosure Undertaking.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"Financial Obligation" means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

"MSRB" means the Municipal Securities Rulemaking Board.

"Rule" means SEC Rule 15c2 12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports. The Authority shall provide annually to the MSRB (1) within six (6) months after the end of each Fiscal Year, financial information and operating data of the general type described in **Exhibit D** hereto and (2) if not provided as part of such financial information and operating data, audited financial statements of the Authority and the District, when and if available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in **Exhibit D** hereto, or such other accounting principles as the Authority may be required to employ from time to time pursuant to state law or regulation, and audited, if the Authority commissions an audit of such statements and the audit is completed within the period during which they must be provided. If audited financial statements are not available by the required time, the Authority will provide unaudited financial information of the type included in the final Application for Financial Assistance and described in **Exhibit D** by the required time and audited financial statements when and if such audited financial statements become available.

If the Authority changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Authority otherwise would be required to provide financial information and operating data pursuant to this Section.

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 included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The Authority shall provide 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;
- (2) 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;
- (7) 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 trustee or the change of name of a trustee, if material.

(15) Incurrence of a Financial Obligation of the Authority, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Authority, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Authority, any of which reflect financial difficulties.

For these purposes, (a) 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, and (b) the Authority intends the words used in the immediately preceding paragraphs 15 and 16 and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

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

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices, and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers, and Amendments. The Authority shall be obligated to observe and perform the covenants specified in this Section with respect to the Authority and the Bonds while, but only while, 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 required by subsection (c) hereof of any Bond calls and defeasance that cause the Authority to be no longer such an "obligated person".

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 financial results, condition, or prospects of the Authority or the State of Texas 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 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 Resolution for purposes of any other provision of this Resolution.

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.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the Authority from time to time to adapt to changed circumstances resulting 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 Resolution 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 provisions of this Section may also be amended from time to time or repealed by the Authority if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the Authority's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the Authority so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (b) 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 41: Further Procedures.** Any one or more of the President, Vice President, Secretary, and/or Assistant Secretary of the Board of Directors of the Authority, and the General Manager of the Authority, 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 Authority all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the President, Vice President, Secretary, and/or Assistant Secretary of the Board of Directors of the Authority, and the General Manager of the Authority, and Bond Counsel are each hereby authorized and directed to approve any technical changes or corrections to this Resolution or to any of the documents authorized and approved by this Resolution: (i) in order to cure any technical ambiguity, formal defect, or omission in the Resolution

or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such ministerial changes are consistent with the intent and purpose of the Resolution, which determination shall be final. In the event that any officer of the Authority whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 42: Reapproval of Contract. In all respects, the Contract is reapproved and shall be and remain in full force as the agreement of the parties.

SECTION 43: Incorporation of Findings and Determinations. The findings and determinations of the Board of Directors of the Authority contained in the preamble hereof are hereby incorporated by reference and made a part of this Resolution for all purposes as if the same were restated in full in this Section.

SECTION 44: Benefits of Resolution. Nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person other than the Authority, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Resolution or any provision hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the Authority, the Paying Agent/Registrar and the Holders.

SECTION 45: Inconsistent Provisions. All orders or resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict and the provisions of this Resolution shall be and remain controlling as to the matters contained herein.

SECTION 46: Governing Law. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 47: Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 48: Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 49: Effective Date. This Resolution shall be in force and effect from and after its passage on the date shown below.

*[The remainder of this page is intentionally blank]*

PASSED AND ADOPTED, this July 24, 2023.

GREATER TEXOMA UTILITY AUTHORITY

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President, Board of Directors

ATTEST:

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Secretary, Board of Directors

(Seal)



EXHIBIT A

Paying Agent/Registrar Agreement

## **PAYING AGENT/REGISTRAR AGREEMENT**

THIS AGREEMENT is entered into as of July 24, 2023 (this "Agreement"), by and between BOKF, NA, Houston, Texas, a banking association duly organized and existing under the laws of the United States of America, or its successors (the "Bank") and the Greater Texoma Utility Authority (the "Issuer"),

### **RECITALS**

WHEREAS, the Issuer has duly authorized and provided for the issuance of its \$505,000 "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)" (the "Securities"), dated August 15, 2023, such Securities scheduled to be delivered to the initial purchasers thereof on or about September 18, 2023; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent/Registrar in connection with the payment of the principal of, premium, if any, and interest on said Securities and with respect to the registration, transfer and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Paying Agent/Registrar for the Securities;

NOW, THEREFORE, it is mutually agreed as follows:

### **ARTICLE ONE APPOINTMENT OF BANK AS PAYING AGENT AND REGISTRAR**

**Section 1.01 Appointment.** The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Securities, and, as Paying Agent for the Securities, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Securities as the same become due and payable to the registered owners thereof; all in accordance with this Agreement and the "Authorizing Document" (hereinafter defined). The Issuer hereby appoints the Bank as Registrar with respect to the Securities and, as Registrar for the Securities, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Securities and with respect to the transfer and exchange thereof as provided herein and in the Authorizing Document.

The Bank hereby accepts its appointment and agrees to serve as the Paying Agent and Registrar for the Securities.

**Section 1.02 Compensation.** As compensation for the Bank's services as Paying Agent/Registrar, the Issuer hereby agrees to pay the Bank the fees and amounts set forth in **Annex A** attached hereto; provided however, notwithstanding anything herein or in Annex A to the contrary, the aggregate value of this agreement shall be less than the dollar limitation set forth in Section 2271.002(a)(2) of the Texas Government Code or Section 2274.002(a)(2) of the Texas Government Code. The Issuer covenants to provide notice to the Bank upon any change in the Issuer's Fiscal Year within ten (10) business days of the governing body of the Issuer's decision to change the Fiscal Year of the Issuer.

In addition, the Issuer agrees to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any of the provisions hereof (including the reasonable compensation and the expenses and disbursements of its agents and counsel).

## **ARTICLE TWO DEFINITIONS**

**Section 2.01 Definitions.** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

“Acceleration Date” on any Security means the date, if any, on and after which the principal or any or all installments of interest, or both, are due and payable on any Security which has become accelerated pursuant to the terms of the Security.

“Authorizing Document” means the resolution, order, or ordinance of the governing body of the Issuer pursuant to which the Securities are issued, as the same may be amended or modified, including any pricing certificate related thereto, certified by the secretary or any other officer of the Issuer and delivered to the Bank.

“Bank Office” means the designated office of the Bank at the address shown in Section 3.01 hereof. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

“Holder” and “Security Holder” each means the Person in whose name a Security is registered in the Security Register.

“Person” means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

“Predecessor Securities” of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.06 hereof and the Authorizing Document).

“Redemption Date”, when used with respect to any Security to be redeemed, means the date fixed for such redemption pursuant to the terms of the Authorizing Document.

“Responsible Officer”, when used with respect to the Bank, means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-Chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated

officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“Security Register” means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfers of Securities.

“Stated Maturity” means the date specified in the Authorizing Document the principal of a Security is scheduled to be due and payable.

**Section 2.02 Other Definitions.** The terms "Bank", "Issuer", and "Securities (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The term "Paying Agent/Registrar" refers to the Bank in the performance of the duties and functions of this Agreement.

### **ARTICLE THREE PAYING AGENT**

**Section 3.01 Duties of Paying Agent.** As Paying Agent, the Bank shall pay, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, on behalf of the Issuer the principal of each Security at its Stated Maturity, Redemption Date or Acceleration Date, to the Holder upon surrender of the Security to the Bank at the following address:

BOKF, NA Corporate Trust Services  
111 Fillmore Avenue East  
St. Paul, Minnesota 55107-1402

As Paying Agent, the Bank shall, provided adequate collected funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and making payment thereof to the Holders of the Securities (or their Predecessor Securities) on the Record Date (as defined in the Authorizing Document). All payments of principal and/or interest on the Securities to the registered owners shall be accomplished (1) by the issuance of checks, payable to the registered owners, drawn on the paying agent account provided in Section 5.05 hereof, sent by United States mail, first class postage prepaid, to the address appearing on the Security Register or (2) by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

**Section 3.02 Payment Dates.** The Issuer hereby instructs the Bank to pay the principal of and interest on the Securities on the dates specified in the Authorizing Document.

### **ARTICLE FOUR REGISTRAR**

**Section 4.01 Security Register - Transfers and Exchanges.** The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the “Security Register”) for recording the names and addresses of the Holders of the Securities, the transfer, exchange and replacement of the Securities and the payment of the principal of and interest on the Securities to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable

regulations as the Issuer and the Bank may prescribe. All transfers, exchanges and replacements of Securities shall be noted in the Security Register.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the Financial Industry Regulatory Authority, such written instrument to be in a form satisfactory to the Bank and duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a re-registration, transfer or exchange of the Securities.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Securities, the exchange or transfer by the Holders thereof will be completed and new Securities delivered to the Holder or the assignee of the Holder in not more than three (3) business days after the receipt of the Securities to be cancelled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**Section 4.02 Certificates.** The Issuer shall provide additional Securities when needed to facilitate transfers or exchanges thereof. The Bank covenants that such additional Securities, if and when provided, will be kept in safekeeping pending their use and reasonable care will be exercised by the Bank in maintaining such Securities in safekeeping, which shall be not less than the care maintained by the Bank for debt securities of other governments or corporations for which it serves as registrar, or that is maintained for its own securities.

**Section 4.03 Form of Security Register.** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer and exchange of the Securities in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**Section 4.04 List of Security Holders.** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

The Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

**Section 4.05 Return of Canceled Certificates.** The Bank will, at such reasonable intervals as it determines, surrender to the Issuer, all Securities in lieu of which or in exchange for which other Securities have been issued, or which have been paid.

**Section 4.06 Mutilated, Destroyed, Lost, or Stolen Securities.** The Issuer hereby instructs the Bank, subject to the provisions of the Authorizing Document, to deliver and issue Securities in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities as long as the same does not result in an overissuance.

In case any Security shall be mutilated, destroyed, lost or stolen, the Bank may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such mutilated, destroyed, lost or stolen Security, only upon the approval of the Issuer and after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, destroyed, lost or stolen.

**Section 4.07 Transaction Information to Issuer.** The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Securities it has paid pursuant to Section 3.01, Securities it has delivered upon the transfer or exchange of any Securities pursuant to Section 4.01, and Securities it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Securities pursuant to Section 4.06.

## **ARTICLE FIVE THE BANK**

**Section 5.01 Duties of Bank.** The Bank undertakes to perform the duties set forth herein and agrees to use reasonable care in the performance thereof.

**Section 5.02 Reliance upon Documents, Etc.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provisions of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and

to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Securities, but is protected in acting upon receipt of Securities containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document supplied by the Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

(g) The Bank is also authorized to transfer funds relating to the closing and initial delivery of the Securities in the manner disclosed in the closing memorandum or letter as prepared by the Issuer, Issuer's financial advisor or other agent. The Bank may act on a facsimile or e-mail transmission of the closing memorandum or letter acknowledged by the Issuer, the Issuer's financial advisor or other agent as the final closing memorandum or letter. The Bank shall not be liable for any losses, costs or expenses arising directly or indirectly from the Bank's reliance upon and compliance with such instructions.

**Section 5.03 Recitals of Issuer.** The recitals contained herein with respect to the Issuer and in the Securities shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, any Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

**Section 5.04 May Hold Securities.** The Bank, in its individual or any other capacity, may become the owner or pledgee of Securities and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**Section 5.05 Moneys Held by Bank - Paying Agent Account/Collateralization.** A paying agent account shall at all times be kept and maintained by the Bank for the receipt, safekeeping, and disbursement of moneys received from the Issuer under this Agreement for the payment of the Securities, and money deposited to the credit of such account until paid to the Holders of the Securities shall be continuously collateralized by securities or obligations which qualify and are eligible under both the laws of the State of Texas and the laws of the United States of America to secure and be pledged as collateral for paying agent accounts to the extent such money is not insured by the Federal Deposit Insurance Corporation. Payments made from such paying agent account shall be made by check drawn on such account unless the owner of the Securities shall, at its own expense and risk, request an alternative method of payment.

Subject to the applicable unclaimed property laws of the State of Texas, any money deposited with the Bank for the payment of the principal of, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be held by the Bank and disposed of only in accordance with Title 6 of the Texas Property Code, as amended. The Bank shall have no liability by virtue of actions taken in compliance with this provision.

The Bank is not obligated to pay interest on any money received by it under this Agreement.

This Agreement relates solely to money deposited for the purposes described herein, and the parties agree that the Bank may serve as depository for other funds of the Issuer, act as trustee under indentures authorizing other bond transactions of the Issuer, or act in any other capacity not in conflict with its duties hereunder.

**Section 5.06 Indemnification.** To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**Section 5.07 Interpleader.** The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the state and county where the administrative office of the Issuer is located, and agree that service of process by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction in the State of Texas to determine the rights of any Person claiming any interest herein.

**Section 5.08 DTC Services.** It is hereby represented and warranted that, in the event the Securities are otherwise qualified and accepted for “Depository Trust Company” services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the “Operational Arrangements”, which establishes requirements for securities to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness of payments and funds availability, transfer turnaround time, and notification of redemptions and calls.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

**Section 6.01 Amendment.** This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**Section 6.02 Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other.

**Section 6.03 Notices.** Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown on the signature page(s) hereof.

**Section 6.04 Effect of Headings.** The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**Section 6.05 Successors and Assigns.** All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.



**Section 6.06 Severability.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**Section 6.07 Merger, Conversion, Consolidation, or Succession.** Any corporation or association into which the Bank may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion, or consolidation to which the Bank shall be a party, or any corporation or association succeeding to all or substantially all of the corporate trust business of the Bank shall be the successor of the Bank as Paying Agent under this Agreement without the execution or filing of any paper or any further act on the part of either parties hereto.

**Section 6.08 Benefits of Agreement.** Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**Section 6.09 Entire Agreement.** This Agreement and the Authorizing Document constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Authorizing Document, the Authorizing Document shall govern.

**Section 6.10 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6.11 Termination.** This Agreement will terminate (i) on the date of final payment of the principal of and interest on the Securities to the Holders thereof or (ii) may be earlier terminated by either party upon sixty (60) days written notice; provided, however, an early termination of this Agreement by either party shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Securities of the appointment of a successor Paying Agent/Registrar. However, if the Issuer fails to appoint a successor Paying Agent/Registrar within a reasonable time, the Bank may petition a court of competent jurisdiction within the State of Texas to appoint a successor. Furthermore, the Bank and the Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay or otherwise adversely affect the payment of the Securities.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with the other pertinent books and records relating to the Securities, to the successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Section 1.02 and of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.12 Iran, Sudan or Foreign Terrorists Organizations.** The Bank represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Bank and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Bank understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Bank and exists to make a profit.

**Section 6.13 Governing Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of Texas.

*[The remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

BOKF, NA, Houston, Texas

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

Title: \_\_\_\_\_

Address: 1401 McKinney, Suite 1000  
Houston, Texas 77010

GREATER TEXOMA UTILITY AUTHORITY

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

President, Board of Directors

Address: 5100 Airport Drive  
Denison, Texas 75020

ATTEST:

\_\_\_\_\_  
Secretary, Board of Directors

## ANNEX A

EXHIBIT B

Water Facilities Contract

WATER SUPPLY AND SEWER SERVICE FACILITIES CONTRACT

THE STATE OF TEXAS                    §  
  §  
THE COUNTY OF FANNIN                §

THIS AGREEMENT is made and entered into as of November 19, 2020, between the GREATER TEXOMA UTILITY AUTHORITY (hereinafter referred to as the “Authority”), a conservation and reclamation authority, a governmental agency, a political subdivision of the State of Texas, and a body politic corporate, duly created, existing and acting by virtue of Chapter 8283 of the Texas Special District Local Laws Code, as amended, (the "Act") and the GOBER MUNICIPAL UTILITY DISTRICT a political subdivision in the County of Fannin, Texas (hereinafter referred to as the “District”), duly created and existing under the laws of the State of Texas:

W I T N E S E T H:

WHEREAS, the Authority, acting pursuant to the Act, has issued or proposes to issue, or both, its bonds for the purposes of providing (i) certain sewer collection and treatment facilities for use by the District, (ii) an additional supply of water to the District and/or (iii) certain water supply facilities in order to store and transport water to the District; and

WHEREAS, certain revenues to be received by the Authority from the District under this Contract are to be pledged to the payment and security of the bonds to be issued by the Authority and will constitute the basis for the Authority’s credit in financing such facilities; and

WHEREAS, the Authority and the District, acting through their duly constituted governing bodies pursuant to authority granted by law, have mutually agreed upon the terms and conditions of this Contract; now, therefore

IN CONSIDERATION of the mutual covenants, agreements, and undertakings herein set forth, the parties hereto hereby agree and contract as follows:

ARTICLE I  
DEFINITIONS

SECTION 1.01:Unless the context shall indicate a contrary meaning or intent, the terms below defined, for all purposes of this Contract and any contract amendatory or supplemental to this Contract, shall be construed or used and are intended to have meanings as follows:

- (a) “Authority” shall mean the Greater Texoma Utility Authority, or its successor.
- (b) “Board” and “Board of Directors” shall mean the Board of Directors of the Authority.

(c) “Bond Resolution” shall mean any resolution of the Board of Directors authorizing the issuance of the Bonds and providing for their security and payment, as such resolution(s) may be amended from time to time as therein permitted, where the proceeds from the sale of the Bonds will be used to discharge the cost of the Project.

(d) “Bonds” shall mean any bonds to be issued by the Authority for the purpose of providing funds to pay the necessary costs of the Project, whether in one or more series or issues, or any bonds issued to refund same.

(e) “Contract” shall mean this Contract for Water Supply and Sewer Service Facilities Contract, including any and all Exhibits hereto and any and all amendments or supplements hereto that may be adopted from time to time as herein permitted. This Contract may also at times be referred to as this “Agreement.”

(f) “Cost of the Project” shall mean, with respect to the Water Project or the Sewer Project, all cost and expense incurred in connection with the acquisition, construction, improvements, enlargement, extension, and repair of the Project, including, without limiting the generality of the foregoing, the cost of the acquisition of all land, rights-of-way, property rights, easements, and interests, the cost of all machinery and equipment, financing charges, interest, and administrative expenses expected to accrue during the period of construction, the funding of any reserve funds created by the Bond Resolution(s), cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, improving, enlarging, extending, or repairing the Project, and such other expense as may be necessary or incident to the acquisition, construction, improvement, enlargement, extension, or repair of the Project and all legal fees, printing and other cost, fees, and expenses necessary for or incident to the issuance of the Bonds.

(g) “District” shall mean the Gober Municipal Utility District.

(h) “Engineer” shall mean a registered, professional engineer (who may be the District’s Engineer or the Authority’s Engineer). The District and Authority agree that the Engineer may be a different firm on different aspects of the Project; and that any Project will be acquired, constructed, improved, enlarged, extended, and repaired in accordance with the plans and specifications prepared under the supervision of the Engineer. It is further agreed that an Engineer may be changed or added and the scope of duties adjusted by the Authority, subject to the consent of the District.

(i) “Fiscal Year” shall mean the twelve (12) month operating period (under this Contract) commencing October 1<sup>st</sup> of each year, provided such twelve (12) month period may be changed one time in any three (3) calendar year period by agreement of the Authority and the District (which agreement, if made, shall be attached hereto as an exhibit).

(j) “Maintenance and Operation Expense of the Project” shall mean the expense of maintenance and operation of the Project including all salaries, labor, materials, interest, repairs, and replacements necessary to render efficient service, or which might be necessary to meet some physical accident or condition that would otherwise impair the security of the Bonds. Such term shall not include depreciation.

(k) “Operator” shall mean the party to the Contract who is designated, from time to time, by the parties with respect to each Project and, in the absence of such designation, shall mean the District.

(l) “Project” shall mean, collectively, the Water Project and the Sewer Project.

(m) “Sewer Project” shall mean collectively, the sewer facilities which are to be (i) constructed, acquired, or improved in order to meet the contractual obligations hereunder, and (ii) financed by the Authority through the issuance of bonds or other obligations, to the extent the same are payable from the money paid or required to be paid by the District under this Contract, or obtained as



grant funds, from any source, for the purpose of paying all or part of the Cost of the Project described in each order or resolution of the District, duly passed prior to or subsequent to the date of this Contract, authorizing the issuance of Bonds by the Authority to finance the Costs of the Project.

(n) “Water Project” shall mean collectively the water supply, storage, and transmission facilities which are to be (i) constructed, acquired, or improved in order to meet the contractual obligations hereunder and (ii) financed by the Authority through the issuance of bonds or other obligations, to the extent the same are payable from the money paid or required to be paid by the District under this Contract or obtained as grant funds, from any source, for the purpose of paying all or part of the Cost of the Project described in each order or resolution of the District, duly passed prior to or subsequent to the date of this Contract, authorizing the issuance of Bonds by the Authority to finance the Costs of the Project.

## ARTICLE II REPRESENTATIONS AND AGREEMENTS

SECTION 2.01: The District’s Representations and Agreements. In connection with its undertakings hereunder, the District represents to the Authority and agrees with the Authority as follows:

(a) In its capacity as a duly organized and created political subdivision of the State of Texas, it is empowered under applicable laws of Texas to enter into the engagements prescribed for it under this Contract and to perform all obligations which may result therefrom, and its governing body has duly authorized execution of this Contract.

(b) It will timely pay to the Authority the full amount it is required to pay under the provisions of this Contract for the services supplied by the Project.

(c) It will plan, construct, maintain, operate, and finance its own utility system and set retail rates to individual customers for utility service adequate to pay all District obligations secured by and made payable from the revenues derived from the operation of the District’s utility system.

(d) It will cooperate with the Authority in the performance of the duties and responsibilities assigned to the Authority by this Contract.

SECTION 2.02: Representations and Agreements of Authority. In connection with its undertakings hereunder, the Authority represents to the District and agrees with the District as follows:

(a) In its capacity as a conservation and reclamation district created by the Act, pursuant to Article XVI, Section 59 of the Texas Constitution, it is empowered under applicable laws of the State of Texas, particularly under the Act, the Interlocal Cooperation Act and the Texas Water Code, to enter into the engagements prescribed for it under this Contract and to perform all obligations which may result therefrom, and its governing body has duly authorized execution of this Contract.

(b) It will finance all Costs of the Project not provided by the District and any grant secured for the construction of the Project.

SECTION 2.03: Construction. The Operator agrees to assume responsibility for the construction of the Project, and the Authority will enter into such contracts as are necessary to construct the Project. To this end, the Authority and the District agree that:

(a) Unless otherwise agreed by the parties, the Operator shall be responsible for the preparation of final plans and specifications for the Project.

(b) Final plans and specifications for the Project shall be subject to the approval of the Authority and the District.

(c) All construction contracts shall be let and awarded pursuant to the laws applicable to the Authority.

(d) The Authority shall let and award all construction contracts, subject to the approval of each contract by the District.

(e) The Authority shall deposit from the proceeds from the sale of its Bonds in a special Construction Fund to be created and established by the Bond Resolution(s), an amount of money that shall be specified in said Bond Resolution(s). The Authority shall draw on and use the money in such Construction Fund to pay the cost of acquiring, constructing, improving, extending, enlarging, and repairing the Project.

(f) Unless otherwise agreed by the parties, the Operator shall be responsible for the acquisition of all land, rights-of-way, property rights, easements, and interest required to provide the Project, subject to the approval of the District and the Authority.

### ARTICLE III FISCAL MATTERS

SECTION 3.01: Payment for Service. The Authority will provide from the proceeds received through the issuance and sale of its Bonds such funds as are necessary, when coupled with any funds or property provided by the District and any grant received, for the purpose of providing all or part of the Project; provided, however, proceeds from Bonds issued for refunding purposes may be used as provided in such Bond Resolution(s) authorizing such refunding Bonds. It is agreed that the District and its customers shall have the exclusive use of the entire Project for the useful life of the Project. In consideration for the Authority's obligation hereunder, the District recognizes and agrees that the Authority will acquire an undivided interest in the Project equivalent to the percentage of the total cost of the Project provided by the Authority through the issuance and sale of its Bonds. It is further agreed that the District's obligations to make any and all payments specified in this Article and the ownership interest of the Authority in the Project will terminate when all of the Authority's Bonds issued in connection with the Project have been paid in full and retired and are no longer outstanding. It is further understood and agreed that the Authority's only source of funds to pay the principal of and interest on its Bonds is from the payments to be made by the District to the Authority under this Contract, and the District agrees that it will make to the Authority the following payments:

(a) Monthly amortization payment — Such amounts, payable monthly on or before the 20th day of each month, in approximately equal installments, as are necessary to pay (i) the principal coming due on the Authority's Bonds on the next succeeding principal payment date; (ii) the interest coming due on the Authority's Bonds on the next succeeding interest payment date; and, (iii) the fees and charges of the Paying Agent(s) for paying or redeeming the Bonds and interest thereon coming due on each applicable date.

(b) Reserve Fund Payment — Such amount as is required to be paid into the Reserve Fund from the Revenue Fund (out of payments to be made by the District) under the Bond Resolution in order

to establish, maintain, or replenish the Reserve Fund for the security and payment of Bonds similarly secured.

(c) Administrative Payment — An amount sufficient to pay the administrative and overhead expenses of the Authority, directly attributable and chargeable to the Bonds and the Project, including the cost of routine annual accounting reports and the costs of all continuing disclosure undertakings.

(d) Extraordinary Expense Payment — Such amounts, as are necessary to pay or reimburse the Authority for any extraordinary or unexpected expenses or costs reasonably and necessarily incurred by the Authority in connection with the Bonds and the Project, such as expenses of litigation, if any, and costs of special studies and special professional services, if and when required by any governmental directive or regulation or as may be agreed between District and the Authority.

(e) Maintenance and Operation Costs of the Project--- Such amounts as are necessary to pay or reimburse the Authority for costs of Maintenance and Operation Expense of the Project (for which provision is made in Section 3.03), if the Authority is the Operator under that Section.

SECTION 3.02: Time for the Making of Payments. The District agrees to make the payments required by Section 3.01 at the times hereafter specified:

(a) Monthly Amortization Payments – The District shall commence making monthly amortization payments at such time as any amount required by the Bond Resolution(s) to be deposited into an escrow account for the payment of interest on the Bonds during the Project construction period has been fully exhausted; provided that such payments shall commence in no event later than the earlier of (i) twelve (12) months prior to the first principal payment date specified in the Bond Resolution(s), or (ii) six (6) months prior to the first interest payment date for which moneys are not set aside for the payment of the interest coming due on such date from the proceeds of the Bonds. Monthly amortization payments shall continue to be made throughout the term of the Contract and shall be adjusted by the District so as to provide for the accumulation of the full amount of debt service requirements (principal, interest, and paying agent fees due on any given payment date) on or before the first day of the month such debt service requirements become due.

(b) Reserve Fund Payment – The District shall commence making these payments on the 20<sup>th</sup> day of the following month, as may be provided in the Bond Resolution, after the delivery of the initial series of Bonds to provide the Project, and upon the issuance of additional Bonds, shall increase the payments in accordance with the Bond Resolution(s) authorizing such Bonds.

(c) Administrative Payment – The District shall commence making the administrative payment on the 20<sup>th</sup> day of the month following the effective date of this Contract, and thereafter such payment shall be made on the 20<sup>th</sup> day of each month thereafter throughout the term of this Contract.

(d) Extraordinary Expense Payment – The District shall make any extraordinary expense payment immediately upon receipt of the statement therefor.

(e) Maintenance and Operating Expenses: (i) If the District is designated as the Operator, such expenses shall be paid by the District as the same becomes due; or (ii) if the Authority is designated as the Operator, the District shall pay (up to the amount annually budgeted for such expenses) the amount that the Authority determines shall be required in such months, such payments to be made on or before the 20<sup>th</sup> day of each month after the Project becomes operational. The annual budget shall be prepared by the Authority at least thirty (30) days prior to the date the Project is to become operational, or, thereafter prior to the beginning of each fiscal year; the budget shall then be submitted to the District, which may

indicate exceptions or suggestions, and any such exceptions or suggestions that are indicated by the District shall then be considered by the Board. If an annual budget is found to be insufficient or excessive, the parties agree that the same shall be taken into consideration by an amendment as well as the budget for the following year, with the view that additional payments shall be made or credit shall be given so that expenditures match receipts over the fiscal year or an adjustment is made in the following month.

SECTION 3.03: Maintenance and Operation of the Project. Unless otherwise agreed by the parties, it is agreed that the Operator will be responsible for maintaining and operating the Project for the entire term of this Contract, and shall pay all costs and expenses incurred in regard to the maintenance and operation of the Project. The Operator hereby agrees and covenants to operate and maintain the Project in accordance with accepted good business and engineering practices and in accordance with all applicable federal and state laws, including any rules and regulations issued by appropriate agencies in the administration of said laws. If the District is the Operator under this Section, the District agrees, to the extent allowed by law, to indemnify and to save and hold harmless the Authority from any and all, exclusive of costs caused by or associated with the Authority's negligence, claims, damages, losses, costs, and expenses, including reasonable attorney fees, arising at any time from the acquisition, existence, ownership, operation, and maintenance of the Project.

SECTION 3.04: Insurance. The Operator specifically agrees to carry fire, casualty, public liability, or other insurance on the Project for purposes and in amounts that would ordinarily be carried by a municipal corporation owning and operating such facilities. Such insurance will provide, to the extent feasible and practicable, for the restoration of damages or destroyed properties and equipment so as to minimize the interruption of services of such facilities. All premiums for such insurance shall constitute a Maintenance and Operation Expense of the Project.

SECTION 3.05: Covenant of Timely Payment. The District covenants that it will timely make (i) the monthly amortization payments and (ii) the additional payments specified hereunder in accordance with the provisions of this Contract as the same shall become due and payable, irrespective of whether service of the Project has been abandoned or discontinued, or if the Project has been rendered wholly or partially unusable by reason of Force Majeure as such term is assigned meaning in Section 4.13 hereto. The District recognizes the fact that the Authority will use the payment received from the District hereunder to pay, secure, and finance the issuance of the Bonds, and the holders of the Bonds shall be entitled to rely upon the foregoing covenant of payment regardless of any other agreement that may exist between the Authority and the District.

SECTION 3.06: Late Payment Penalty. Should the District fail to make any payment at the time herein specified, interest on such amounts shall accrue at the rate of ten percent (10%) per annum from the date such payment becomes due until paid in full with interest as herein specified. In the event such payment is not made within sixty (60) days from the date such payment becomes due, the Authority may institute a proceeding for a mandatory injunction requiring the payment of the amount due and interest thereon, such action to be instituted in a court of competent jurisdiction.

SECTION 3.07: Priority of Charges - District to Fix Adequate Rates.

(a) The District represents and covenants that all payments to be made by it hereunder shall constitute "operating expenses" of the District's Utility System.

(b) The District further agrees to fix and collect such rates and charges for utility services to its customers as will make possible the prompt payment of all expenses of operating and maintaining its combined Utility System, including all payments, obligations, and indemnities contracted hereunder.

SECTION 3.08:Nature of Obligation of District. The payments required to be made by the District under the terms of this Contract shall be due and payable in any and all events regardless of whether there shall be, for any reason, a delay in the completion of all or any part of the Project and regardless of whether the Project shall have been wholly or partially destroyed or damaged. The agreements of the District shall be and are separate and independent covenants, and the District shall have no rights of set off, recoupment, or counterclaim. The Authority shall never have the right to demand payment of any amounts due hereunder by the District out of funds raised or to be raised by taxation. Any obligations assumed or imposed on either party hereto shall never be construed to be a debt of such party of a kind that would require it to levy and collect taxes to discharge any such obligation, it being expressly understood by the parties hereto that the funds required for all payments due from the District pursuant to this Contract are to be collected from the sources referenced herein, and from no other.

#### ARTICLE IV MISCELLANEOUS PROVISIONS

SECTION 4.01:Contract Term. The obligation of the District to promptly make all prescribed payments shall commence with the effective date of this Contract and continue for the period during which the Bonds are outstanding and unpaid.

SECTION 4.02:Useful Life of Project. The District and Authority agree and mutually find that the anticipated useful life of the Project equals or exceeds the period specified in the Bond Resolution(s) for the maturity of all Bonds authorized to be issued to fund such Project

SECTION 4.03:Abandonment of Use of Project. Except as provided by this Contract, the District may not obtain services provided for in this Contract from a source other than a contracting party. It is specifically recognized by the parties hereto that the District may, during the term of this Contract, acquire other facilities so as to make the continued operation of the Project uneconomical so it will be to the best interest of the parties to discontinue the operation of the Project.

Should the District choose to discontinue the operation of all or part of the Project, the District shall have the exclusive right to the salvage of all of the properties and improvements constituting the Project so discontinued. Any cost of salvage will be a maintenance and operating expense of the District, and any money realized from such salvage will serve as a reduction of such expense. The District shall retain the use of the land where the Project is situated and all remaining improvements thereon for its corporate purposes.

The abandonment of the use of the Project shall have no effect upon the obligations of the District to the Authority provided for by this Contract, and all payments provided for by this Contract shall remain obligations of the District of the same nature as provided for by this Contract.

SECTION 4.04:Modification of Provisions. This Contract may be changed and modified only with the consent of the governing bodies of the Authority and the District. Such modification may be requested by either party, in which event a joint meeting of the governing bodies or of their duly authorized and appointed representative shall be held not less than thirty (30) days after the giving of such notice. At such joint meeting, the suggested changes or modifications shall be considered, discussed, and settled. No such change or modification may be made that will affect adversely the payment when due of all moneys required to be paid by the District under the terms of this Contract, and no such change will be effective that affects adversely or causes a violation of any covenants contained in the Bond Resolution(s).

If for any reason the District may desire the construction of additional facilities over and above those now contemplated, and provided the same are within the legal and economic capabilities of the Authority, provision therefor shall be made by means of a supplement hereto, the terms of which are to be negotiated between the District and the Authority.

SECTION 4.05:Regulatory Provisions. This Contract shall be subject to all valid rules, regulations, and laws applicable thereto, as promulgated by the United States of America, the State of Texas, or any other governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.

SECTION 4.06:Taxes. In the event any sales or use taxes, or taxes of any nature, are hereafter imposed upon the Project or the Authority on account of the acquisition, existence, ownership, operation, and maintenance of the Project, the amount of such taxes shall be treated as an operating expense of the Project.

SECTION 4.07:Title to Water and Sewage. Title to all water and sewage put into the Project under this Contract shall be in the District.

SECTION 4.08.Notices. Any notice, request, demand, statement, or bill provided for in this Contract shall be in writing and shall be considered to have been fully delivered when sent by registered mail, addressed as follows:

To the Authority:           5100 Airport Drive  
Denison, Texas 75020  
Attention: President, Board of Directors

To the District:           Gober Municipal Utility District  
P.O. Box 63  
Gober, Texas 75443-0063  
Attn: Jan Johnson, President, Board of Directors

as the case may be, except that routine communications may be sent by ordinary mail and except that either party, by the filing of an appropriate written notice to the other, may specify some other individual to whom communications thereafter are to be addressed.

SECTION 4.09:Covenant to Enforce Contractual Obligations. The Authority covenants that it will enforce the obligations of the District hereunder as may be required to accomplish the purpose of this Contract. Either party may enforce any obligations hereunder owed to it by the other party.

SECTION 4.10:Consequences of District Default. The Authority and the District agree that in the event of default or threatened default, in the payment of principal of or interest on the Bonds, any court of competent jurisdiction, upon petition of the holders of twenty-five percent (25%) of the principal amount of the then outstanding Bonds of the Authority, shall appoint a receiver with authority to collect and receive all resources pledged to the payment of the Bonds, enforce all rights arising from default, if any, by the District in making payment under this Contract, and take charge of the pledged funds on hand and manage the proprietary affairs of the Authority insofar as such affairs relate to the Project. The court may further vest the receiver with such powers and duties as the court may find necessary for the protection of the holders of the Bonds.

SECTION 4.11:Further Agreements of the Parties. The parties hereto specifically recognize that to the extent the District has heretofore issued, sold, and delivered revenue bonds that were payable from

and secured by a lien on and pledge of the net revenue of its Utility System and to the extent such bonds so issued and delivered are outstanding, the District has disclosed to the Authority the existence and terms of all such bonds.

Additionally, the District represents to the Authority:

- (a) There is no provision in any ordinance of the District that prohibits the District from entering into and executing this Contract.
- (b) The execution of this Contract and the operation thereunder will not in any way impair the obligation of any contract by and between the District and any other person. The Project is in furtherance of governmental policy and not inconsistent with the existing contractual obligations of the District.

SECTION 4.12: Control of Project by Operator. The parties hereto recognize and it is specifically agreed, that after completion of the Project and during the term of this Contract, the Operator shall have the exclusive right to the use and utilization of the Project, for the benefit of the District; it is further agreed that the Operator without hindrance from the Authority or the District, or the employees or other agents of either of them, may operate, maintain, repair, enlarge, improve, extend, provide for additions to or otherwise control, manage, and keep up the said Project.

Except as specified in this Article, the abandonment of the use of all or part of such Project has no effect upon the obligations of the parties.

SECTION 4.13: Force Majeure.

(a) If for any reason of “force majeure” either of the parties hereto shall be rendered unable wholly or in part to carry out its obligation under this Contract, other than the obligation of the District to make the payments required under the terms of Section 3.01 hereof, then if such party shall give notice and full particulars of such reasons in writing to the other party within a reasonable time after the occurrence of the event, or cause relied upon, 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 parties 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, lock-outs, or other industrial disturbances, acts of a public enemy, orders or actions of any kind of the Government of the United States of America or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakages or accident to dams, machinery, partial or entire failure of water supply and inability on the part of the Authority to deliver water hereunder or to provide sewage treatment or of the District to receive water or to deliver sewage treatment, on account of any other cause not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lock-outs shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any force majeure shall be remedied with all reasonable dispatch, shall not require the settlement of strikes and lock-outs by acceding to the demands of the opposing parties when such settlement is unfavorable to it in the judgment of the party having the difficulty. No failure of Authority to meet any obligation by reason of force majeure shall relieve the District from its obligations to make the payments required under the terms of Section 3.01 hereof.

(b) No damage shall be recoverable from Authority by reason of the suspension of the operation of the Project due to any of the causes above mentioned. If the Operator’s ability to operate the

Project is affected by any of such causes, the Operator shall promptly notify the other party in writing giving the particulars as soon as possible after the occurrence of the cause or causes for such interruption.

(c) It is expressly recognized by the District that the Operator may be compelled to make necessary alterations, repairs, or extensions of new or additional facilities from time to time during the life of this Contract, and any suspensions of the operation of the Project due to such operation shall not be cause for claim of damage on the part of the Operator, provided all reasonable effort is used by the Operator to provide the District with the service afforded by the Project in accordance with this Contract. In such case, the Operator shall give the other party as much advance notice as may be practicable of the suspension of operation and of the estimated duration thereof.

SECTION 4.14:Easements. The District agrees that the Authority may have such easements over any easements, right of way, or property held by the District so that the facilities herein anticipated and the placement thereof and of all required equipment may be appropriately provided.

SECTION 4.15:Bond Approval by the District.

(a) Prior to the issuance and delivery of any Bonds which are (i) payable as to principal, interest, or redemption premium out of the debt service payments; or (ii) to provide facilities or service or any item that is to be maintained by the Authority utilizing any part of the base monthly payments, the District shall approve the issuance thereof as provided in this Section.

(b) If the bonds are to be sold at a public sale, the governing body of the District shall, by order or resolution, approve (i) the "Notice of Sale" issued or proposed to be issued by the Authority prior to their delivery; and (ii) the facilities to be constructed, or acquired, or improved; if the Bonds are to be negotiated or are refunding bonds, the governing body of the District shall, by order or resolution approve either (i) the form of purchase agreement or (ii) the resolution authorizing the issuance of the refunding bonds.

(c) If the bonds are to be exchanged for property or services or are to be privately placed, the governing body of the District shall, by resolution, approve (i) the form of the resolution adopted or to be adopted by the governing body of the Authority that authorizes the issuance of such bonds and (ii) the facilities to be constructed, acquired, or improved, or the services to be provided.

(d) The District and the Authority agree that the holders of the Bonds, and each party deemed a holder of a Bond by virtue of subrogation to the rights of the holders of the Bonds or otherwise, shall be express third-party beneficiaries of this Contract and shall have all available remedies pertaining to enforcement of this Contract.

SECTION 4.16:Severability. The parties hereto agree that if any of the provisions of this Contract contravene or is held invalid under the laws of the State, the same shall not invalidate the whole Contract, but it shall be construed as though not containing that particular provision, and the rights and obligations of the parties shall be construed and in force accordingly.



IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Contract to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written.



GREATER TEXOMA UTILITY AUTHORITY

By: [Signature]  
President, Board of Directors

ATTEST:

[Signature]  
Assistant Secretary, Board of Directors

GOBER MUNICIPAL UTILITY DISTRICT

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

ATTEST:

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

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Contract to be duly executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written.

GREATER TEXOMA UTILITY AUTHORITY

(Authority Seal)

By: \_\_\_\_\_  
President, Board of Directors

ATTEST:

Assistant Secretary, Board of Directors

GOBER MUNICIPAL UTILITY DISTRICT

By: Ja John  
Title: President

ATTEST:

By: M. Shane Hallam  
Title: Secretary

EXHIBIT C

Escrow Agreement

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of July 24, 2023, made by and between the Greater Texoma Utility Authority, a political subdivision of the State of Texas in Collin, Cooke, Fannin and Grayson Counties (the "*Authority*"), acting by and through the President and Secretary of the Board of Directors and BOKF, NA, Houston, Texas, a banking association duly organized and existing under the laws of the United States of America, or its successors (the "*Bank*"), as Escrow Agent (the "*Escrow Agent*") together with any successor in such capacity:

### W I T N E S S E T H:

WHEREAS, pursuant to a resolution (the "*Resolution*") finally adopted on July 24, 2023, the Authority authorized the issuance of \$505,000 "Greater Texoma Utility Authority Contract Revenue Bonds, Series 2023 (Gober Municipal Utility District Project)" (the "*Bonds*") for the planning, design, construction, acquisition, rehabilitation and improvement of water system facilities and necessary appurtenances for use by the Gober Municipal Utility District, as further described in the Resolution (the "*Project*"); and

WHEREAS, such Resolution also confirmed the sale of the Bonds to the Texas Water Development Board (the "*TWDB*"); and

WHEREAS, the Escrow Agent is a bank located in the State of Texas that is an insured depository institution with the Federal Deposit Insurance Corporation (the "*FDIC*") that has been designated a state depository institution by the Texas Office of the Comptroller and is otherwise qualified and empowered to enter into this Escrow Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

WHEREAS, a condition to the issuance of the Bonds by the TWDB is the deposit of the proceeds of sale of the Bonds (less amounts to pay costs of issuance) (the "*Proceeds*") in escrow subject to being withdrawn only with the approval of the Executive Administrator of the TWDB or another designated representative; provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount to be paid by the Authority to the Escrow Agent, as set forth on Exhibit A, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Bonds, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives and successors, as follows:

**SECTION 1: ESCROW ACCOUNT.** Upon the delivery of the Bonds described above, the Proceeds identified under TWDB Commitment No. L1001616 shall be deposited to the credit of a special escrow account(s) or escrow subaccount(s) (the "*Escrow Account*") maintained at the Bank on behalf of the Authority and the TWDB and shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Authority, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Account shall be entitled "GREATER TEXOMA UTILITY AUTHORITY CONTRACT REVENUE BONDS, SERIES 2023 (GOBER MUNICIPAL UTILITY DISTRICT PROJECT) TEXAS WATER DEVELOPMENT BOARD L1001616 ESCROW ACCOUNT" and

shall not be subject to warrants, drafts or checks drawn by the Authority but shall be disbursed or withdrawn to pay the costs of the project for which the Bonds were issued or other purposes in accordance with the Resolution and solely upon written authorization from the Executive Administrator, or his/her designated representative. The Bank shall distribute to the Authority and to the Executive Administrator's staff of the TWDB the Escrow Account's bank statements on a monthly basis.

**SECTION 2: COLLATERAL.** All cash deposited to the credit of such Escrow Account and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Chapter 2257, TEX. GOV'T CODE ANN., as amended.

**SECTION 3: INVESTMENTS.** While the Proceeds are held in escrow, the Bank shall only invest Proceeds in investments that are authorized by the Public Funds Investment Act, Chapter 2256, TEX. GOV'T CODE ANN., as amended. It is the Authority's responsibility to direct the Escrow Agent to invest all public funds in a manner that is consistent not only with the Public Funds Investment Act but also with its own written investment policy.

**SECTION 4: DISBURSEMENTS.** The Bank shall not honor any disbursement from the Escrow Account, or any portion thereof, unless and until it has been supplied with written approval and consent by the Executive Administrator of the TWDB or another designated TWDB representative. However, no written approval and consent by the Executive Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another provided that all such investments are consistent with the requirements of the Public Funds Investment Act.

**SECTION 5: UNEXPENDED FUNDS.** Any Proceeds remaining unexpended in the Escrow Account after completion of the Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Resolution. The Authority shall deliver a copy of such approval of the final accounting by the TWDB to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds hereunder. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Resolution, that being the sole obligation of the Authority.

**SECTION 6: CERTIFICATIONS.** The Bank shall be authorized to accept and rely upon the certifications and documents furnished to the Bank by the Authority and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

**SECTION 7: LIABILITY OF ESCROW AGENT.** To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law, except for its negligence or default or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Bonds or any recitation contained in the Bonds.

**SECTION 8: RECORDS.** The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all

proceeds thereof. The records shall be available for inspection at reasonable hours and under reasonable conditions by the Authority and the TWDB.

**SECTION 9: MERGER/CONSOLIDATION.** In the event that the Escrow Agent merges or consolidates with another bank or sells or transfers substantially all of its assets or corporate trust business, then the successor bank shall be the successor Escrow Agent without the necessity of further action as long as the successor bank is a state or national bank as well as an FDIC-insured depository institution. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within a reasonable time of such merger, consolidation or exchange.

**SECTION 10: AMENDMENTS.** This Agreement may be amended from time to time as necessary with the written consent of the Authority and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Bank without its consent.

**SECTION 11: TERMINATION.** In the event that this Agreement is terminated by either the Authority or by the Bank, the Escrow Agent must report said termination in writing to the TWDB within 5 business days of such termination. The Authority is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the Authority and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the Authority must forward a copy of the executed escrow agreement with the successor escrow agent within 5 business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the Authority has not appointed a successor escrow agent within thirty (30) days of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the Authority. Whether appointed by the Authority or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Escrow Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

**SECTION 12: EXPIRATION.** This Agreement shall expire upon final transfer of the funds in the Escrow Account to the Authority.

**SECTION 13: POINT OF CONTACT.** The points of contact for the Escrow Agent and the TWDB are as follows:

BOKF, NA  
1401 McKinney, Suite 1000  
Houston, Texas 77010  
Attention: Rachel Roy

Jeff Walker  
Executive Administrator  
Texas Water Development Board  
1700 North Congress Avenue  
Austin, Texas 78701

SECTION 14: **CHOICE OF LAW.** This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

SECTION 15: **ASSIGNABILITY.** This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect.

SECTION 16: **ENTIRE AGREEMENT.** This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the Authority and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Account. No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the Authority and consented to by the Escrow Agent and the TWDB.

SECTION 17: **VALIDITY OF PROVISIONS.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 18: **COMPENSATION FOR ESCROW SERVICES.** The Escrow Agent shall be entitled to compensation for its services as stated in Exhibit A, which compensation shall be paid by the Authority but may not be paid directly from the Escrow Account; provided however, notwithstanding anything herein or in Exhibit A to the contrary, the aggregate value of this Agreement shall not exceed the dollar limitation set forth in Section 2271.002(a)(2) and Section 2274.002(a)(2) of the Texas Government Code, as amended.

SECTION 19: **IRAN, SUDAN AND FOREIGN TERRORISTS ORGANIZATIONS.** The Escrow Agent represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,  
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or  
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Escrow Agent and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Escrow Agent understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Escrow Agent and exists to make a profit.

*[remainder of page left blank intentionally]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

GREATER TEXOMA UTILITY AUTHORITY

By: \_\_\_\_\_  
President, Board of Directors

Address: 5100 Airport Drive  
Denison, Texas 75020

(Authority Seal)

\_\_\_\_\_  
Secretary, Board of Directors



BOKF, NA, Houston, Texas, as Escrow Agent

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

Address: 1401 McKinney, Suite 1000  
Houston, Texas 77010

**EXHIBIT A**  
**BANK FEES**

EXHIBIT D

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 39 of this Resolution.

**Annual Financial Statements and Operating Data**

The financial information and operating data to be provided annually in accordance with such Section are the financial statements of the Authority and the financial statements of the District.

**Accounting Principles**

The accounting principles referred to in such Section are generally those described in the financial statements referenced above, as such principles may be changed from time to time to comply with state law or regulation.

**AGENDA ITEM IX**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. VIII

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER AND ACT UPON THE GUARANTEED MAXIMUM PRICE THREE (GMP 3.00) FOR GARNEY COMPANIES, INC. FOR THE CITY OF SHERMAN 36-INCH WEST SHERMAN WATER MAIN PROJECT.**

**ISSUE**

Consider and act upon the Guaranteed Maximum Price Two (GMP 3.00) for Garney Companies, Inc. for the City of Sherman 36 Inch West Water Main Project.

**BACKGROUND**

The City of Sherman is executing a major infrastructure improvements program to meet the fast-growing needs of the city including industrial, commercial, and residential users. The city needs to complete certain key infrastructure projects to meet the planned industrial expansion needs of significant industrial users before 2025. At this time, this includes water treatment plant expansion, pump station, transmission pipeline, elevated storage tank, and wastewater treatment plant expansion.

GTUA and the City of Sherman selected Garney as Construction Manager At Risk (CMAR) for the installation of a new 36-inch diameter water main from the water treatment plant, through the western portion of the City, and down to the southern portion of the City.

Garney has received bids for the first and second bid package consisting of procurement for pipe, combination air valves, butterfly and transfer valves, construction survey, SWPPP, tunnels, and clearing and temp gates in March and April. Based on the proposal, Garney established a Guaranteed Maximum Price One (GMP 1.00) and Guaranteed Maximum Price Two (GMP 2.00) for a total amount of \$10,818,352.61.

**CONSIDERATIONS**

On June 8, 2023, the rebid pre-procurement of the pipe materials was advertised for this project. Proposals were received on June 27, 2023. The City staff, the City's Program Manager, the City's design engineer, GTUA and the CMAR evaluated and scored the proposals on June 29, 2023. The consensus of the scoring team agreed to recommend award this bid package to Thompson Pipe Company. This award establishes a progressive GMP Bid Package 3.00 – Preliminary procurement (Large Diameter Pipeline Material Rebid) along with changes to BP 1.03 (adding 8-36” and 1-30” Butterfly Valves). Also award of this GMP BP 3.00 will add 201-LF 36” Tunnel to the project from BP 2.03.

**STAFF RECOMMENDATIONS**

The Authority Staff recommends authorizing the General Manager to approve the GMP 3.00 for Garney in the amount of \$18,589,227.07 for a total contract amount of \$29,407,579.68. The City of Sherman has approved this item at their July 17<sup>th</sup> Council meeting.

**ATTACHMENTS**

Garney Construction GMP Letter 3.00, Cost Summary, and Location Map



Tom Pruitt, P.E.  
City of Sherman  
220 W. Mulberry St.  
Sherman, TX 75091

7/5/2023

**RE: 36" West Water Main – GMP 3.00**

Mr. Pruitt,

In accordance with the Agreement between Garney Companies, Inc. and Greater Texoma Utility Authority (GTUA) on behalf of City of Sherman, Garney is pleased to provide the below information and attached documentation to establish the progressive Guaranteed Maximum Price for City of Sherman – 36" West Water Main– Bid Package 3.00 – Pipeline Material Supply.

Garney proposes to establish the Guaranteed Maximum Price (GMP) for this bid package at \$18,589,227.07. This GMP Proposal includes the supply of the following scopes to support future GMP proposals and the installation of the Water Pipeline. This GMP includes additional quantities for Butterfly Valves and Tunnel Installations that reflect the current design.  
SOV 3.00 – Pipe Materials

This GMP proposal is for the early material procurement listed above in adherence to the bid documents. The above scopes of work will be subcontracted by Garney Construction within the requirements of the Agreement for the CMAR Project. This scope may have coordination with future procurements in forthcoming GMP proposals. Also included in this proposal is the cost for the CMAR management.

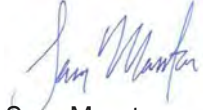
The procurement scope included in this GMP proposal includes the above scope of supply as identified in the plans and specifications made available to Garney for the purpose of procurement. These plans and specifications are generally referred to as the "36-inch West Sherman Water Main – May 2023 – 100% Submittal" and "Greater Texoma Utility Authority on behalf of City of Sherman Bidding Documents for 36-in West Sherman Water Main – Bid Package 3.00 – May 2023."

These plans and specifications were not final at the time of procurement and were intended for the sole purpose of early procurement of the above referenced items. It is both possible and likely that design revisions will be made as the project progresses from the 100% Design through Final Design for Construction. Any revisions to these plans and specifications, and cost adjustments associated with those revisions, will be captured either in future GMP proposals or as a Change Order to the current GMP proposal, as directed by GTUA, City of Sherman, and in accordance with the Agreement.

This GMP includes the Construction Manager at Risk's Fees and Expenses, the estimated Cost of the Work, and expenditures as outlined in the Contract Documents and Agreement.

Please contact Garney directly if there are any questions regarding this GMP Proposal.

Sincerely,  
GARNEY COMPANIES, INC.



Sam Marston  
Preconstruction Manager

CC: VT Madhaven – Pape Dawson  
Bill Williams – Garney  
Wayne Lee – City of Sherman  
Paul Sigle – Greater Texoma Utility District

Bidding documents:

36-inch West Sherman Water Main – May 2023 – 100% Submittal  
Greater Texoma Utility Authority on behalf of City of Sherman Bidding Documents for 36-in  
West Sherman Water Main – Bid Package 3.00 – May 2023  
Addendum 1 for Bid Package 3.00  
Addendum 2 for Bid Package 3.00

**Greater Texoma Utility Authority  
on behalf of City of Sherman**

**36" West Sherman Water Main**



**GMP 3.00 - Bid Package 3.00**

Material Procurement  
Link to Bid Documents







## **Contract Documents per Bid Package 3.00**

The West Water Main Bid Package 3.00 contract bid documents can be accessed via the following link. On this site, we have posted the following documents.

- 100% Drawings and Specifications
- Addendum 1
- Addendum 2

100% Drawings and Specifications utilized at time of Bid.

### **To access the Bid Package 3.00 Contract Documents:**

1. Navigate to the following Website: <https://www.civcastusa.com/>
2. Click "Browse Bids"
3. In the filters drop down list to the right select "All (Archives)"
4. In the filters type the project name into the dialogue box
5. Select the link to the project documents

**Greater Texoma Utility Authority  
on behalf of City of Sherman**

**36" West Sherman Water Main**



**GMP 3.00 - Bid Package 3.00**

Material Procurement  
GMP Clarifications





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## **Description of Variations, Substitutions Proposed Bid Package 3.00**

1. **Specifications** (See hyperlink provided to gain access to the contract documents that accompanied Bid Package 3.00). Per this Material GMP 3.00, submittal is "as per specifications" at time of Bid Package 3.00.
  - a. Qualifications and Assumptions (See Below)
  - b. Exclusions (See Below)
  
2. **Assumptions and Clarifications**
  - a. This is strictly material procurement per plans and specifications available at time of bid.
  - b. GMP pricing exclusive of pipeline installation costs.
  - c. GMP pricing contingent upon GTUA and City of Sherman July 2023 Board Approval.
  - d. Permits are to be provided by others.
  - e. GMP assumes access to easements throughout the duration of the project.
  - f. GMP does not include an alternative access to the easement from roads or other thoroughfares.
  - g. Milestones included in the bid package(s) scopes of work may and likely will change as easement acquisition progresses and lands become available.
  - h. Costs associated with impacts associated to land procurement have not been included in full. Any impacts will be quantified and included in future GMPs.
  
3. **Value Analysis**
  - a. Opportunities for value to the program can be negotiated based on team consensus. Items identified specifically with this bid package will be discussed, modified, and tracked through the start of construction.
  
4. **Allowance Schedule (Not applicable)**
  
5. **Schedule of Unit Prices**
  - a. As included in the schedule of values provided by the proposers.
  
6. **All other information (Not applicable)**

**Greater Texoma Utility Authority  
on behalf of City of Sherman**

**36" West Sherman Water Main**



**GMP 3.00 - Bid Package 3.00**

Material Procurement  
Concurrence of Award/Evaluation





7/5/2023

**RE: Greater Texoma Utility District on behalf of City of Sherman – Bid Package 3.00**

In accordance with the Agreement between Garney Companies, Inc. and Greater Texoma Utility District on behalf of City of Sherman, Garney is providing the below information for the recommendation of award for the City of Sherman 36” West Water Main – Bid Package 3.00 – Pipe Material Procurement. This includes the tabulation of bids received in response to the solicitation and associated scoring for each bid package.

Bid package 3.00 included the following procurement items:  
SOV 3.00 – Pipe Material

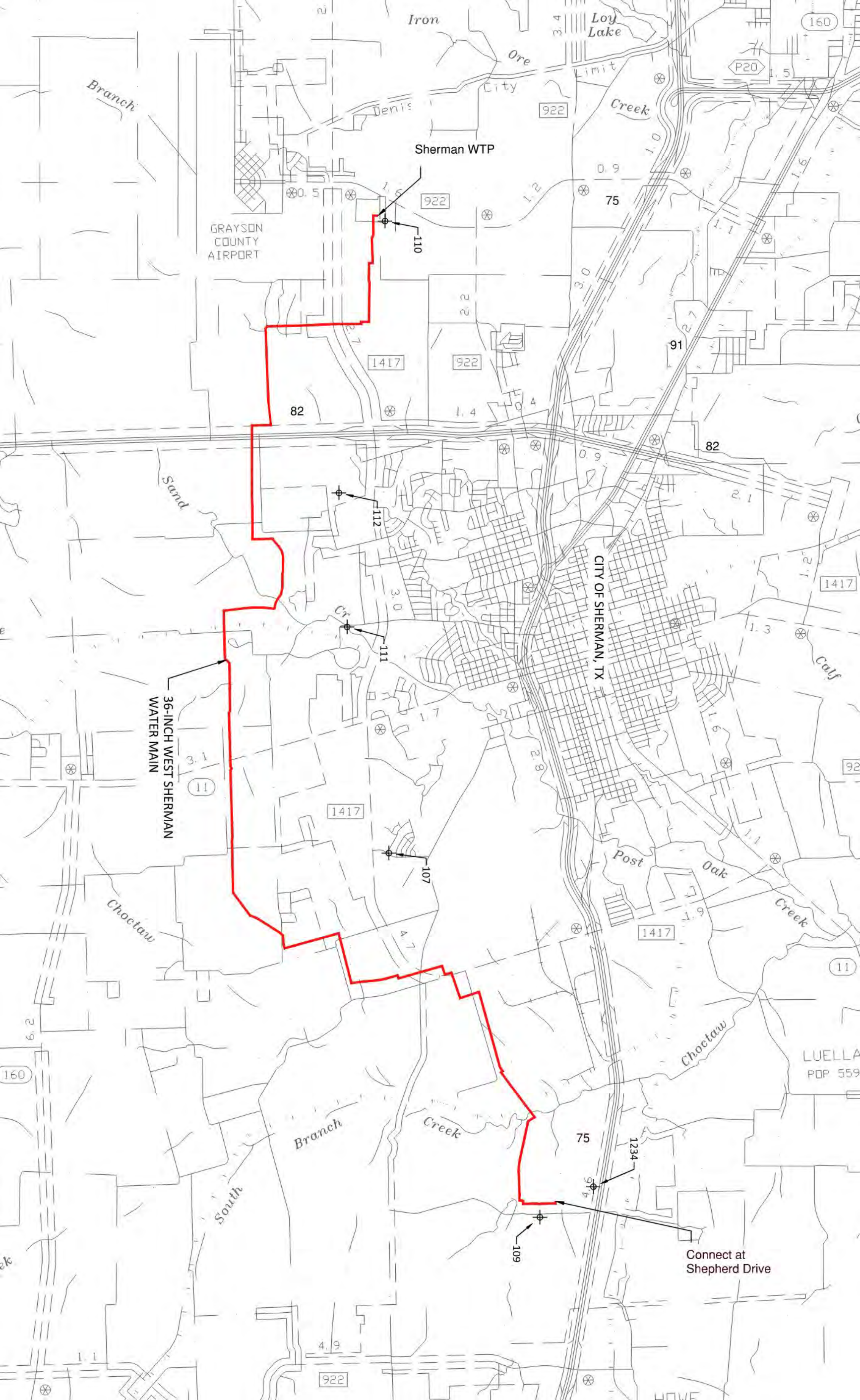
The proposals for the above bid packages were received 6/27/2023 for review and evaluation. The City, GTUA, Program Manager, and CMAR evaluated the proposals received on 6/29/2023. A consensus was made, to award the above-mentioned scopes to the respective proposers.

SOV	Scope	Company	Total Awarded Points
3.00	Pipe	Thompson Pipe Company	93.27
3.00	Pipe	Northwest Pipe Company	88.58
3.00	Pipe	American Spiral Weld	88.35

City of Sherman - GMP 3.00 Summary

BID PACKAGE	SYSTEM / CONTRACT	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	EXTENSION
BP - 3.00	COSF	Large Diameter Pipe Material	1.00	Lump Sum	\$ 14,235,634.22	\$ 14,235,634.22
BP - 3.00	COSF	Large Diameter Pipe - Allowance	1.00	Lump Sum	\$ 750,000.00	\$ 750,000.00
BP - 1.03	COSF	Butterfly Valves	1.00	Lump Sum	\$ 280,800.00	\$ 280,800.00
BP - 2.03	COSF	Tunnel Installation	1.00	Lump Sum	\$ 354,765.00	\$ 354,765.00
						\$ -
					<b>SUBTOTAL:</b>	<b>\$ 15,621,199.22</b>
	CMAR Contract					\$ -
					<b>SUBTOTAL:</b>	<b>\$ -</b>
<b>TOTAL DIRECT COST OF WORK AND ALLOWANCES \$ 15,621,199.22</b>						
	CMAR Contract	Construction Services (CMAR) GC Multiplier	6.50%	Percent	\$ 15,621,199.22	\$ 1,015,377.95
	CMAR Contract	Construction Services (CMAR) Fee	9.50%	Percent	\$ 15,621,199.22	\$ 1,484,013.93
	CMAR Contract	CMAR Contingency	3.00%	Percent	\$ 15,621,199.22	\$ 468,635.98
<b>GMP 3.00 TOTAL WITH ALLOWABLE FEES</b>						<b>\$ 18,589,227.07</b>

CMAR Tracking Summary						
Preconstruction	CMAR COSF - Preconstruction	Preconstruction Service Fee: COSF	1.00	Lump Sum	\$ 396,248.00	\$ 396,248.00
Procurement	CMAR COSF - Procurement	Procurement Service Fee: COSF	1.00	Lump Sum	\$ 192,350.00	\$ 192,350.00
Preconstruction	CMAR COSD - Preconstruction	Preconstruction Service Fee: COSD	1.00	Lump Sum	\$ 183,000.00	\$ 183,000.00
Procurement	CMAR COSD - Procurement	Procurement Service Fee: COSD	1.00	Lump Sum	\$ 95,000.00	\$ 95,000.00
GMP 1	Cost of Work	Direct Cost of Work / Material	1.00	Lump Sum	\$ 928,480.00	\$ 928,480.00
GMP 2	Cost of Work	Direct Cost of Work / Material	1.00	Lump Sum	\$ 7,434,339.00	\$ 7,434,339.00
GMP 3	Cost of Work	Direct Cost of Work / Material	1.00	Lump Sum	\$ 15,621,199.22	\$ 15,621,199.22
CMAR	CMAR Contract - Construction	Construction Services (CMAR) GC Multiplier	1.00	Lump Sum	\$ 1,558,961.18	\$ 1,558,961.18
CMAR	CMAR Contract - Construction	Construction Services (CMAR) Fee	1.00	Lump Sum	\$ 2,278,481.73	\$ 2,278,481.73
CMAR	CMAR Contract - Construction	CMAR Contingency	1.00	Lump Sum	\$ 719,520.55	\$ 719,520.55
<b>TOTAL CONTRACT AMOUNT TO DATE</b>						<b>\$ 29,407,579.68</b>
<b>COS - Preconstruction Cost</b>						<b>\$ 866,598.00</b>
<b>COS - WWM Construction Cost</b>						<b>\$ 28,540,981.68</b>



Sherman WTP

GRAYSON COUNTY AIRPORT

CITY OF SHERMAN, TX

36-INCH WEST SHERMAN WATER MAIN

Connect at Shepherd Drive

110

1417

82

112

111

107

1417

1417

Branch Creek

75

1234

109

4.9

922

922

75

91

82

1417

92

11

LUELLA POP 559

160

P20

Loy Lake

Ore City

Iron

Limit

Creek

Branch

Denis

Sand

Calf

Post

Oak

Creek

Choptaw

Choptaw

South

HOWE

**AGENDA ITEM X**





# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

---

**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. IX

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER AND ACT UPON AUTHORIZING THE AWARD OF CONTRACT WITH VEOLIA WTS SOLUTIONS USA, INC. ON BEHALF OF THE CITY OF SHERMAN.**

**ISSUE**

Consider and act upon authorizing the Award of Contract with Veolia WTS Solutions USA, Inc. on behalf of the City of Sherman.

**BACKGROUND**

The City of Sherman has requested assistance in obtaining funding for improvements to the City's water and wastewater system. These improvements include engineering, design, and construction of projects including but not limited to water treatment plant expansion, water and sewer lines improvements, Lake Texoma Pump Station improvements, and wastewater treatment plant expansion. The Board will be provided with further information on the projects at the Board meeting.

The recent open market bond issuance for the City of Sherman include funds for rehabbing the Water Treatment Plant. The Electrodialysis Reversal (EDR) process is used to filter out dissolved minerals and salts that are not able to be removed in the conventional sand/carbon filters. The raw water source for the Water Treatment Plant comes from Lake Texoma which has a high salt content. As the raw water is treated a portion of the flow is passed through the EDRs and the filtered water is returned to the flow. The result is an overall reduction of minerals/salts and an improved potable water for drinking and industrial use. Approval will allow the replacement of the existing 96 EDR filter stacks with modern stacks and modern technology. This project is part of the overall conventional treatment rehabilitation program and supports regaining 10 MGD conventional treatment capacity.

Veolia WTS Solutions USA, Inc. is the sole provider of EDR Stack Replacements Materials and Services, and the City of Sherman has received a quote in the amount of \$5,644,790 for the purchase of EDR equipment. The City of Sherman's Water Production Staff will handle the installation of the equipment.

**STAFF RECOMMENDATIONS**

The Authority Staff recommends the award of the contract to Veolia WTS Solutions USA, Inc. for the City of Sherman Water Treatment Plant Conventional Treatment Rehabilitation Program.

**ATTACHMENTS**

Contract  
Proposal

## **AGREEMENT FOR EDR STACK REPLACEMENT**

The **City of Sherman, Texas**, a home-rule municipality ("City"), and **Veolia WTS Solutions USA, Inc.**, a Texas corporation ("Contractor"), hereby enter into this Agreement for EDR stack replacement materials and services ("Agreement"). City and Contractor are sometimes referred to collectively as the "parties" or individually as a "party."

WHEREAS, Sherman contacted Contractor, seeking EDR stack replacement materials and services for City's water treatment plant; and

WHEREAS, Contractor provided a proposal, attached hereto as Exhibit A and incorporated herein for all purposes ("Proposal"), seeking to provide such materials and services; and

WHEREAS, based on Contractor's representations, including those representations set forth in the Proposal, Sherman has selected Contractor to provide the materials and services as described in the Proposal under the terms and conditions of this Agreement (the "Project"); and

WHEREAS, the parties agree that the City is exempt from competitive bidding requirements in connection with this Agreement and the Project pursuant to Section 252.022 of the Texas Local Government Code, including but not limited to subsections (a)(2) and (a)(7) of that statute.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Scope of Services.  
Contractor shall provide the services, equipment, supplies and deliverables that are described in the Proposal on the terms and conditions set forth in the Agreement Documents (as defined below), and shall furnish all personnel, labor, equipment, supplies and all other items necessary to provide the services and deliverables as specified by the terms and conditions of the Agreement Documents (collectively, "Services").
2. Term.  
All Services in connection with this Project must be completed, inspected and accepted by City within 540 days of City issuing a written notice to proceed to the Contractor. All obligations relating to time set forth herein are material and are of the essence of this Agreement. The statement herein that time is of the essence shall not be construed to limit the parties' respective cure rights upon default, or any other provision of the Agreement Documents or under applicable law that would afford a party a time certain, or a reasonable time, to perform its contractual obligations. This Agreement shall remain in full force and effect until completion of the Project to City's satisfaction.
3. Compensation.  
In exchange for Contractor's performance of the Services in accordance with the

Agreement Documents, City agrees to pay Contractor in accordance with the pricing terms of the Proposal attached as Exhibit A. To the extent the terms of the Agreement Documents conflict with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, as amended (“Chapter 2251”) or Subchapter I of Chapter 271 of the Texas Local Government Code, as amended (“Chapter 271”), the terms of Chapter 2251, Chapter 271 and the Agreement Documents shall control in that order.

City shall pay Contractor within thirty (30) days of receipt of an invoice, unless supporting receipts or other supporting documentation have been requested by City, in which case City shall pay the invoice as soon after receiving the supporting receipts or documentation as is reasonable; or unless a dispute arises as to any charge(s) contained in the invoice, in which case City shall pay the undisputed amount of the invoice within thirty (30) days of receipt and shall pay the remaining amount, if any, of the invoice after resolution of the dispute as soon after resolution as is reasonable. Notwithstanding anything to the contrary in the Agreement Documents, City shall not be required to pay any invoice submitted by Contractor if Contractor is in breach of this Agreement.

The parties agree that the continuation of this Agreement after the close of any given fiscal year of City, which closes on September 30<sup>th</sup> of each calendar year, shall be subject to City Council approval. In the event that the City Council does not approve the appropriation of funds for this Agreement, the Agreement shall terminate at the end of the fiscal year for which funds were appropriated, and the parties shall have no further obligations hereunder, except that City shall be obligated to pay monies owed Contractor for services it has provided pursuant to this Agreement through the end of that fiscal year provided that Contractor is not in breach of this Agreement.

4. Agreement Documents.

The “Agreement Documents,” as that term is used herein, shall mean and include the following documents, and this Agreement expressly incorporates the same herein by reference for all purposes:

- A. This Agreement;
- B. The Proposal, attached hereto as Exhibit A;
- C. City’s Insurance Requirements, attached hereto as Exhibit B;
- D. Affidavit of No Prohibited Interested, attached hereto as Exhibit C; and
- E. Conflict of Interest Questionnaire, attached hereto as Exhibit D.

This Agreement shall incorporate the terms of the Agreement Documents in their entirety. To the extent that Exhibit A, Exhibit B, Exhibit C and Exhibit D are in conflict with provisions of this Agreement or each other, the provisions of this Agreement, then the provisions of Exhibit B, Exhibit C, Exhibit D and Exhibit A shall prevail in that order.

5. Entire Agreement.

The Agreement Documents contain all representations, understandings, contracts and agreements between the parties regarding the subject matter of this Agreement. The Agreement Documents supersede all oral or written previous and contemporaneous agreements, writings, understandings, representations or contracts between the parties regarding the subject matter of this Agreement. This Agreement in no way modifies or supersedes any document executed by the parties prior to the Effective Date of this Agreement which does not concern the subject matter of this Agreement. No amendment to the Agreement Documents shall be made except on the written agreement of the parties, which shall not be construed to release either party from any obligation of the Agreement Documents except as specifically provided for in such amendment.

6. Required Insurance.

Contractor shall not start work under this Agreement until Contractor has obtained, at Contractor's expense, all of the insurance specified in, and required by, the Agreement Documents. Contractor shall procure and keep in full force and effect the types and amounts of insurance specified in City's Insurance Requirements, attached hereto as Exhibit B and incorporated herein for all purposes, for and during all aspects and phases of Contractor's work throughout the term of this Agreement at no expense to City. Contractor also shall comply with all other requirements set forth in Exhibit B.

7. No Prohibited Interest; Vendor Disclosure.

Contractor acknowledges and agrees that it is aware of, and will abide by, the no prohibited interest requirement of the City Charter. Contractor shall execute and deliver to City the Affidavit of No Prohibited Interest, attached hereto as Exhibit C and incorporated herein for all purposes, no later than the Effective Date of this Agreement (hereinafter defined). Contractor acknowledges and agrees that the existence of a prohibited interest during the term of this Agreement will render this Agreement voidable. Contractor further acknowledges and agrees that it also is aware of, and will abide by, the vendor disclosure requirements set forth in Chapter 176 of the Texas Local Government Code, as amended. In this connection, Contractor shall execute and deliver to City the Conflict of Interest Questionnaire, Form CIQ, attached hereto as Exhibit D and incorporated herein for all purposes, no later than the Effective Date of this Agreement.

8. Indemnity.

**CONTRACTOR HEREBY RELEASES AND SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS CITY AND ITS CITY COUNCIL MEMBERS, OFFICERS, AGENTS, REPRESENTATIVES AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY" FOR PURPOSES OF THIS SECTION) FROM AND AGAINST ALL DAMAGES, INJURIES (WHETHER IN CONTRACT OR IN TORT, INCLUDING PERSONAL INJURY AND DEATH), CLAIMS, PROPERTY DAMAGES, LOSSES, DEMANDS, SUITS, ACTIONS, JUDGMENTS, LIENS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES INCURRED IN ENFORCING THIS SECTION), THAT IN WHOLE OR IN PART ARISE OUT OF THE NEGLIGENT, GROSSLY NEGLIGENT AND/OR INTENTIONAL WRONGFUL ACT OF CONTRACTOR IN ITS/THEIR PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF THE JOINT OR CONCURRENT NEGLIGENCE OF CITY (COLLECTIVELY, "CLAIMS"). THIS INDEMNIFICATION PROVISION AND THE USE OF THE TERM "CLAIMS" IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT IS NOT LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION**

OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS' COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO DEFENSE OR INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND CONTRACTOR SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

THE RIGHTS AND OBLIGATIONS CREATED BY THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

9. Liability.

To the fullest extent permitted by law, Contractor shall be fully and solely responsible and liable for its own acts and omissions, including those of its officers, agents, representatives, employees, subcontractors, licensees, invitees and all other parties performing services for or on behalf of Contractor under this Agreement, and for any and all damage to Contractor's equipment and other property. City assumes no such responsibility or liability. City shall have no such responsibility or liability to either Contractor or its officers, agents, representatives, employees, subcontractors, licensees, invitees or other persons.

10. Compliance with Laws; Standard of Care.

Contractor shall comply with all federal, state and local laws, statutes, ordinances, regulations and policies, as of the date of this Agreement, applicable to Contractor and its work. Contractor shall ensure that its officers, agents, representatives, employees, subcontractors, licensees, invitees and other parties performing services for or on behalf of Contractor under this Agreement comply with all applicable laws, statutes, ordinances, regulations and policies. If Contractor observes or is notified that the work under this Agreement is at variance with applicable laws, statutes, ordinances, regulations and policies, Contractor shall immediately notify City in writing. Contractor shall perform the Services in accordance with the prevailing standard of care by exercising the skill and care ordinarily utilized by professionals performing the same or similar services under the same or similar circumstances in the State of Texas.

11. Termination.

City is entitled to terminate this Agreement at any time for any reason or for no reason by giving Contractor at least thirty (30) days' prior written notice of the termination date.

City is entitled to terminate this Agreement immediately on breach of any term or provision of the Agreement Documents by Contractor. If at any time during the term of

this Agreement, Contractor shall fail to commence the work in accordance with the provisions of the Agreement Documents or fail to diligently perform the Services in an efficient, timely and careful manner and in strict accordance with the provisions of the Agreement Documents, then City shall have the right to terminate this Agreement and complete the work in any manner it deems desirable, including engaging the services of other parties, if Contractor does not cure any such default after five (5) days written notice thereof. Any such act by City shall not be deemed a waiver of any other right or remedy of City.

If after exercising any remedy provided herein, the cost to City of the performance of the balance of the work under this Agreement is in excess of that part of the Contractor's Fee which has not yet been paid to Contractor hereunder, Contractor shall be liable for and shall reimburse City for such excess, without waiver of any other right or remedy of City.

The rights and remedies provided by this Agreement are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its rights to use any or all other remedies. These rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

12. Authority to Execute.

Each party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their respective parties as duly authorized representatives thereof.

13. Assignment.

Contractor agrees that neither this Agreement nor the work to be performed hereunder will be assigned or sublet without the prior written consent of City. Contractor further agrees that the assignment or subletting of any portion or feature of the work or materials required in the performance of this Agreement shall not relieve Contractor of its full obligations to City as provided by this Agreement. All such approved work performed by assignment or subletting shall be billed through Contractor, and there shall be no third-party billing.

14. No Waiver of Immunity.

The parties acknowledge and agree that, in executing and performing this Agreement, City has not waived, nor shall be deemed to have waived, any defense or immunity, including governmental, sovereign and official immunity, that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

15. Savings/Severability.

In the event that a term, condition or provision of this Agreement is determined to be invalid, illegal, void, unenforceable or unlawful by a court of competent jurisdiction, then

that term, condition or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect as if such invalid, illegal, void, unenforceable or unlawful provision had never been included in this Agreement.

16. Consideration.

This Agreement is executed by the parties without coercion or duress and for substantial consideration, the sufficiency of which is forever confessed.

17. Attorneys' Fees.

If either party files any action or brings any proceeding against the other arising from this Agreement, then as between City and Contractor, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable and necessary attorneys' fees and litigation expenses both at trial and on appeal, subject to the limitations set forth in the TEX. LOC. GOV'T CODE § 271.153, as it exists or may be amended, if applicable.

18. Governing Law; Venue.

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement, without regard to conflict of law principles. This Agreement is performable in Grayson County, Texas, and the exclusive venue for any action arising out of this Agreement shall be a court of appropriate jurisdiction in Grayson County, Texas.

19. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns when permitted by this Agreement.

20. No Waiver.

Waiver by either party of any breach of this Agreement, or the failure of either party to enforce any of the provisions of this Agreement, at any time, shall not in any way affect, limit, or waive such party's right thereafter to enforce and compel strict compliance.

21. Headings.

The headings of the various sections of this Agreement are included solely for convenience of reference and are not to be full or accurate descriptions of the content thereof.

22. Indemnity.

The parties agree that the indemnity provision set forth herein is conspicuous and the parties have read and understood the same.

23. Notice.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing the same in the United States Mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt

requested; by electronic mail, with documentation evidencing the addressee's receipt thereof; or by delivering the same in person to such party a via hand-delivery service, or to any courier service that provides a return receipt showing the date of actual delivery of the same to the addressee thereof. Notice given in accordance herewith shall be effective on receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Contractor, to: Veolia WTS Solutions USA, Inc.  
Attn: Craig Brown

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Telephone: 678-687-3393  
Email: [craig.brown@veolia.com](mailto:craig.brown@veolia.com)

If to City, to: City of Sherman  
Attn: Clint Philpott, P.E.  
220 W. Mulberry Street  
Sherman, Texas 75090  
Telephone: (903) 892-7203  
Email: [clintp@cityofsherman.com](mailto:clintp@cityofsherman.com)

With a copy to:

Abernathy, Roeder, Boyd & Hullett, P.C.  
Attn.: Ryan D. Pittman  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
Telephone: (214) 544-4000  
Email: [rpittman@abernathy-law.com](mailto:rpittman@abernathy-law.com)

24. Representations.

Each party states that they have carefully read this Agreement, know the contents hereof, have consulted with an attorney of their choice regarding the meaning and effect hereof and is signing the same solely of their own judgment.

25. Independent Contractor.

Contractor covenants and agrees that Contractor is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing the same; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor.

26. Incorporation of Recitals.

The representations, covenants and recitations set forth in the foregoing recitals of this Agreement are true and correct and are hereby incorporated into the body of this



Agreement and adopted as findings of City and the authorized representative of Contractor.

27. Reference to Contractor.

When referring to “Contractor” herein, this Agreement shall refer to and be binding upon Contractor, and its officers, directors, partners, employees, representatives, contractors, subcontractors, licensees, invitees, agents, successors, assignees (as authorized herein), vendors, grantees, trustees, legal representatives and/or any other third parties for whom Contractor is legally responsible.

28. Reference to City.

When referring to “City” herein, this Agreement shall refer to and be binding upon City, its Council Members, officers, agents, representatives, employees and/or any other authorized third parties for whom City is legally responsible.

29. Miscellaneous Drafting Provisions.

This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

30. Certifications Required by Texas Law.

In accordance with Chapter 2270 of the Texas Government Code (to the extent applicable), Contractor hereby certifies that Contractor does not boycott Israel and will not boycott Israel during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 809 of the Texas Government Code (to the extent applicable), Contractor hereby certifies that Contractor does not boycott energy companies and will not boycott energy companies during the term of any contract with City, including during the term of this Agreement. In accordance with Chapter 2274 of the Texas Government Code (to the extent applicable), Contractor hereby certifies that Contractor does 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 any contract with City, including during the term of this Agreement. The foregoing terms have the meanings ascribed to them in the referenced statutes if defined therein.

31. Multiple Counterparts.

This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed

by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date").

**CITY OF SHERMAN, TEXAS,**  
a home-rule municipality

By: \_\_\_\_\_  
Robby Hefton, City Manager

Date: \_\_\_\_\_

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Linda Ashby, City Clerk

\_\_\_\_\_  
Ryan D. Pittman, City Attorney

**VEOLIA WTS SOLUTIONS USA, INC.**  
a Texas corporation

By: Edana Essa  
Printed Name: Edana Essa  
Title: Contract Manager  
Date: June 27, 2023

**Exhibit A**  
**Proposal**

**Exhibit B**  
**City’s Insurance Requirements**

I. GENERAL INSURANCE REQUIREMENTS –

- A. All policies shall list the City of Sherman, its officers, agents, representatives and employees as additional insureds as to all applicable coverages with the exception of workers compensation insurance but only in respect of work performed by or on behalf of the named insured and only to the extent that the additional insured is held liable for the negligence or other culpability of Contractor. Coverage under Contractor's policy does not extend to liability arising out of the additional insured's own negligence.
- B. Such policies shall require the provision of written notice to City at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, evidenced by return receipt or United States Certified Mail.
- C. Such policies shall provide for a waiver of subrogation against City for injuries, including death, property damage or any other loss to the extent the same is covered by the proceeds of the insurance but only to the extent that the City is provided protection as an additional insured.

II. INSURANCE COMPANY QUALIFICATION – All insurance companies providing the required insurance shall be authorized to transact business in the State of Texas, and shall have a minimum rating of “A” by A.M. Best’s Key Rating Guide, or other equivalent rating service(s).

III. CERTIFICATE OF INSURANCE – A Certificate of Insurance and all applicable endorsement(s) evidencing the required insurance shall be submitted prior to commencing work under this Agreement. If the Agreement is renewed or extended by City, a Certificate of Insurance and all applicable endorsement(s) shall also be provided to City prior to the date the Agreement is renewed or extended.

IV. INSURANCE CHECKLIST – “X” means that the following coverage is required for this Agreement.

Coverage Required	Limits
<u>  X  </u> 1. Worker’s Compensation & Employer’s Liability	<ul style="list-style-type: none"> <li>▪ Statutory Limits of the State of Texas</li> </ul>
<u>  X  </u> 2. General Liability	<ul style="list-style-type: none"> <li>▪ \$5,000,000.00 each occurrence;</li> <li>▪ \$5,000,000.00 in the aggregate.</li> </ul>
— 3. XCU Coverage	<ul style="list-style-type: none"> <li>▪ \$1,000,000.00 each occurrence;</li> <li>▪ \$2,000,000.00 in the aggregate.</li> </ul>

- 
4. Professional Liability
- \$1,000,000.00 each claim;
  - \$2,000,000.00 in the aggregate.
- 
5. Umbrella Coverage or Excess Liability Coverage
- An amount of \$ 2,000,000.00.
- 
- X 6. City and its officers, agents, representatives and employees listed as additional insured on General Liability Policy, as provided above. This coverage is primary to all other coverage City may possess.
- X 7. General Liability Insurance provides for a Waiver of Subrogation against City for injuries, including death, property damage, or any other loss to the extent that same is covered by the proceeds of the insurance. All insurance policies that are required to list City as an additional insured must be endorsed to read as primary and non-contributory coverage regardless of the application of other insurance.
- X 8. Thirty (30) days' notice of cancellation, non-renewal, or material change required. The words "endeavor to" and "but failure" (to end of sentence) are to be eliminated from the Notice of Cancellation provision on standard ACORD certificates.
- X 9. Insurance company has a minimum rating of "A" by A.M. Best's Key Rating Guide, or other equivalent rating service(s).
- X 10. The Certificate of Insurance must state the project title.
11. Other Insurance Requirements (State Below):



**Exhibit C**  
**Affidavit of No Prohibited Interest**

THE STATE OF Virginia §

THE COUNTY OF Henrico §

I, EDANA ESSA, an authorized agent of Contractor, make this affidavit and hereby under oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision under this Agreement (Check all that apply):

- Ownership of ten percent (10%) or more of the voting shares of the business entity.
- Ownership of Twenty Five Thousand and 00/100 Dollars (\$25,000) or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent (10%) of my income for the previous year.
- Real property is involved, and I have an equitable or legal ownership with a fair market value of at least Twenty Five Thousand and 00/100 Dollars (\$25,000).
- A relative of mine has a substantial interest in the business entity or property that would be affected by my business decision of the public body which I am a member.
- Other: \_\_\_\_\_
- None of the Above.

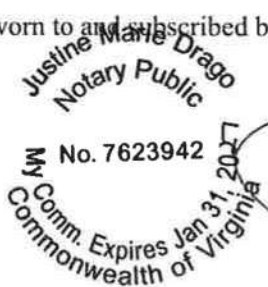
Upon filing this affidavit with the City of Sherman, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573, TEX. GOV'T CODE, as amended, is a member of a public body which took action on the agreement.

Signed this 27th day of June, 2023.

Edana Essa, Contract Manager  
Signature of Official/Title

BEFORE ME, the undersigned authority, this day personally appeared \_\_\_\_\_, and on oath stated that the facts hereinabove stated are true to the best of his/her knowledge or belief.

Sworn to and subscribed before me on this 27 day of June, 2023.



Justine Marie Drago  
Notary Public in and for the State of Virginia  
My commission expires: January 31, 2027

**Exhibit D**  
**Conflict of Interest Questionnaire, Form CIQ**

<b>CONFLICT OF INTEREST QUESTIONNAIRE</b>		<b>FORM CIQ</b>
<b>For vendor doing business with local governmental entity</b>		
<p><b>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</b></p> <p>This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</p> <p>By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	<b>OFFICE USE ONLY</b>	
		Date Received
<p><b>1 Name of vendor who has a business relationship with local governmental entity.</b></p> <p align="center">VEOLIA WTS SOLUTIONS USA, INC.</p>		
<p><b>2</b> <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)</p>		
<p><b>3 Name of local government officer about whom the information is being disclosed.</b></p> <p align="center">Jim Cross</p> <p align="center">_____ Name of Officer</p>		
<p><b>4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.</b></p> <p align="center">A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p align="center"><input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p> <p align="center">B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?</p> <p align="center"><input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No</p>		
<p><b>5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.</b></p> <p align="center">N/A</p>		
<p><b>6</b> <input type="checkbox"/> Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).</p>		
<p><b>7</b> <u>Edana Essa, Contract Manager</u></p> <p align="center">Signature of vendor doing business with the governmental entity</p>		<p><u>June 27, 2023</u></p> <p align="center">Date</p>





## EDR Stack Replacement Proposal

<b>To:</b>	City of Sherman referred to here as Buyer	<b>Date:</b>	June 27, 2023	
		<b>No. of Pages:</b>	25 including cover	
<b>Attention:</b>	Jim Cross	<b>Email:</b>	<a href="mailto:jimcross@cityofsherman.com">jimcross@cityofsherman.com</a>	
	Oscar Canales		<a href="mailto:oscarc@cityofsherman.com">oscarc@cityofsherman.com</a>	
	Jamie Weger		<a href="mailto:jamiew@cityofsherman.com">jamiew@cityofsherman.com</a>	
<b>Plant Address:</b>	243 La Cima Drive Sherman, TX 75090 US	<b>Telephone No.:</b>		
		<b>Cell No.:</b>		
		<b>Fax No.:</b>		
<b>From:</b>	Craig Brown Regional Lifecycle Manager Southeastern USA	<b>Email:</b>	<a href="mailto:craig.brown@veolia.com">craig.brown@veolia.com</a>	
		<b>Cell No.:</b>	678 687 3393	
<b>CC:</b>	Joseph Aldridge - Veolia			
<b>Subject:</b>	EDR stack replacement: material, on-site/ off-site support, and delivery	<b>Proposal No.:</b>	410285-2	
		<b>Original Project No.:</b>	A368	
<b>Plant Data:</b>	Please provide corrections if inaccurate City of Sherman EDR Water Treatment Plant, 4 units, 8 lines per unit, 3 stages per line. Units 1-3 have platinum electrode stacks installed; Unit 4 has carbon electrode stacks installed.			



## Proposal Provisos

This proposal has been issued based on the information provided by the customer and on information currently available to Veolia Water Technologies & Solutions at the time of proposal issuance. Any changes or discrepancies in site conditions, including but not limited to changes in system influent water characteristics, changes in environmental health and safety (EH&S) conditions, changes in the reissued state/provincial disposal system permit, changes in buyer financial standing, buyer requirements, or any other relevant change or discrepancy in the factual basis upon which this proposal was created may lead to changes in the offering, including but not limited to changes in pricing, guarantees, quoted specifications, or terms and conditions.

## Confidential and Proprietary Information

The enclosed materials are considered proprietary property of Veolia Water Technologies & Solutions (Veolia). No assignments, either implied or expressed, of intellectual property rights, data, know how, trade secrets or licenses of use thereof are given. All information is provided exclusively to the addressee and agents of the addressee for the purposes of evaluation and is not to be reproduced or divulged to other parties, nor used for manufacture or other means, without the express written consent of Veolia. The acceptance of this document will be construed as an acceptance of the foregoing.

## Trademarks

The following are trademarks of Veolia Water Technologies & Solutions and may be registered in one or more countries:

+100, ABMet, Absolute.Z, Absolute.Za, AccuSensor, AccuTrak, AccuTrak PLUS, ActNow, Acufeed, ALGAECAP, AmmCycle, Apogee, APPLICATIONS ATLAS, AquaFloc, AquaMax, Aquamite, Aquaplex, AquaSel, Aquatrex, Argo Analyzer, AutoSDI, BENCHMARK, Betz, BetzDearborn, BEV Rite, BioHealth, BioMate, BioPlus, BIOSCAN, Bio-Trol, Butaclean, Certified Plus, CheckPoint, ChemFeed, ChemSensor, ChemSure, CHEX, CleanBlade, CLOROMAT, CoalPlus, COMP-METER, COMP-RATE, COMS (Crude Overhead Monitoring System), Continuum, CopperTrol, CorrShield, CorTrol, Custom Clean, Custom Flo, Cyto3, DataGuard, DataPlus, DataPro, De:Odor, DELTAFLOW, DEOX, DeposiTrol, Desal, Dianodic, Dimetallic, Dispatch Restore, Durasan, DuraSlick, Durasolv, Duratherm, DusTreat, E-Cell, E-Cellerator, ELECTROMAT, Embreak, EndCor, EXACT, FACT-FINDER, Feedwater First, Ferrameen, Ferroquest, FilterMate, Fleet View, FloGard, Flotrex, Flotronics, FoamTrol, FoodPro, Fore4Sight, ForeSight, FRONTIER, FS CLEAN FLOW, FuelSolV, Full-Fit, G.T.M., GenGard, GEWaterSource, Glegg, Heat-Rate Pro, High Flow Z, HPC, HPD Process, HyperSpense, Hypure, Hytrex, InfoCalc, InfoScan, InfoTrac, InnovOx, InSight, IONICS, IONICS EDR 2020, IPER (Integrated Pump & Energy Recovery), iService, ISR (Integrated Solutions for Refining), JelClear, KlarAid, Kleen, LayUp, Leak Trac, Leakwise, LEAPmbr, LEAPprimary, Learning Source, LOGIX, LoSALT, M-PAK, MACCarrier, Mace, Max-Amine, MegaFlo, Membrex, MemChem, Memtrex, MerCURxE, MetClear, MiniWizard, MK-3, MOBILEFLOW, MobileRO, Modular Pro, ModuleTrac, MonitAll, Monitor, Monitor Plus, Monsal, MP-MBR, MULTIFLOW, Muni.Z, NEWater, NGC (Next Generation Cassette), Novus, NTBC (Non Thermal Brine Concentrator), OptiGuard, OptiSpense, OptiTherm, Osmo, Osmo PRO, Osmo Titan, Osmonics, Pacesetter, PaceSetter, Petroflo, Petromeen, pHlimPLUS, PICOPORE, PlantGuard, PolyFloc, PowerTreat, Predator, PRO E-Cell, Pro Elite, ProCare, Procera, ProChem, Proof Not Promises, ProPAK, ProShield, ProSolv, ProSweet, Purtrex, QSO (Quality System Optimization), QuickShip, RCC, RE:Sep, Rec-Oil, Recurrent, RediFeed, ReNEW, Renewell, Return on Environment, RMS (Rackless Modular System), ROSave.Z, SalesEdge, ScaleTrol, SeaPAK, SeaPRO, SeaSMART, Seasoft, SeaTECH, Selex, Sencicore, Sentinel, Sepa, Sevenbore, Shield, SIDTECH, SIEVERS, SmartScan, SoliSep, SolSet, Solus, Spec-Aid, Spectrus, SPLASH, Steamate, SteriSafe, Styrex, SUCROSOFT, SUCROTEST, Super Westchar, SuperStar, TFM (Thin Film Membrane), Therminator, Thermoflo, Titan RO, TLC, Tonkaflo, Travelab, Trend, TruAir, TrueSense, TurboFlo, Turboline, Ultrafilic, UsedtoUseful, Vape-Sorber, VeriFeed, VersaFlo, Versamate, VICI (Virtual Intelligent Communication Interface), V-Star, WasteWizard, WATER FOR THE WORLD, Water Island, Water-Energy Nexus Game, WaterGenie, WaterNODE, WaterNOW, WaterPOINT, WellPro.Z, XPlat, YieldUp, Z-BOX, Z-MOD, Z-PAK, Z-POD, ZCore, ZeeBlok, ZeeLung, ZeeWeed, ZENON, and Z.Plex.



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# 1 Introduction

Veolia Water Technologies & Solutions is pleased to present this proposal at the request of the City of Sherman to provide 96 x EDR stacks at the City of Sherman EDR WTP.

Veolia is a proven leader in delivering tangible value to our clients over the life of the plant. Our measure of success is how well we deliver **solutions** that help our clients meet their critical business objectives.

Through long-acquired technical experience, Veolia has clearly distinguished itself from other membrane manufacturers. A mature service culture and deep technical expertise are ready to serve and support the City of Sherman through this next upgrade.



## 2 Veolia Scope & Price

Veolia's scope includes the material and services outlined in the table below. The sections that follow provide additional detail regarding each scope item.

Item Description	Part #	Quantity	Price
EDR-stack, MK4, 650CP, 1/1, 204E/67E, PT, CL	3066590-CL	96	5,532,370
3-year full replacement EDR-stack warranty, section 7		incl.	
EDR start-up parts:			
- temporary strainers	3019006	64	
- gaskets	1113811	64	
Hardware for remote connectivity		incl.	
EDR stack connection hoses, hose barbs, flanges, tubing- shipped loose and assembled on site		lot	
Spare rectifiers	3011196	5	
Off-site support, project management and engineering support, section 3.1		incl.	57,820
International shipment, fees, and duties, section 4		incl.	
Freight, DDP project site, section 4	3095534	incl.	
<b>Material, off-site labor, delivery</b>		<b>Sub-total</b>	<b>5,590,190</b>
On-site support, 1xFSR on-site for 25x8-hr days plus travel & living, section 3.2	135491	3 visits	54,600
<b>On-site support</b>		<b>Sub-total</b>	<b>54,600</b>
<b>All figures are in USD and exclude taxes, which will be applied at the time of invoicing. Please make purchase order to Veolia WTS Solutions USA, Inc.</b>		<b>Total Price</b>	<b>5,644,790</b>

### Proposal Notes:

- Any off-site or on-site time in addition to the planned duration and scope set forth, or any waiting times due to unforeseen site events, will be invoiced according to the prevailing Veolia service labor rates sheet - available upon request.
- Veolia would like to note that under the current exceptional circumstances across global supply chains and logistics networks, Veolia may not be in a position to guarantee and comply with the planned schedule for product / project delivery or



performance. Veolia reserves the right to modify the schedule / contract accordingly. Veolia will promptly inform you of any changes which may impact the contract or the project.

- **Price Review.** Notwithstanding the terms set forth herein or of any agreement or acceptance of Seller's quotation, Seller reserves the right at any time and from time to time by notice in writing to the Buyer to (a) determine periodic price reviews based on Goods' raw material increase arising from currency devaluations (b) increase Prices (or impose temporary price adjustments) based on increases in the cost of base components for the Goods or Services provided, where the increase is due to increased global demand, limited supply, temporary product shortages, allocation of supply, or such other similar inflationary pressures; and (c) impose a surcharge equal to any increase in the cost of the Goods or Services as a result of a modification of exchange rates, duties, taxes or other levies imposed by public authorities.
- Veolia's proposed price for EDR stacks is subject to adjustment between the period from the expiry of the proposal validity up to shipment of equipment according to upward changes in the following index:
  - 100%: US consumer price index - all urban consumers: [LINK to index](#)

In the event that this index becomes unavailable, a suitable equivalent replacement index will be agreed between the parties. The buyer has the right to request that the supplier supports any price increase with market pricing data, within the bounds of commercial confidentiality.
- **Shipment/Collection Delays:** The equipment sale will be subject to price adjustment if not collected within 1 month of Readiness for Shipment. After the one month of Readiness for Shipment if Purchaser does not send his agreement to receive or collect the equipment (depending on Incoterms), Seller is entitled to reallocate the equipment to another customer.



Invoicing Schedule	Approximate % of Sub-Total	Total Invoice Value, Excluding Tax
An invoice will be issued upon acceptance by Veolia of customer purchase order. Approximate percent calculation based on the <b>material, off-site labor, delivery sub-total</b> of the purchase order. Shipment of equipment is contingent on receipt of this initial milestone payment.	20%	1,118,038
An invoice for the balance of the <b>material, off-site labor, delivery sub-total</b> will be issued when equipment shipping documents are supplied to the carrier. This milestone will be invoiced per unit of stacks shipped (24 stacks).	20% each shipment	1,118,038 x4 shipments =4,472,152
A final invoice for the <b>on-site support sub-total</b> will be issued upon completion of installation.	100%	54,600
		<b>5,644,790</b>

### 3 Veolia Support

#### 3.1 Off-Site Support

##### Documentation

The base level of documentation updates will include:

- Field/hand markups of relevant P&ID drawings limited to the scope included in this proposal;
- Updated general arrangement drawings for new stacks- issued electronically.

These updates should be filed in the O&M manual as interim documentation.

##### Project Management

Provide planning and off-site assistance during the EDR stack replacement project, including guidance to the City of Sherman and/or their third-party designate on aspects related to the PLC and instrumentation upgrade.

#### 3.2 On-Site Technical Advisory Services

This proposal includes a provision for technical advisory services during installation and commissioning process to support the City of Sherman's staff as outlined in section 2. Veolia will provide 1 FSR on-site for 25x8-hr days on-site over the course of three separate visits. On-site support may include training session(s) for operator and maintenance personal, commissioning support, and equipment start-up.



This total time frame assumes no weekends or holidays are required and is based on an eight-hour workday and is an estimate of time needed to complete the mentioned tasks and does not constitute a guaranteed number of service days should the tasks take less or more time than estimated. Travel time to and from the job site for Veolia field service personnel is included in this estimate. Travel/living (T&L) expenses are also included where the field service representative is based within the country or region. To ensure personnel availability, Veolia requires a minimum of two weeks' advance notice to schedule equipment start-ups.

**Operating Responsibility** - City of Sherman retains control of the work site and retains final responsibility for the installation and commissioning process.

Veolia will perform the services specified in the scope section of this document, but Veolia will not operate the system. For the purposes of this agreement, the term “operate the system” shall mean to run or control the functioning of the equipment or to otherwise conduct or manage the affairs of any aspect of water or wastewater treatment or other functions at City of Sherman’s site, and shall include functions such as providing operators or laborers to adjust or control water treatment (“WT”) equipment, wastewater treatment (“WWT”) equipment or sludge management facilities (“SMF”), providing program oversight or directing on-site or contract operators/laborers to adjust or control WWT or SMF, providing personnel responsible for or providing oversight of water treatment residual quality, wastewater effluent quality, sludge quality, waste characterization, or waste disposal activities, or providing personnel with continual or daily operational responsibilities with respect to water or wastewater treatment, influent or effluent compliance monitoring, process monitoring, government reporting or notification, or permit compliance.

**Reporting** - Before leaving site, Veolia will record observations and discuss with operators concerning the condition of the equipment, tasks accomplished during the visit, and key operating and maintenance issues requiring further attention. Veolia will provide a copy of a written report before leaving site and/or provide a service visit report to the plant operator within a reasonable timeframe of the Veolia service representative’s return to the office. In any case, City of Sherman will be asked to sign a work order that describes the hours on site and tasks accomplished.

#### **Veolia Duties for On-Site Services**

- Veolia will coordinate its work under this agreement in a reasonable manner with the operating staff of the facility.
- Veolia will maintain public liability and property damage insurance covering all operations undertaken by Veolia and its sub-contractors with a limit of \$5,000,000 inclusive for any one accident or occurrence. If for any reason additional insurance coverage (e.g. general construction/erection all risk, general liability) is required above and beyond Veolia’s standard insurance terms for on-site commissioning supervision, City of Sherman must inform Veolia in writing 60 days prior to work commencement at site. ~~City of Sherman will be billed for all additional insurance costs and processing fees.~~





- Veolia will maintain workers compensation and employers' liability coverage as per statutory requirements.

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## 4 Delivery

- **Freight**
  - **DDP** - Delivery will be by standard ground on the basis of DDP City of Sherman EDR facility, Sherman Texas or other named place of destination; Incoterms 2020. DDP = delivery duty paid. Partial shipments will be acceptable unless otherwise specified. Where delivery cannot be accepted at this destination, the City of Sherman shall specify an alternate, equivalent destination without delay.

Due to varying origins and availability, ancillary equipment included in this proposal may be shipped separately from the EDR stacks. Should separate shipments be required, where possible, Veolia will strive to provide these items on or before the delivery of the EDR stacks.
  - **Title & Risk** - Title and risk of loss or damage to EDR stacks, ancillary equipment and crating shall pass to City of Sherman upon delivery at the named place of destination.
- **International Shipment, Fees, and Duties**
  - **Origin** - Delivery of EDR stacks originates from the Veolia Water Technologies & Solutions, Guelph, ON, Canada facility.
  - **MPF** - Merchandise processing fee is a fee assessed for formal custom entries based on 0.35% of the invoice value, with a minimum of USD \$25 per formal entry and a maximum of USD \$485. On the basis of DDP terms, this fee will be paid by Veolia within the quoted price.
  - **Duty** – Any new duty imposed after the date of this proposal is the responsibility of the City of Sherman.
  - **Taxes** - All applicable local, state, or federal taxes are the responsibility of the City of Sherman.
  - **Temperature** – EDR stacks cannot be allowed to freeze or overheat and may require temperature-controlled freight and handling according to the season and the planned routing. The price of temperature control is included within the firm quote on freight by Veolia.
  - **Unloading** - may require one of or a combination of a loading dock, extended forks and an experienced forklift driver at delivery destination. Please consult with Veolia at the time of purchase order (PO) preparation on this.



- **Availability** – Delivery of EDR stacks is estimated at **28-30** weeks after receipt of order. Definitive availability and delivery schedule will be confirmed once a purchase order is received from City of Sherman and acknowledgement of a purchase order is issued by Veolia.

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## 5 Scope - City of Sherman

All delivery or services not specified in the Veolia scope of supply are included in the Buyer scope of supply. It is the responsibility of the Buyer to remove and dispose of existing stacks, to move new stacks into place, to disconnect/reconnect all mechanical and electrical stack connections and make all frame and connection modifications as required to fit the replacement stacks.

In addition, the following scope of work is to be completed by Buyer as part of this EDR replacement project.

- This EDR stack replacement requires an upgrade for programming changes. Without the purchase of the controls adder, all required changes will be completed by City of Sherman, or their third-party designate, and have not been included within Veolia's scope of supply. Veolia will provide guidance to the City of Sherman and/or their third-party contractor on aspects related to the PLC and instrumentation upgrade.
- Inspection of all stack wiring to ensure solid connections and no corrosion.
- Wire wheel or sandblast any areas of corrosion on skid, supports etc. and repaint. Repair corroded piping supports.
- Repair any damaged stack area piping and fittings.
- Replace instrumentation and stack ground wires. Verify all equipment grounds and process stream grounds are cleaned and have good earth ground connections.

### 5.1 Safety and Environmental

Please refer to section 6.

### 5.2 Jobsite and Equipment Installation

- Review of Seller supplied equipment drawings and specifications.
- Stamping, signing, or sealing of general drawings as per Federal, State, or local regulations or codes.
- All applicable civil design and works, including any building, site preparation, grading, excavations, foundations and trenches, and accessories.



- All electrical labor and supplies leading up to jobsite, including fittings, conduit, supports, cable trays, wire and hardware, and air-conditioned panels as required for installation and ongoing operations.
- All labor and supplies leading up to jobsite, including fittings, conduit, supports, cable trays, wire and hardware required to appropriately ground / earth the equipment as required for installation and ongoing operations.
- All mechanical labor and supplies leading up to the jobsite including interconnecting piping, heat tracing (if required), fittings, conduit, pipe supports, and hardware as required for installation and ongoing operations.
- All instrumentation and automatic pneumatic valve installation including, but not limited to, air / sample line tubing, fittings, wiring, conduit, supports, isolating valves leading up to jobsite and between Veolia-supplied skids and hardware as required for installation and ongoing operations.
- Loading, unloading and transportation of the equipment and materials required for Veolia to perform the duties outlined in the Veolia scope of supply to the jobsite and/or warehouse.
- All access structures (scaffolding) and mechanical lifting equipment (cranes, forklifts, and scissor lifts).
- Providing a suitable site/shelter for the placement of the proposed equipment, either inside appropriate housing, or outdoors, taking into account the local and seasonal climatic conditions. Note: electrical and controls equipment, including the PLC, may require air-conditioned rooms or enclosure to prevent overheating of sensitive electronic equipment or damage to LCD screens and care should be taken to shield or locate control cables away from high power cables to prevent interference.
- Storage of EDR stacks on site. These must be stored in a sheltered area, protected from freezing, direct sunlight or extreme heat, and sealed as shipped until ready for use. Storage should be in a dark, dry, level area, out of direct sunlight, and at a temperature of 5-30°C (39-86°F). It is recommended that the stacks not be stored longer than necessary prior to installation. Coordinate with Veolia for appropriate shipment times. Maximum storage duration of a stack is 3 months from the date of shipment. If these timescales are exceeded Veolia can provide instruction to extend the storage period.
- Equipment anchor bolts.
- Any on-site painting or touch-up painting of equipment supplied.
- Disposal of membrane preservative.
- Disposal of all retired EDR stacks and disposal of shipping and packaging materials unless specifically requested not to do so by Veolia.



### 5.2.1 Start-up and Commissioning

- Installation and removal of temporary screens on all process lines entering the EDR stacks.
- Verification of removal of all residual debris from construction.
- City of Sherman will grant Veolia personnel full and immediate access to the equipment and will make lubricants chemicals, plus specialized chemical handling equipment, water, lighting, electrical and laboratory services available
- Commissioning.
- Equipment and device tagging.
- Any required chemicals, sanitization / disinfection required to pass bacteria test.
- All water sampling, testing and submitting to labs or local regulators for verification and certification is the responsibility of City of Sherman.
- City of Sherman will arrange that plant personnel are available to collaborate with the Veolia service representative for the full duration of the site visits.
- City of Sherman will keep a copy of the operating manual, all process and instrumentation drawings, and all electrical drawings on site and accessible for reference.

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## 6 Health & Safety

### City of Sherman

- City of Sherman will provide orientation to Seller's personnel to ensure site-specific safety protocols are known. City of Sherman will identify and inform Seller's personnel of any site-specific hazards present in the workplace that could impact the delivery of Seller's scope of supply and agrees to work with Seller to remove, monitor, and control the hazards to a practical level.
- City of Sherman will provide any site-specific or standard company operating procedures and practices for Seller's personnel to perform work on site, if required by City of Sherman's policies. Such programs may include, but are not limited to, general environmental health & safety (EHS), HAZOP, fire protection, drug testing, incident notice, site conduct, standard first aid, chemical receiving, electrical safety, etc. City of Sherman will provide a certificate of program completion for Seller's personnel. This program will be fully documented, training materials will be provided, and attendance list will be kept.
- If any type of lifting devices will be used on site, City of Sherman will provide proof of its maintenance, inspection and certification documentation upon request and will assist the Veolia service representative to complete a safety inspection checklist.



- Where confined space entry may be required, City of Sherman will provide early notice and will collaborate with Veolia in planning adequate staffing and in advising the local fire/rescue department as required.
- No time or cost provision has been made for preparations such as safety record clearances, drug testing, insurance confirmations or pre-job-training in excess of 1 hour. Prior to finalizing the Purchase Order and the work schedule, City of Sherman will advise Veolia of any pre-job or pre-mobilization requirements. Where these requirements exceed 1 hour, this time will be charged to City of Sherman at rates set out in the prevailing Veolia labor rate sheet.
- Where certain short duration activities require two people for safety and the Veolia Service representative is alone at site, City of Sherman will cooperate as required to assure that correct safety precautions are taken.
- City of Sherman is responsible for the following environmental provisions:
  - Environmental use and discharge permits for all chemicals at City of Sherman's facility either listed in this document or proposed for use at a later date;
  - Any special permits required for Seller's or City of Sherman's employees to perform work related to the water treatment system at the facility;
  - All site testing, including soil, ground and surface water, air emissions, etc.;
  - Disposal of all solid and liquid waste from the Seller's system including waste materials generated during construction, start up and operation.
- City of Sherman is responsible for provision of health and safety facilities to Seller's field service representatives to the same extent that they are provided to City of Sherman's own employees, including provision of:
  - Eyewash and safety showers in the water treatment area;
  - Chemical spill response;
  - Security and fire protection systems per local codes.

#### **Veolia**

- All work on site will be performed in accordance with applicable law and will be performed reasonably, in a clean and safe manner. The Veolia service representative will abide by the more stringent of the applicable health, safety and environmental policies and procedures of either City of Sherman or Veolia.
- Veolia will provide all applicable safety training required by Veolia policies or by state or national health and safety regulations. The Veolia service representative will have undergone workplace hazardous material information system (WHMIS) training and will come equipped with necessary personal protective equipment (PPE).



- Emergencies - In emergencies affecting the safety of persons, work or property at the site and adjacent thereto, Veolia will act, without previous instructions from City of Sherman, as the situation warrants. Veolia will notify City of Sherman immediately thereafter.

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## 7 Seller's Warranty - Electrodialysis Reversal (EDR) Cation & Anion Membranes

### Water Treatment Applications

This schedule sets out the warranty with respect to Electrodialysis Reversal (EDR) cation and anion membranes for water applications. No other warranties, expressed or implied, are made in connection with the sale of these products, including, without limitation, warranties as to fitness for any particular purpose or use or merchantability of these products. The warranty provided herein will be the exclusive and sole remedy of the Buyer, and in no event will the Seller be liable for any special, direct, indirect or consequential damages, including, without limitation, loss of profits.

#### 1 Product

This warranty applies to only the EDR Cation and Anion membranes supplied within the EDR stack under the Contract of Sale for water applications. EDR "Stack" means a complete EDR membrane stack. EDR "Membrane" means either the cation and anion membranes within the EDR Stack. This warranty does not cover mechanical items such as:

- EDR spacer within the EDR stack (electrode and/or intermembrane)
- Electrode, Heavy Cation Membranes and end block
- Piping to and from the EDR Stack, piping connection fittings
- Connecting hardware and skids with their associated components including but not limited to valves, instrumentation, and hardware.
- Components not specifically mentioned.

Identification: EDR Stacks are shipped by the Seller with a serial number which confirms their place in the cohort set of EDR Stacks covered by this EDR Membrane warranty.

#### 2 Scope of Warranty

The Seller warrants its EDR Membranes for a period of 3 years prorated per warranty start date in section 5 for water applications.

Regular EDR Stack inspection and normal membrane replacement (10% cumulative replacement of the total number of membranes per year) shall be the responsibility of the Buyer.

All replacement EDR Stacks, Membrane or Spacers will be shipped on the basis of INCOTERMS 2020 FCA Veolia Manufacturing facility. A purchase order is required to execute the warranty terms based on the following calculations.

**Prorated Replacement** – Prorated Replacement means that in the case of a valid warranty claim for an EDR membrane replacement due to failure the Buyer pays for actual use from which the Buyer has derived value over time. Prorated Replacement allows the Seller to pay reasonable compensation under warranty for any product use not enjoyed by the Buyer due to premature replacement. At the discretion of the Seller, the Buyer receives a replacement Membrane and pays for the prorated value for the use of the Membranes prior to replacement. The Buyer will fund the first 10% annual cumulative membrane replacements as calculated based on the total number of membranes in the plant. This is calculated by comparing the number of annual



replacements needed over the total number of membranes in the plant as shown in the following formula. These membranes are to be purchased at the replacement price, and the annual cycle is calculated from the warranty start date.

customer annual maintenance replacement	=	$\frac{\text{number of replacements in annual cycle}}{\text{total number of anion and cation membranes in the plant}}$
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Replacement price of each membrane required above the 10% will be pro-rated based on life used as calculated by the following formula:

customer prorated share of replacement	=	$\frac{\text{number of whole months elapsed between the replacement date \& the warranty start date}}{\text{total warranty term/duration in months}}$	x	replacement price
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**Excluded** - All ancillary costs are the responsibility of the Buyer including but not limited to boxing, crating, freight, freight insurance, applicable taxes, import duties, brokerage, receiving, forklift services, EDR Stack breakdown or build up, storage at site, re-attachment hardware, hose/clamp/camlock replacement, crane services, installation, glycerin flushing, and commissioning and waste disposal.

### 3 Obligation of Buyer

- a. The design feed water flow and quality shown in the final and firm proposal are maintained by the operator/end user at all times with no exception, during the validity period of the guarantee.
- b. Most operate and maintain the system in accordance with directions in the O&M manual provided with the system

### 4 Warranty Start Date

This warranty will start on the earlier of:

- a. The date that installation of the original EDR Stack(s) has been substantially completed, or
- b. Six months from the date of shipment of the original EDR Stack(s) to the Buyer

### 5 Warranty Duration

**Total EDR membrane warranty duration:** a total of **36 months**

Replacement EDR membranes are covered by the warranty only to the extent of the warranty of the original membranes which have been replaced. At all events, this warranty shall expire and be of no force or effect **36 months** following the Warranty Start Date.

### 6 Notification of Claim

All claims filed under this warranty shall be made in writing by the Buyer within 30 days of identifying a defect through Veolia WTS Return Goods Authorization (RGA) procedure.

The Buyer shall provide the following information:

- a. A description of the defect giving rise to the claim;
- b. Photographs showing the manufacturing defect;
- c. The serial number(s) of the EDR Stack(s) which is (are) the subject of the warranty claim; and
- d. Operating data and repair history for the life of the EDR Stack(s) which are the subject of a warranty claim.

### 7 Verification of Claim

After receipt of written notification of a defect, the Seller will promptly undertake such investigations as, in the Seller's opinion, are necessary to verify whether a defect exists. The Seller reserves the right to require additional data as necessary to validate claims.



The Buyer may, in the course of these investigations, be requested to return Membrane(s) and/or Spacer(s) to the Seller for examination. The Seller may also conduct reasonable tests and inspections at the Buyer's plant or premises. **If the results of the investigation do not validate the defect claimed, the Buyer will reimburse the Seller for all reasonable expenses associated with said investigation, including expenses for all tests, inspections, and associated travel.**

## 8 Satisfaction of Claims

The Seller will have the right to satisfy claims under this warranty in a flexible manner. Such flexibility may include the repair of existing EDR Stacks or changes in operating protocols or other stack component replacement or by upgrading failed EDR Stack(s) with newer EDR Stack(s) that may embody design and efficiency improvements. The Buyer consents to the supply of replacement EDR Stacks which may be of a different design than original EDR Stacks.

The warranty provided herein is limited to the repair or replacement of the damaged membrane and will be the exclusive and sole remedy of the Seller. In no event will the Seller be liable for any special, direct, indirect or consequential damages, including, without limitation, liquidated damages or loss of profits.

## 9 Operating Information

To maintain the EDR membrane warranty, daily EDR system operation records and logs from initial start-up date until claim, must be maintained by the Buyer and made available to the Seller upon request. Records and logs of both the EDR system as well as access to records and logs of any or all non-Veolia WTS equipment/processes that could impact the plant must be provided in sufficient detail to verify uninterrupted compliance with the Seller's Operations and Maintenance Manual prepared by the Seller and supplied to the Buyer as part of the Contract. At a minimum, operation data must include information on feedwater quality, temperatures, flows, stage voltage and amperage, permeate quality, cleaning intervals, cleaning chemical concentrations, elapsed time since start-up, relevant analytical data and reporting of any upset events. "In the event that the operator/end user fails to keep all minimal information required by Veolia WTS, such as data sheets filled daily, the performance guarantee will be voided."

The Buyer shall maintain and share access to a single reference copy in electronic form of a EDR Stack map containing the history of activity by EDR Stack and membrane/spacer replacement. The Buyer shall log its procedures performed related to an EDR Stack including relocation of EDR Stacks, repairs, membrane/spacer or other stack component replacements and any other noteworthy events.

The Buyer authorizes the Seller to conduct any reasonable review of operation and maintenance records or to inspect facilities where EDR Stacks are installed, upon reasonable notice to the Buyer. Such reviews and/or inspections are intended to also assist the Seller and the Buyer in detection of membrane system faults and to optimize the care and operation of the EDR system(s).

## 10 Membrane Replacement Price

A standard EDR Component Price List is available and typically updated on an annual basis.

## 11 Limitation of Warranties

Occurrence of any of the following as reasonably determined by the Seller will void this warranty:

- a. A material failure to operate the EDR system in accordance with Seller's Operations and Maintenance Manual supplied to the Buyer as part of the Contract, including material failure to adhere to the Seller's specified EDR stack cleaning procedures and the use of anything other than Seller-approved EDR stack cleaning agents and operating chemicals.
- b. Failure to adhere to the preventive maintenance program as presented in the Seller's Operations and Maintenance Manual.
- c. Failure to ensure correct operation and/or functioning of the pretreatment equipment.
- d. Introduction of destructive foreign materials into the EDR stacks. Destructive foreign materials may include natural or human-made materials that are introduced into the EDR system originating from construction and maintenance activities or from inadequate. Sand and other materials that are naturally present in the influent will not be considered destructive foreign materials.





- e. Failure to install and maintain operating data acquisition and electronic data transmission functions at the plant, if available.
- f. Physical abuse or misuse, incorrect removal or installation of EDR Stacks by non-Seller personnel including membrane damage caused by operator error in handling of EDR Stacks or membranes and spacers.
- g. Unauthorized alteration of any components or parts originally supplied by the Seller.
- h. Intentional damage.
- i. Failure by the operator to operate and maintain the equipment as per instructions issued by the Seller in the Proposal, other contractual agreements between Buyer and Seller, and in the Operation and Maintenance manuals or under subsequent revisions of Operation and Maintenance manual that may be made later by the Seller, if system operating conditions change.
- j. Feeding water which violates any of the feed water limits provided in this proposal.

**12 Return Procedure**

In the event that the return of an EDR stack(s) or membrane(s) is/are required pursuant to this warranty, the Buyer will first obtain a Return Goods Authorization (RGA) number from the Seller. EDR stack(s) or membranes/spacers shipped to the Seller for warranty examination must be shipped freight prepaid. If the Buyer desires temporary replacement EDR stack(s) or membranes/spacers to replace those alleged to be defective and returned to the Seller for warranty examination, the Buyer shall be responsible for the cost associated with any such replacements until examination of the returned EDR Stacks or membranes/spacers pursuant to this warranty is complete. Any EDR Stack or membrane examined by Seller as part of a warranty claim where the EDR Stack, membrane or spacer is subsequently found to be performing as warranted or where an EDR stack, membrane or spacer failure is not covered under the warranty can, if requested, be returned to the Buyer, freight collect.

# 8 Terms and Conditions of Sale

**A - Specific Terms and Conditions of Sale**

These terms take precedence over the general terms and conditions of sale.

**1 Legal Entity for Contracting**

**Veolia WTS Solutions USA, Inc.** is the name of the Seller, and means a business component of, or legal entity within the Veolia Water Technologies & Solutions business (Veolia).

Please advise us if this Veolia entity is not set up in your purchasing system as a vendor and you do have another Veolia entity set up. We are keen to make the purchase process as convenient as possible for City of Sherman.

**short form:** Where a short reference is required in this document, for convenience, we are called simply **Veolia**.

**2 Payment**

Veolia prefers to receive payment by wire transfer and will also accept payment by courier check.

<b>Wire transfer information for Veolia WTS Solutions USA, Inc.</b>	
send details to: SHD WATS REMIT-NAM <a href="mailto:vtc.vwts.remit-nam.all@veolia.com">vtc.vwts.remit-nam.all@veolia.com</a>	
Deutsche Bank Trust Company Americas C/O Veolia WTS Solutions USA, Inc. 60 Wall St New York, NY 10005 USA	Account # 50272952 SWIFT # BKTRUS33 ABA # 021001033



### 3 Payment Terms

On approved credit, payment terms are net 30 days from customer receipt of invoice. Please see the invoicing schedule in the price section. In the event an invoice is issued on shipment of goods from a Veolia Hungarian production facility, payment terms will be extended by an additional 45 days to account for the additional transit time to the delivery location.

### 4 Proposal Validity

Prices quoted and proposal terms are valid up to thirty (30) days after the date of issue of this proposal unless confirmed with a purchase order.

### 5 Bonds

Performance or payment bonds are not included in the price. These bonds can be purchased on request but will be at an additional cost.

party.

### 6 Flight Booking

Prices quoted for installation which include airfare are either based on timely confirmation of a visit schedule or based on receipt of a purchase order in time to book any flights seven days in advance. Additional airfare charges related to late arrival of a purchase order will be extra and billed through to City of Sherman without mark-up.

### 7 Purchase Order Guidelines

Please confirm that your purchase order has covered the following points. This will ensure accurate and prompt order entry, product delivery, invoicing and accounts receivables processing and will prevent administrative delays for all parties.

- **Documentation** – Our strong preference is to receive a hard or digital copy of your purchase order (PO) rather than a PO number alone. Your PO can be sent by email to [nam.service.pocentral@veolia.com](mailto:nam.service.pocentral@veolia.com). If you are not able to provide a PO, please contact us for alternatives.
- **Veolia legal entity** – Please be sure your purchase order is issued in the name of the specific Veolia legal entity outlined in the quote. We will be glad to work with your purchasing department to set this entity up as an approved supplier/vendor. Please advise us if this Veolia entity is not set up in your purchasing system as a vendor and you do have another Veolia entity set up.
- **Quotation Number** – Please reference the quotation number in your PO.
- **Product** – Please note which product(s) you wish to purchase along with the quoted price, particularly if quantities or scope differ from the quotation.
- **Taxes** – Please provide any required tax exemption certificates. Please indicate if taxes have been added in your PO.
- **Payment Terms** – Please acknowledge the payment terms included with the quotation.
- **Bill-to Address** – Please include contact information for your accounts payable.
- **Ship-to Address** – Please clearly define the delivery location and the receiver's email & telephone. Please specify receiving hours and any special off-loading requirements.
- **Delivery Date** – Please include your requested delivery date.

### B – General Terms and Conditions of Sale

Veolia's standard terms and conditions apply. See Attachment A.

Note to purchasing agent: The Veolia's standard set of commercial terms & conditions are written for moderate value transactions to allow an efficient and rapid provision of services and parts. Where corporate agreement terms have been previously agreed, these



may be brought forward by either party and applied by mutual consent. If either of these terms sets are not immediately acceptable, please expect a typical 6-10 week cycle of mutual review to build agreement on changes.

## 9 Signed Agreement

Through the issue of this proposal, Veolia signals their intent to enter into an agreement with City of Sherman. City of Sherman and Veolia acknowledge that they have read and understood this agreement and agree to be bound by the terms and conditions specified in it.

**Offered by Legal Entity:** Veolia WTS Solutions USA, Inc., also known as Veolia or Seller

**Accepted by Legal Entity:** City of Sherman also known as Buyer

**Authorized Signature by:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature Date:** \_\_\_\_\_

**Signature:** x \_\_\_\_\_

**Purchase Order No:** \_\_\_\_\_

Upon acceptance of this proposal, please forward the following either

• by email with .pdf attachments or • by postal mail or • by fax.

1) this signature page completed

to:

2) a hard copy of your purchase order, and

3) any required tax exemption certificates

[nam.service.pocentral@veolia.com](mailto:nam.service.pocentral@veolia.com)

or

Veolia Water Technologies & Solutions

attention: Contracts Administrator

Please contact

[nam.service.pocentral@veolia.com](mailto:nam.service.pocentral@veolia.com)

for correct address

or

fax no.: 905 465 3050

This agreement comes into force when Veolia has issued a formal acceptance of City of Sherman's Purchase order or formal acceptance of this City of Sherman signed agreement.

doc. control: author: JP(rev 0), AA(rev 1), DP(rev-2) filename: City of Sherman 410285-2 96xEDR-stacks MKIV Jun 27 2023  
last modified: 6/27/2023 11:18 AM technical review: JA (rev 0,1) commercial review: NR(rev 0), JE (rev 1), CB(rev 1) DOA: Blkt



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# Attachment A Veolia Standard Terms and Conditions

- 1. Exclusive Terms and Conditions.** Together with any other terms the Parties agree to in writing, these General Terms and Conditions – together with the last proposal in order of time issued by the Seller – form the exclusive terms (“Agreement”) whereby Buyer agrees to purchase, and Seller agrees to sell products and equipment (jointly “Equipment”) and to provide advice, instruction and other services in connection with the sale of that Equipment (“Services”). If Buyer sends to Seller other terms and conditions to which Seller may not respond, including but not limited to those contained in Buyer’s purchase order, such shall not apply. This Agreement may only be revised by a change order approved in writing by both Parties. All terms not defined herein shall be defined in Seller’s proposal.
- 2. Equipment and Services.** The Equipment to be delivered and the Services to be provided shall be as set out in this Agreement. Unloading, handling, storage, installation, and operation of Buyer’s systems or the Equipment are the responsibility of Buyer. Buyer shall not require or permit Seller’s personnel to operate Buyer’s systems or the Equipment at Buyer’s site.
- 3. Prices and Payment.** Buyer shall pay Seller for the Equipment and Services in accordance with the payment schedule (as set forth in Seller’s proposal or, if applicable, in any special conditions agreed to in writing by the Parties). Unless otherwise specified in writing, payment is due net thirty (30) days from the date of Seller’s invoice. ~~Seller may require a Letter of Credit or other payment guarantee, in which case the stated amount of the guarantee will be adjusted by Buyer in the event of any currency-based adjustment to prices or payment amounts per the Payment Schedule, and Buyer shall deliver the adjusted guarantee within five (5) days of request by Seller.~~ Buyer agrees to reimburse Seller for collection costs, including 2% (two percent) interest per month (not to exceed the maximum amount permitted by applicable law), should Buyer fail to timely pay. Buyer shall have no rights to make any deduction, retention, withholding or setoff relating to any payments due under this Agreement.
- 4. Taxes and Duties.** Seller shall be responsible for all corporate taxes measured by net income due to performance of or payment for work under this Agreement (“Seller Taxes”). Buyer shall be responsible for all taxes, duties, fees, or other charges of any nature (including, but not limited to, consumption, gross receipts, import, property, sales, stamp, turnover, use, or value-added taxes, and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto, imposed by any governmental authority on Buyer or Seller or its subcontractors) in relation to the Agreement or the performance of or payment for work under the Agreement other than Seller Taxes (“Buyer Taxes”). The Agreement prices do not include the amount of any Buyer Taxes. If Buyer deducts or withholds Buyer Taxes, Buyer shall pay additional amounts so that Seller receives the full Agreement price without reduction for Buyer Taxes. Buyer shall provide to Seller, within one month of payment, official receipts from the applicable governmental authority for deducted or withheld taxes. Buyer shall furnish Seller with evidence of tax exemption acceptable to taxing authorities if applicable, prior to execution of the Agreement by both Parties or issuance by the Seller of the order acceptance. Buyer’s failure to provide evidence of exemption at time of order will relieve Seller of any obligation to refund taxes paid by Seller.
- 5. Delivery, Title, Risk of Loss.** Unless otherwise specified in this Agreement, Seller shall deliver all Equipment to Buyer FCA (Incoterms 2020) Seller’s facility. The time for delivery of the Equipment to Buyer shall be specified in this Agreement. Seller’s sole liability for any delay in delivery of the Equipment shall be as expressly set out in this Agreement. The place of delivery specified herein shall be firm and fixed, provided that Buyer may notify Seller no later than forty-five (45) days prior to the scheduled shipment date of the Equipment of an alternate point of delivery, Buyer shall compensate Seller for any additional cost in implementing the change. If any part of the Equipment cannot be delivered when ready due to any cause not attributable to Seller, Buyer shall designate a climate-controlled storage location, and Seller shall ship such Equipment to storage. Title and risk of loss shall thereupon pass to Buyer and amounts payable to Seller upon delivery or shipment shall be paid by Buyer along with expenses incurred by Seller. Services provided herein shall be charged at the rate prevailing at the time of actual use and Buyer shall pay any increase, and Buyer shall pay directly all costs for storage and subsequent transportation. Failure by Buyer to take delivery of the Equipment shall be a material breach of this Agreement.



Title and risk of loss to the Equipment shall be transferred from Seller to Buyer at the point of delivery upon handover in accordance with this Agreement. Title and risk of loss to the Services shall pass as they are performed.

**6. Warranties and Remedies.** Seller warrants that Equipment shall be delivered free from defects in material, workmanship and title and that Services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications. Seller's warranty does not cover the results of improper handling, storage, installation, commissioning, operation or maintenance of the Equipment by Buyer or third parties, repairs or alterations made by Buyer without Seller's written consent, influent water which does not comply with agreed parameters, or fair wear and tear.

Unless otherwise expressly provided in this Agreement, the foregoing warranties are valid for:

- (a) Chemicals and services, for six (6) months from their date of delivery or the provision of Services;
- (b) Consumables, including filters and spiral wound membranes (other than spiral wound membranes for process treatment), the earlier of twelve (12) months from date of first use or fifteen (15) months from their date of delivery;
- (c) Spiral wound membranes for process fluid treatment, ninety (90) days from their date of first use;
- (d) Ultrafiltration membranes (ZW500, ZW700B, ZW1000, ZW1500), twelve (12) months from their date of delivery;
- (e) Equipment other than chemicals and consumables, the earlier of, fifteen (15) months from delivery or shipment to storage, or twelve (12) months from start-up/first use;
- (f) Software, ninety (90) days from the date of receipt;
- (g) Equipment not manufactured by Seller; the warranty shall be the manufacturer's transferable warranty only.

Any claim for breach of these warranties must be promptly notified in writing, and Buyer shall make the defective item available to the Seller, or the claim will be void. Seller's sole responsibility and Buyer's exclusive remedy arising out of or relating to the Equipment or Services or any breach of these warranties is limited to repair at Seller's facility or (at Seller's option) replace at Seller's facility the defective item of Equipment and re-perform defective Services. In performance of its obligations hereunder, Seller will not control the actual operation of either Buyer's systems or the Equipment at the Buyer's site.

Warranty repair, replacement or re-performance by Seller shall not extend or renew the applicable warranty period.

The warranties and remedies are conditioned upon (a) proper unloading, handling, storage, installation, use, operation, and maintenance of the Equipment and Buyer's facility and all related system in accordance with Seller's instructions and, in the absence, generally accepted industry practice, (b) Buyer keeping accurate and complete records of operation and maintenance during the warranty period and providing Seller access to those records, and (c) modification or repair of Equipment or Services only as authorized by Seller in writing. Failure to meet any such conditions renders the warranty null and void.

The Buyer will be entitled to assign to a subsequent owner of the Equipment the warranties of the Seller under this Agreement, provided that a prior written notification is sent to the Seller and the assignment agreement contains terms and conditions which provide the Seller with the protections of the warranties and limitations on liability contained in the Agreement. Subject to Buyer's compliance with the foregoing requirement, such warranty rights are expressly assignable by the Buyer to a subsequent owner of the Equipment. Except as provided herein, Buyer is not entitled to extend or transfer this warranty to any other party. The warranties and remedies set forth in this article are in lieu of and exclude all other warranties and remedies, statutory, express or implied, including any warranty of merchantability or of fitness for a particular purpose.

Unless otherwise expressly stipulated in this Agreement, Seller gives no warranty or guarantee as to process results or performance of the Equipment, including but not limited to product quality, flow, production, capacity, membrane life, chemical consumption, regulatory compliance or energy consumption.

**7. General Indemnity.** Seller shall indemnify and hold harmless Buyer from claims for physical damage to third party property or injury to persons, including death, to the extent caused by the negligence of Seller or its officers, agents, employees, and/or assigns while engaged in activities under this Agreement. ~~Buyer shall likewise indemnify and hold harmless Seller from claims for physical damage to third party property or injury to persons, including death, to the extent caused by the negligence of the Buyer, its officers, agents, employees, and/or assigns. In the event such~~



damage or injury is caused by the joint or concurrent negligence of Seller and Buyer, the loss shall be borne by each Party in proportion to its negligence. For the purposes of this article (i) "Third party" shall not include Buyer or any subsequent owner of the Equipment, their subsidiaries, parents, affiliates, agents, successors or assigns including any operation or maintenance contractor, or their insurer; and (ii) no portion of the Equipment is "third party property".

**8. Compliance with Laws and Permits.** All permits, authorizations, and licenses which are required to construct, install and/or operate Buyer's facility or equipment, to use the Equipment, or to manage and dispose of any wastes, discharges, and residues resulting from Buyer's use of the Equipment, shall be obtained and maintained by Buyer at Buyer's sole expense. Buyer is responsible for compliance with all laws and regulations applicable to the storage, use, handling, installation, maintenance, removal, registration, and labeling of all Equipment after delivery of the Equipment, as well as for the proper management and disposal of all wastes, discharges, and residues.

**9. Buyer's Site Conditions.** Buyer warrants that any data furnished to the Seller concerning conditions at Buyer's site (including but not limited to any existing Buyer facility, equipment or processes, influent water or other substances to be treated or measured with the Equipment) is accurate and complete, and the Seller reserves the right to utilize the most appropriate design compatible with generally accepted engineering practices, and to make changes in details of design, manufacture and arrangement of Equipment unless precluded by any limitations specified in this Agreement. Seller shall notify Buyer of (1) any conditions at Buyer's site which materially differ from those indicated in the data furnished by Buyer, (2) any previously unknown physical conditions at Buyer's site of an unusual nature, not revealed by previous investigations and differing from those ordinarily encountered in the type of work provided for in this Agreement, and (3) the presence of any Hazardous Materials (as defined below), the existence of a contaminated soil, unexploded ordinance, or archaeological remains. If such conditions cause an increase in Seller's cost or in the time required for the performance of Seller's obligations, Seller shall be entitled to an equitable adjustment in the Agreement price and an extension in the time for performance.

**10. Hazardous Materials and Wastes.** In the event that Seller encounters any Hazardous Materials (meaning toxic substances, hazardous substances, pollutants, contaminants, regulated wastes, or hazardous wastes as such terms may be defined or classified in any law, statute, directive, ordinance or regulations promulgated by any applicable governmental entity) at Buyer's site, other than Hazardous Materials introduced by Seller or that are otherwise the express responsibility of Seller under this Agreement, Buyer shall immediately take whatever precautions are required to legally eliminate such Hazardous Materials so that the Seller's work under this Agreement may safely proceed. At no time shall Seller be deemed to have taken title to or the responsibility for the management or disposal of any wastes, Hazardous Materials, influent water, any resultant product streams, wastewater streams, discharges, cleaning materials, or any other materials or substances processed by the Equipment or otherwise located at Buyer's site. Seller does not take responsibility for and hereby expressly disclaims responsibility for the characterization or disposal of wastes, Hazardous Materials, or for the identification, selection, or management of disposal facilities for any wastes.

**11. Excusable Delays.** Seller shall not be liable nor in breach or default of its obligations under this Agreement to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond the reasonable control of Seller, including, but not limited to: acts of God, natural disasters, unusually severe weather, fire, terrorism, war (declared or undeclared) epidemics, material shortages, insurrection, act (or omissions) of Buyer or Buyer's contractors/suppliers or agents, any act (or omission) by any governmental authority, strikes, labor disputes, transportation shortages, or vendor non-performance. The delivery or performance date shall be extended for a period equal to the time lost by reason of delay or non-performance, plus such additional time as may be necessary to overcome the effect of the delay or non-performance. If delivery or performance is delayed for a period exceeding 180 (one hundred and eighty) days, either Party may terminate this Agreement without further liability provided that Seller shall be paid an amount equal to that which would be payable to Seller under the article entitled "Termination". If Seller is delayed by any acts (or omissions) of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, Seller shall be entitled to an equitable adjustment in schedule, price and/or performance, as applicable.

**12. Emergencies.** If the safety of Seller's personnel is threatened or likely to be threatened by circumstances outside the reasonable control of Seller, including but not limited to war, armed conflict, civil unrest, riots, terrorism, kidnapping, presence of or exposure to hazardous materials, unsafe working conditions, or by the threat of such circumstances or a lack of adequate protections against such circumstances, Seller shall be entitled to take all necessary steps to ensure the security and safety of its personnel including the evacuation of personnel until such circumstances no longer apply. Any such occurrence shall be considered an excusable delay event. Buyer shall reasonably assist in the event of any such evacuation.



**13. Confidentiality, Intellectual Property.** Both Parties agree to keep confidential the other Party's proprietary non-public information, if any, which may be acquired in connection with this Agreement. Buyer will not, without Seller's advance written consent, subject Equipment to testing, analysis, or any type of reverse engineering. Seller retains all intellectual property rights including copyright which it has in all drawings and data or other deliverables (including the Equipment) supplied or developed under this Agreement. Buyer agrees that it will not file patent applications on the Equipment or any development or enhancement of the Equipment, or of processes and methods of using the Equipment, without Seller's express prior written permission. Buyer further agrees that in any event any such patents will not be asserted against Seller or its other buyers based upon purchase and use of such Equipment. Seller grants to Buyer a non-exclusive, non-terminable, royalty free license to use the intellectual property embedded in Equipment delivered to and paid for by the Buyer, as well as any drawings, design or data delivered to and paid for by the Buyer, for the purposes of owning, financing, using, operating and maintaining the relevant Equipment at Buyer's site. Such license may only be assigned to a subsequent owner of the Equipment or to an operations and maintenance subcontractor. Such license does not extend to the re-creation of the Equipment or the manufacture of spares or consumables by Buyer or third parties.

Any software Seller owns and provides pursuant to this Agreement shall remain Seller's property. Seller provides to Buyer a limited, non-exclusive and terminable royalty free project-specific license to such software for the use, operation or maintenance at Buyer's site of any Equipment purchased hereunder to which the software is a necessary component. Buyer agrees not to copy, sub-license, translate, transfer, reverse engineer, or decode the software.

Seller shall indemnify and hold harmless Buyer from any rightful claim of any third party that any Equipment or Service infringe a patent in effect in the USA, or country of delivery (provided there is a corresponding patent issued by the USA), or USA copyright or copyright registered in the country of delivery. If the Buyer notifies the Seller promptly of the receipt of any such claim, does not take any position adverse to the Seller regarding such claim and gives the Seller information, assistance and exclusive authority to settle and defend the claim, the Seller shall, at its own expense and choice, either (i) settle or defend the claim and pay all damages and costs awarded in it against the Buyer, or (ii) procure for the Buyer the right to continue using the Equipment or Service, or (iii) modify or replace the Equipment or Service so that it becomes non-infringing, or (iv) remove the infringing Equipment and refund the price. The above paragraph shall not apply to any misuse of Equipment or Equipment which is manufactured to the Buyer's design, or to alleged infringement arising from the combination, operation, or use of any Equipment or Services with other equipment or services when such combination is part of any allegedly infringing subject matter. The foregoing list of sub-sections (i), (ii), (iii), and (iv) and related terms state the entire liability of the Seller for intellectual property infringement by any Equipment or Service.

**14. Limitations on Liability.** Notwithstanding anything else contained in this Agreement, to the maximum extent permitted by law, and regardless of whether a claim is based in contract (including warranty or indemnity), extra-contractual liability, tort (including negligence or strict liability), statute, equity or any other legal theory:

- (a) THE TOTAL LIABILITY OF THE SELLER AND OF ITS INSURER FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE PERFORMANCE OR BREACH OF THIS AGREEMENT OR USE OF ANY EQUIPMENT OR SERVICES SHALL NOT EXCEED THE TOTAL PRICE PAID BY BUYER UNDER THIS AGREEMENT ~~OR (IN THE CASE OF AN AGREEMENT FOR SERVICES WITH A TERM OF MORE THAN ONE YEAR) THE ANNUAL PRICE PAYABLE BY BUYER UNDER THIS AGREEMENT;~~
- (b) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUES, LOSS OF PRODUCTION, LOSS OF USE OF EQUIPMENT OR SERVICES OR ANY ASSOCIATED EQUIPMENT, INTERRUPTION OF BUSINESS, COST OF CAPITAL, COST OF REPLACEMENT WATER OR POWER, DOWNTIME COSTS, INCREASED OPERATING COSTS, CLAIMS OF BUYER'S CUSTOMERS FOR SUCH DAMAGES, OR FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES;
- (c) ~~SELLER'S LIABILITY SHALL END UPON EXPIRATION OF THE APPLICABLE WARRANTY PERIOD, PROVIDED THAT BUYER MAY CONTINUE TO ENFORCE A CLAIM FOR WHICH IT HAS GIVEN NOTICE PRIOR TO THAT DATE BY COMMENCING AN ACTION OR ARBITRATION, AS APPLICABLE UNDER THIS AGREEMENT, BEFORE EXPIRATION OF ANY STATUTE OF LIMITATIONS OR OTHER LEGAL TIME LIMITATION BUT IN NO EVENT TO THE EXTENT PERMITTED BY APPLICABLE LAW — LATER THAN FIVE (5) MONTHS AFTER EXPIRATION OF SUCH WARRANTY PERIOD.~~



For the purposes of this article, "Seller" shall mean Seller, its affiliates, subcontractors and suppliers of any tier, and their respective agents and employees, individually or collectively. If Buyer is supplying Seller's Equipment or Services to a third party, Buyer shall require the third party to agree to be bound by this article. ~~If Buyer does not obtain this agreement for Seller's benefit for any reason, Buyer shall indemnify and hold Seller harmless from all liability arising out of claims made by the third party in excess of the limitations and exclusion of this article.~~

**15. Termination.** This Agreement and any performance pursuant to it may be terminated by either Party, and the consequences of such termination shall be as set out in the next paragraph, if the other Party

- (a) Becomes insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for the benefit of its creditors, or files for protection from creditors under any bankruptcy or insolvency laws; or
- (b) Fails to make any payment when due or to establish any payment security required by this Agreement or commits a material breach or defaults in its material obligations under this Agreement, and such default is not cured within thirty (30) days of written notice from the other Party.

~~Upon the termination of this Agreement by Buyer for cause (i) Seller shall reimburse Buyer the difference between that portion of the Agreement price allocable to the terminated scope and the actual amounts reasonably incurred by Buyer to complete that scope, and (ii) Buyer shall pay to Seller (a) the portion of the Agreement price allocable to Equipment completed, and (b) amounts for Services performed before the effective date of termination. Upon the termination of this Agreement by Seller for cause Buyer shall pay to Seller within thirty (30) days of receipt of invoice the price of all Equipment or Services delivered at the date of termination, plus an amount equal to all costs and expenses incurred in the engineering, sourcing, financing, procurement, manufacture, storage and transportation of the Equipment including materials, work in progress and any cancellation charges assessed against Seller by Seller's suppliers including reasonable overhead and profit on all such costs and expenses. Alternatively, if any schedule of termination payments has been agreed between the Parties, Buyer shall pay to Seller within thirty (30) days of receipt of invoice the amounts set out in that schedule.~~

~~Seller shall have the right to suspend performance upon written notice to Buyer in any case where Seller would have the right to terminate the Agreement under this article, without prejudice to Seller's right to terminate this Agreement for cause. Any cost incurred by Seller in accordance with any such suspension (including storage costs) shall be payable by Buyer upon submission of the Seller's invoice(s). Performance of the Seller's obligations shall be extended for a period of time reasonably necessary to overcome the effects of such suspension.~~

**16. Governing Law, Dispute Resolution.** ~~This Agreement shall be governed by the substantive laws of the State of Michigan. In the event of a dispute concerning this Agreement, the complaining Party shall notify the other Party in writing thereof. Management level representatives of both Parties shall meet at an agreed location to attempt to resolve the dispute in good faith. Should the dispute not be resolved within thirty (30) days after such notice, the complaining Party shall seek remedies exclusively through arbitration. The seat of arbitration shall be the federal district court closest to the Buyer and the rules of the arbitration will be the Commercial Arbitration Rules of the American Arbitration Association, which are incorporated by reference into this article.~~

~~Notwithstanding the foregoing, each Party shall have the right to commence an action or proceeding in a court of competent jurisdiction, subject to the terms of this Agreement, in order to seek and obtain a restraining order or injunction to enforce the confidentiality intellectual property provisions set forth in the first two paragraphs of article 13; nuclear use restrictions set forth in article 17, or to seek interim or conservatory measures not involving monetary damages.~~

**17. No Nuclear Use.** Equipment and Services sold by Seller are not intended for use in connection with any nuclear facility or activity, the Buyer warrants that it shall not use or permit others to use the Equipment or Services for such purposes, without the advance written consent of Seller. If, in breach of this, any such use occurs, Seller (and its parent, affiliates, suppliers and subcontractors) disclaims all liability for any nuclear or other damage, injury or contamination, and, in addition to any other rights of Seller, Buyer shall indemnify and hold Seller (and its parent, affiliates, suppliers and subcontractors) harmless against all such liability.

**18. Export Control.** Seller's obligations are conditioned upon Buyer's compliance with all USA and other applicable trade control laws and regulations. Buyer shall not trans-ship, re-export, divert or direct Equipment (including software and technical data) other than in and to the ultimate country of destination declared by Buyer and specified as the country of ultimate destination on Seller's invoice.





**19. Changes.** Each Party may at any time propose changes in the schedule or scope of Equipment or Services. All changes to the Equipment or Services shall be subject to mutual agreement via a written change order or variation, which shall only become effective once signed by both Parties. The scope, Agreement price, schedule, and other provisions will be equitably adjusted to reflect additional costs or obligations incurred by Seller resulting from a change, after Seller's proposal date, in Buyer's site-specific requirements or procedures, or in industry specifications, codes, standards, applicable laws or regulations. It shall be acceptable and not considered a change if Seller delivers Equipment (including Equipment replacement under warranty) that bears a different, superseding or new part or version number compared to the part or version number listed in the Agreement, provided that in no circumstance shall this affect any other of Seller's obligations including those set forth in article 6.

**20. Conflicts; Survival, Assignment.** If there is any conflict between this Agreement and any written proposal or quotation provided by Seller, then the terms and conditions set forth in this Agreement shall prevail. If any term or condition of this Agreement or any accompanying terms and conditions are held invalid or illegal, then such terms and conditions shall be reformed to be made legal or valid, or deleted, but the remaining terms and conditions shall remain in full force and effect, and this Agreement shall be interpreted and implemented in a manner which best fulfills Parties' intended agreement. Those provisions which by their nature remain applicable after termination shall survive the termination of this Agreement for any reason. Seller may assign or novate its rights and obligations under the Agreement, in whole or in part, to any of its affiliates or may assign any of its accounts receivable under this Agreement to any party without Buyer's consent, and the Buyer hereby agrees, by signing this Agreement, to such assignment and to execute any document that may be necessary to complete Seller's assignment or novation. This Agreement shall not otherwise be assigned by either Party without the other Party's prior written consent, and any assignment without such consent shall be void.

Seller may (i) manufacture and source the Equipment and any part thereof globally in the country or countries of its choosing; and (ii) may subcontract portions of the Services, so long as Seller remains responsible for such.

**21. No Third Party Beneficiary.** Except as specifically set forth in the article entitled "Limitations on Liability" and "No Nuclear Use", this Agreement is not intended to, and does not, give to any person who is not a party to this Agreement any rights to enforce any provisions contained in this Agreement.

**22. Entire Agreement.** This Agreement embodies the entire agreement between Buyer and Seller and supersedes any previous documents, correspondence or agreements between them. No modification, amendment, revision, waiver, or other change shall be binding on either Party unless agreed in writing by the Party's authorized representative. Any oral or written representation, warranty, course of dealing, or trade usage not specified herein shall not be binding on either Party. Each Party agrees that it has not relied on, or been induced by, any representations of the other Party not contained in this Agreement.

## **AGENDA ITEM XI**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 19, 2023

**SUBJECT:** AGENDA ITEM NO. X

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER AND ACT UPON AUTHORIZING THE AWARD OF CONTRACT FOR CGMA  
BLOOMDALE PUMP STATION PHASE 2 IMPROVEMENTS CONTRACT B.**

**ISSUE**

Consider and act upon authorizing the Award of Contract for CGMA Bloomdale Pump Station Phase 2 Improvements Contract B.

**BACKGROUND**

The Authority along with the CGMA Cities, are planning a construction project to expand the delivery capacity of the CGMA water system. The work will focus at the pump station site and consist of the following components, 1) add a 4th pump and motor, VFDs, soft starters, 2) Add 2 additional stages to the three (3) existing pumps, 3) additional ground storage tank, 4) SCADA upgrades, 5) Backup Generator, 6) piping and pressure relief additions, 7) all associated electrical, plumbing and earthwork 8) and appurtenances.

The Authority selected Texas Water Development Board's State Water Implementation Fund for Texas (SWIFT) to fund the project. The Authority received \$7,525,000 in Bonds at an interest rate of 3.981%.

**CONSIDERATIONS**

The Bloomdale Pump Station Phase 2 Improvements Project is separated into two contracts. Contract A consist of purchasing and installing the 4<sup>th</sup> pump, motor and VFD, rehabbing the existing 3 pumps and adding addition stages, new VFDs for the existing pump and motors, new SCADA system, backup generator, and the foundation for the 500,000-gallon storage tank. Contract B will only include the 500,000-gallon storage tank.

The Authority opened bids on June 29 for Contract B and the Authority received one bid from Tank Builder's, Inc. of Ft. Worth, Texas with a base bid of \$879,200.00. The deductive alternates for the smaller inlet line and outlet line were not recommended for Contract A and similar deductive alternates are not recommended for this Contract B.

**STAFF RECOMMENDATIONS**

The Authority Staff recommends that the Board of Directors authorize the General Manager to award the contract to Tank Builder's, Inc. of Ft. Worth, Texas, for the Bloomdale Pump Station Phase 2 Improvements Project Contract B for \$879,200.00.

**ATTACHMENTS**

Engineer Recommendation of Award

July 10, 2023

Mr. Paul Sigle  
General Manager  
Greater Texoma Utility Authority  
5100 Airport Drive  
Denison, Texas 75020

**Re: GTUA/CGMA Bloomdale PS Contract B 500,000 Gallon GSR**

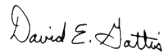
Dear Mr. Sigle:

This project was advertised as required by state and owner requirements to receive bids on June 29, 2023 at 2:00 pm. Five tank contractors requested the bid documents from CIVCAST and three expressed interests in the project and/or ask for clarifications on the bid documents. Only one bid was received and the bid proposal is attached.

The bid is from Tank Builder's, Inc. of Ft. Worth, Texas in the amount of \$879,200.00. The bid is lower than our recent \$1,000,000.00 projection of cost. The deductive alternates for the smaller inlet line and outlet line were not recommended for Contract A and similar deductive alternate are not recommended for this Contract B. The owner could reject the bid and rebid the project; however, contractors have plenty of work and current uncertain conditions do not leave us with expectations for a lower price.

Tank Builder's, Inc. has been successfully constructing water tanks for 50 years. The contractor successfully constructed a 5,000,000-gallon ground storage reservoir for Sherman in the 1980s. It is recommended the owner consider awarding the contract to Tank Builder's Inc. in the amount of \$879,200.00.

Sincerely,  
FREEMAN-MILLICAN, INC.

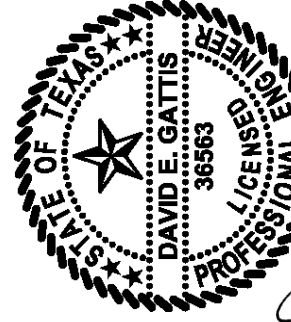


David E. Gattis, P.E.

Copy: Steve White, Chief Operator.

## BID TABULATION

<b>OWNER:</b> Greater Texoma Utility Authority		Contractor		Tank Builders, Inc.
<b>PROJECT:</b> Project B: Bloomdale Pump Station Improvements - 500K Ground Storage Reservoir FMI Project Number 21029		Address		2101 Golden Heights Rd.
<b>ENGINEER:</b> FREEMAN-MILLICAN, INC.		City, State Phone		Fort Worth, Texas 817-510-0160
<b>BID DATE:</b> June 29, 2023 at 2:00 p.m.		QUANTITY		TOTAL AMOUNT
ITEM NO.	DESCRIPTION	UNIT	UNIT PRICE	
P.1	Construct new 500,000-gallon, welded steel, ground storage reservoir with all appurtenances and accessories on a concrete ringwall foundation by general contract A.	LS	\$641,700.00	\$641,700.00
P.2	Prepare the surfaces and paint the interior and exterior of the proposed ground storage reservoir including all the appurtenances and accessories requiring a painted finish.	EA	\$237,500.00	\$237,500.00
<b>Base Bid Total (P.1-P.20)</b>				<b>\$879,200.00</b>
<b>Deductive Alternates</b>				
PDA.1	For Reducing new GSR bottom outlet size from 48" to 36"	LS	\$4,800.00	\$4,800.00
PDA.2	For Reducing new GSR bottom outlet size from 30" to 24"	LS	\$2,000.00	\$2,000.00
PDA.3	Provide a 12" overflow per detail 2 on drawing T2, instead of the 36" overflow	LS	\$20,000.00	\$20,000.00



*David E. Gattis*  
7/7/2023



**TOKIOMARINE  
HCC**

**Surety Group**  
801 S Figueroa Street, Suite 700  
Los Angeles, CA 90017 USA  
Tel: 310-649-0990

Bond Number: N/A

**BID BOND**

**KNOW ALL PERSONS BY THESE PRESENTS:**

That we, Tank Builders, Inc.  
P. O. Box 187 Haslet, Texas 76052 (hereinafter  
called Principal), as Principal, and U.S. Specialty Insurance Company  
, a corporation organized and existing under the laws of CA,  
(hereinafter called Surety) as Surety, are held and firmly bound unto Greater Texoma Utility Authority  
5100 Airport Drive, Denison, TX 75020  
 (hereinafter called Obligee) as Obligee, in the penal sum of Five  
 percent (5 %) of amount bid not to exceed  
Five hundred thousand and zero Dollars (\$ 500,000) for the  
payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors  
and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH**, That, whereas the Principal has submitted or is about to submit  
a proposal to the Obligee on a contract for New 0.5 MG Ground Storage Tank

**NOW, THEREFORE**, if the said contract be awarded to the Principal and the Principal shall, within such time as  
may be specified, enter into the contract in writing, then this obligation shall be void. If the Principal shall fail to do  
so, then the undersigned shall pay the obligee the damages which the obligee may suffer by reason of such failure  
up to and not exceeding the penal sum of the bond.

Signed and sealed this 26 day of June, 2023.

Principal: Tank Builders, Inc.

By: [Signature]

Surety: U.S. Specialty Insurance Company

By: [Signature]

Jack M. Davis

Attorney-In-Fact



Any claims under this bond may be addressed to the Surety at the following address:

U. S. Specialty Insurance Company  
801 South Figueroa Street, Suite 700  
Los Angeles, CA 90017  
Attention: Claims Department  
Tel: (310) 649-0990  
E-mail: suretyclaims@tmhcc.com



TOKIO MARINE  
HCC

**POWER OF ATTORNEY**  
**AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY**  
**UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY**

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Charles B. Fletcher Jr. or Jack Davis of Plano, Texas

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed \*\*\*\*\*Ten Million\*\*\*\*\* Dollars (\*\*\*\$10,000,000.00\*\*\*). This Power of Attorney shall expire without further action on January 31<sup>st</sup>, 2024. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

*Be it Resolved*, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

*Attorney-in-Fact* may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

*Be it Resolved*, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 23<sup>rd</sup> day of September, 2021.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY  
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

State of California  
County of Los Angeles



By: [Signature]  
Daniel P. Aguilar, Vice President

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

On this 23rd day of September, 2021, before me, D. Littlefield, a notary public, personally appeared Daniel P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (seal)



I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 26 day of JUNE, 2023

Corporate Seals  
Bond No. NA  
Agency No. 10248



[Signature]  
Kio Lo, Assistant Secretary

# U.S. Specialty Insurance Company

## TEXAS COMPLAINT NOTICE

IMPORTANT NOTICE	AVISO IMPORTANTE
<p>To obtain information or make a complaint:</p> <ol style="list-style-type: none"><li>1. You may contact your agent.</li><li>2. You may call the company's toll free telephone number for information or to make a complaint at: <p style="text-align: center;">1-800-486-6695</p></li><li>3. You may also write to the company at: <p style="text-align: center;">U.S. Specialty Insurance Company 801 South Figueroa Street Suite 700 Los Angeles, CA 90017 USA</p></li><li>4. You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at: <p style="text-align: center;">1-800-252-3439</p></li><li>5. You may write to the Texas Department of Insurance at: <p style="text-align: center;">Consumer Protection (111-1A) P.O. Box 12030 Austin, Texas 78711-2030 Fax No. 512- 490-1007 Web: <a href="http://www.tdi.texas.gov">www.tdi.texas.gov</a> E-mail: <a href="mailto:ConsumerProtection@tdi.texas.gov">ConsumerProtection@tdi.texas.gov</a></p></li></ol>	<p>Para obtener informacion o para someter una queja:</p> <ol style="list-style-type: none"><li>1. Puede comunicarse con su agente.</li><li>2. Usted puede llamar al numero de telefono gratis de la compania's para informacion o para someter una queja al: <p style="text-align: center;">1-800-486-6695</p></li><li>3. Usted tambien puede escribir a la compa�ia: <p style="text-align: center;">U.S. Specialty Insurance Company 801 South Figueroa Street Suite 700 Los Angeles, CA 90017 USA</p></li><li>4. Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos, o quejas al: <p style="text-align: center;">1-800-252-3439</p></li><li>5. Puede escribir al Departamento de Seguros de Texas al: <p style="text-align: center;">Consumer Protection (111-1A) P.O. Box 12030 Austin, Texas 78711-2030 Fax No. 512- 490-1007 Web: <a href="http://www.tdi.texas.gov">www.tdi.texas.gov</a> E-mail: <a href="mailto:ConsumerProtection@tdi.texas.gov">ConsumerProtection@tdi.texas.gov</a></p></li></ol>
<p><b>PREMIUM OR CLAIM DISPUTES:</b> Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.</p>	<p><b>DISPUTAS SOBRE PRIMAS O RECLAMOS:</b> Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).</p>
<p><b>ATTACH THIS NOTICE TO YOUR POLICY</b> This notice is for information only and does not become a part or condition of the attached document.</p>	<p><b>UNA ESTE AVISO A SU POLIZA</b> Esta aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.</p>



## VENDOR COMPLIANCE WITH RECIPROCITY ON NON- RESIDENT BIDDERS

Texas Government Code Section 2252.002 provides that in order for nonresident bidders to be awarded a governmental contract, the bidder must bid projects for construction, improvements, supplies, or services in Texas at an amount lower than the lowest Texas resident bidder by the same amount that a Texas resident bidder would be required to underbid the nonresident bidder in order to obtain a comparable contract in the nonresident bidder's state. A nonresident bidder is a person, including a contractor, whose principal place of business or corporate office is outside of the state of Texas. This requirement does not apply to a contract involving Federal funds. The appropriate blanks in Section A must be filled out by all nonresident bidders in order for your bid to meet specifications. The failure of a nonresident bidder to do so will automatically disqualify that bidder. Resident bidders must check the blank in Section B.

A. Non-resident vendors in \_\_\_\_\_ (give state), our principal place of business, are required to be \_\_\_\_\_ percent lower than resident bidders by state law. A copy of the statute is attached.

Non-resident vendors in \_\_\_\_\_ (give state), our principal place of business, are not required to underbid resident bidders.

B. Our principal place of business or corporate office is in the state of Texas:

BIDDER:

TANK BUILDERS, INC.  
Company

FT. WORTH, TX 76177  
City State Zip

KENT KROMER  
By (print name)

  
Signature

PRESIDENT  
Title (print)

**THIS FORM MUST BE RETURNED WITH THE BID**

**PROPOSAL FORM**  
**GREATER TEXOMA UTILITY AUTHORITY**  
**BLOOMDALE PUMP STATION**  
**500,000 GALLON GROUND STORAGE RESERVOIR**  
**CONTRACT B**

TO: GREATER TEXOMA UTILITY AUTHORITY  
 5100 Airport Drive  
 Denison, Texas 75020

Pursuant to the foregoing Bidding Requirements and General Requirements, the undersigned Bidder hereby proposes to do all the work and to furnish all necessary superintendence, labor, machinery, equipment, tools and materials, and to complete all work upon which he bids as provided by the attached specifications and shown on the drawings, and binds himself on the accompanying forms, for performing and completing the said work within the required time, and furnish all required guarantees, for the prices to-wit:

**BASE BID**

ITEM	QTY	UNITS	DESCRIPTION	TOTAL
P1	1	LS	For furnishing all materials, labor and equipment to construct the 500,000-gallon, welded steel, ground storage reservoir with all appurtenances and accessories on a concrete ringwall foundation by general contract A, complete in place, the sum of:  <u>SIX HUNDRED FORTY-ONE THOUSAND SEVEN HUNDRED</u> Dollars <u>ZERO</u> Cents (\$ <u>641,700.<sup>00</sup></u> ) per lump sum.	\$ <u>641,700.<sup>00</sup></u>
P2	1	LS	For furnishing all materials, labor and equipment to prepare the surfaces and paint the interior and exterior of the proposed ground storage reservoir including all appurtenances and accessories requiring a painted finish, complete in place, the sum of:  <u>TWO HUNDRED THIRTY-SEVEN THOUSAND FIVE HUNDRED</u> Dollars <u>ZERO</u> Cents (\$ <u>237,500.<sup>00</sup></u> ) per lump sum.	\$ <u>237,500.<sup>00</sup></u>
<b>TOTAL AMOUNT OF BASE BID</b> (Bid Items P.1 – P.2)				\$ <u>879,200.<sup>00</sup></u>

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the Contract Documents pertaining to the work covered by the above bid, and he further agrees to commence work within ten (10) days after the date of the work order and that the number of consecutive calendar days after the date of the work order required to substantially complete the work on which he has bid is:

180 Days

In accordance with Sections 151.309 and 151.311 of the Texas Tax Code, the cost of materials to be used in this project which are exempt from the payment of state sales tax is:

\$ \_\_\_\_\_

The undersigned bidder understands and agrees that all work not provided for in the above proposal items but called for in the Contract Documents is subsidiary to these proposal items and that the cost of this subsidiary work has been included in the above prices.

Enclosed with this proposal is a proposal bond in the sum of 5% G.A.B., which it is agreed shall be collected and retained by the Owner as liquidated damages in the event this proposal is accepted by the Owner within sixty (60) days after the bids are received and the undersigned fails to execute the contract required bond for the Owner within ten (10) days after date said proposal is accepted. Otherwise, said check or bond will be returned to the undersigned.

The welded steel tank will be provided by TANK BUILDERS, INC.

The tank will be grit blasted and painted by CTEX CONSTRUCTION SERVICES LLC

DEDUCTIVE ALTERNATE

ITEM NO.	NO. OF UNITS	UNITS	DESCRIPTION	TOTAL AMOUNT
PDA.1	1	LS	For reducing new GSR bottom outlet size from 48" to 36", complete in place, the sum of: <u>DEDUCT: FOUR THOUSAND EIGHT HUNDRED</u> Dollars <u>ZERO</u> Cents (\$ <u>&lt;\$4,800.00&gt;</u> ) per lump sum.	\$ <u>&lt;\$4,800.00&gt;</u>
PDA.2	1	LS	For reducing new GSR bottom inlet size from 30" to 24", complete in place, the sum of: <u>DEDUCT: TWO THOUSAND</u> Dollars <u>ZERO</u> Cents (\$ <u>&lt;\$2,000.00&gt;</u> ) per lump sum.	\$ <u>&lt;\$2,000.00&gt;</u>

PDA.3	1	LS	For providing a 12" overflow per detail 2 on drawing T2, instead of the 36" overflow complete in place, the sum of: <u>DEDUCT: TWENTY THOUSAND</u> Dollars <u>2000</u> Cents (\$ <u>&lt; \$20,000.00 &gt;</u> ) per lump sum.	<u>&lt; \$20,000.00 &gt;</u>
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Addenda Received:

\_\_\_\_\_ Bidder: TANK BUILDERS, INC.

\_\_\_\_\_ (Company)

\_\_\_\_\_ By:  KENT KROMEN

\_\_\_\_\_ (Company Officer)

\_\_\_\_\_ Office Held: PRESIDENT

\_\_\_\_\_ Address: 2101 GOLDEN HEIGHTS RD.

\_\_\_\_\_ City: FT. WORTH, TX 76177

\_\_\_\_\_ County: TARRANT

\_\_\_\_\_ State: TX Zip: 76177

\_\_\_\_\_ Phone: 817-510-0160

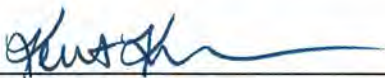
SECTION 00 45 13

GREATER TEXOMA UTILITY AUTHORITY  
CONTRACTOR'S QUALIFICATION STATEMENT

Bidders are required to execute and submit this Contractor's Qualification Statement to the Greater Texoma Utility Authority (GTUA) with their proposal.

Submitted by TANK BUILDERS, INC.  
(Name of Company/Organization)

Address 2101 GOLDEN HEIGHTS RD, FT. WORTH, TX 76177

Authorized Official 

Principal Office Address SAME AS ABOVE

Corporation     Partnership     Individual     Joint Venture

1.01 HISTORY OF COMPANY/ORGANIZATION

A. How many years has your company/organization been in business as a Contractor?

SEE ATTACHED

B. How many years has your company/organization been in business under its present business name?

List other names your company/organization has used:

C. If your company/organization is a corporation,

When was it incorporated?

State of incorporation:

President's name:

Secretary's name:

D. If your company/organization is a partnership,

Date of partnership:

Type of partnership:

Names of general partners:

E. If your company/organization is owned individually,

Date of organization:

Name of owner:

F. If your company/organization is other than listed above, describe the organization and name all principals:

1.02 LICENSING

List jurisdictions and trade categories in which your company/organization is qualified to do business:

SEE ATTACHED

1.03 EXPERIENCE

A. List the categories of work that your company/organization normally performs with its own work forces.

WOODEN STEEL FRAMES

B. Claims and Lawsuits. (Please attach details for any of the following answered "yes.")

1. Has your company/organization ever failed to complete any work awarded to it?  
No  Yes
2. Are there any suits, judgments, claims, or arbitration proceedings pending against your company/organization or its officers?  
No  Yes
3. Has your company/organization filed any lawsuit or requested arbitration with regard to construction contracts in the past five years?  
No  Yes

C. Within the last five years, has any officer or principal of your company/ organization ever been an officer or principal of any other organization when it did not complete a construction contract? (Please attach details if answered "yes.") No  Yes

D. Provide on a separate sheet the major construction projects your organization has in progress, providing the name of the project, owner, amount, percent of completion and scheduled completion date.

State the worth of the total work in progress and under contract:

SEE ATTACHED

E. Provide on a separate sheet of paper the major projects your organization has completed during the past five years, including the name of the engineer.

1.04 REFERENCES

A. Trade References:

SEE ATTACHED

B. Bank References:

C. Bonding Company:

1.05 FINANCIAL STATEMENT

Attach a financial statement, preferably audited for your organization's latest fiscal year.

Name and address of your auditor:

IF AWARDED THE PROJECT, WE CAN PROVIDE FINANCIAL STATEMENTS

1.06 SAFETY INFORMATION

In evaluating bids, the Board of Directors of the Greater Texoma Utility Authority may consider the safety records of all bidders. Accordingly, please provide the following information:

A. In the last five years, has any person died as a result of injuries received while working for you or your company/organization? If so, please state the name of the owner of the project, the state, county, city, and street address of the project, and the date on which the accident resulting in the fatality occurred.

No  Yes



- B. Have you or your company/organization received a Citation and Notification of Penalty, citation, or warning from OSHA in the last five years? If so, please state the date and place of the inspection, the violation that was observed or reported, the penalty imposed and the corrective action taken. No  Yes

- C. Please attach a statement from your workers' compensation insurance carrier stating your experience modifier.

SEE ATTACHED

- D. Please state the name and address of your workers' compensation insurance carrier and the number of your workers' compensation policy.

SEE ATTACHED

#### 1.07 BASIS OF AWARD OF CONTRACT

In determining to whom to award a contract, GTUA may consider, among other things:

- A. The purchase price;
- B. The reputation of the vendor and the vendor's goods or services;
- C. The quality of the vendor's goods or services;
- D. The extent to which the goods or services meet GTUA's needs;
- E. The vendor's past relationship with GTUA;
- F. The impact on the ability of GTUA to comply with rules relating to historically underutilized businesses;
- G. The total long-term cost to GTUA to acquire the vendor's goods or services; and
- H. Any other relevant factors specifically listed in the request for bids or proposals.

Accordingly, please provide any information that addresses any of these factors:

1.08 SIGNATURE

In submitting this information, we affirm, under oath, that the documentation and information submitted is true and correct, and it is not intended to be misleading, and we understand that if it is found to be false, that it can be grounds for disqualification.

Submitted by: TANK BUILDERS, INC.

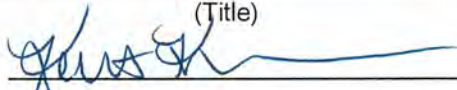
(Name and address of company/organization)

2101 GOLDEN HEIGHTS RD., FT WORTH, TX 76177

P.O. BOX 187, HASLET, TX 76052

By: PRESIDENT

(Title)

Signature: 

Date: 6/28/23



## REFERENCE INFORMATION

TANK BUILDERS, INC.  
Physical - 2101 Golden Height Rd., Fort Worth, TX 76177  
USPS - P.O. Box 187, Haslet, TX 76052  
P - (817) 510-0160  
[www.tankbuildersinc.com](http://www.tankbuildersinc.com)

TEXAS INCORPORATION DATE - FEBRUARY 22, 1972

<u>TBI KEY PERSONNEL</u>	<u>TITLE</u>	<u>PHONE EXTENSION</u>
Bruce Kromer, P.E.	CEO	102
Kent Kromer	President	112
Stephen Hazelton, P.E.	Vice President, Engineering	108
H.C. Westmoreland, Jr.	Purchasing and Transportation Manager	101
TJ Webster	Field Superintendent	110
Cheryl Garcia	Bookkeeping Manager	106
John "JD" Agee	Safety Manager	100
Kyle Kromer	Vice President, Business Development	103

### ASSOCIATED ATMOSPHERIC SHOP FABRICATED TANK & PRESSURE VESSEL COMPANY:

TANK & VESSEL BUILDERS, L.P.	P - (325) 854-8450
100 East T-P Lane	F - (325) 854-8451
P.O. Box 1177	<a href="http://www.tankandvesselbuilders.com">www.tankandvesselbuilders.com</a>
Baird, TX 79504	ORGANIZED - SEPTEMBER OF 2005

### BANKING

PROSPERITY BANK  
Brownfield, TX  
Jim C. Cade - President  
(806) 741-2850

### INSURANCE

WILLIAM RIGG COMPANY  
c/o HUB International Texas, Inc.  
Fort Worth, TX 76102  
Teresa Godsey  
(817) 820-8137

### BONDING

TOKIO MARINE HCC  
c/o Assured Partners  
500 N. Central Expressway, Suite 550  
Plano, TX 75074  
Jack Davis  
(972) 581 - 4881

### STATE LICENSES

ALABAMA:	41551	NEVADA:	0073333
ARIZONA:	321045	NEW MEXICO:	020368
ARKANSAS:	0034950108	FLORIDA:	SCC131150972
CALIFORNIA:	949604	SOUTH DAKOTA:	FB034583
NORTH DAKOTA:	34890	TENNESSEE:	61503
LOUISIANA:	16382	UTAH:	8844083-5551
MISSISSIPPI:	17257-SC		
MISSOURI:	F00427490		

## **TANK BUILDERS, INC. - UMBRELLA ROOF TANK REFERENCE SHEET**

### **TBI#1320 - Long & Son, Inc - Harris County MUD #81**

Owner - Harris County MUD #81

Engineer - Brown & Gay, - Doug Baker, PE T - 281-558-8700

GC - Long & Son, Inc., Houston, TX, Charlie Long T - 713-461-7032

Tank Dimensions - 54' diameter X 24' shell height

Contract Amount - \$311,000.00

### **TBI#1321 - ECS - Travis County MUD #4**

Owner - Travis County MUD #4

Engineer - Murfee Engineering Company, Austin, TX - J.R. Kidwell, PE T - 512-327-9204

GC - Excel Construction Services, LLC - Matt Cannon T - 512-259-5005

Tank Dimensions - 30' diameter X 56' shell height, and 53' diameter X 32' shell height

Contract Amount - \$783,700.00

### **TBI#1329 - KCI - Cypress Ranch**

Owner - Cypress Ranch WC&ID

Engineer - Texas Engineering Solutions, LLC - Justin Lange, PE T - 512-904-0505

GC - Keystone Construction, Inc., Austin, TX - Trent Shimkanin T - 512-288-6437

Tank Dimensions - 44' diameter X 22' shell height

Contract Amount - \$293,000.00

### **TBI#1421 - QVC - Harris County MUD #418**

Owner - Harris County MUD #418

Engineer - Brown & Gay - Doug Baker, PE T - 281-558-8700

GC - Quadvest Construction - Chris Wade or Chad Smith T - 281-356-5347

Tank Dimensions - 56' diameter X 32' shell height

Contract Amount - \$368,900.00

### **TBI#1429 - W.W. Payton Corp. - Harris County MUD #102**

Owner - Harris County MUD #102

Engineer - AEI Engineering - Ross Crawford, PE T - 281-350-7027

GC - W.W. Payton Corp - Chad Payton or Randy Key T - 281-371-7068

Tank Dimensions - 49' diameter X 24' shell height

Contract Amount - \$290,500.00

### **TBI#1432 - Schier - Fort Bend County MUD #169**

Owner - Fort Bend County MUD #169

Engineer - Brown & Gay - Doug Baker, PE T - 281-558-8700

GC - Schier Construction Co., Inc. - Don Maas or Jim Schier T - 281-356-5347

Tank Dimensions - 59' diameter X 24' shell height

Contract Amount - \$349,900.00

### **TBI#1441 - W.W. Payton Corp. - Sienna Plantation MUD #1**

Owner - Sienna Plantation MUD #1

Engineer - Costello, Inc. - Chad Hablinski, PE T - 713-783-7788

GC - W.W. Payton Corp - Chad Payton or Randy Key T - 281-371-7068

Tank Dimensions - 54' diameter X 32' shell height

Contract Amount - \$428,100.00

**TBI#1442 - Schier - Fort Bend County MUD #146**

Owner - Fort Bend County MUD #146

Engineer - Costello, Inc. - John Lacy, PE T - 713-783-7788GC - Schier

Construction Co., Inc. - Don Maas or Jim Schier T - 281-356-5347

Tank Dimensions - 44' diameter X 24' shell height

Contract Amount - \$331,400.00

**TBI#1444 - Gemini - Harris County MUD #153**

Owner - Harris County MUD #153

Engineer - Brown & Gay - Doug Baker, PE T - 281-558-8700

GC - Gemini Contracting Services, Inc. - Jim VanSchuyver T - 713-453-4691

Tank Dimensions - 57' diameter X 32' shell height

Contract Amount - \$372,200.00

**TBI#1502 - Nunn - Harris County MUD #433**

Owner - Harris County MUD #433

Engineer - Brown & Gay - Doug Baker, PE T - 281-558-8700

GC - Nunn Constructors, Ltd. - Kerry Nunn T - 281-351-8383

Tank Dimensions - 62' diameter X 24' shell height

Contract Amount - \$370,500.00

**TBI#1508 - Long & Son - Harris County MUD #171**

Owner - Harris County MUD #171

Engineer - Brown & Gay - Doug Baker, PE T - 281-558-8700

GC - Long & Son, Inc. - Charlie Long T - 713-461-7032

Tank Dimensions - 70' diameter X 24' shell height

Contract Amount - \$489,100.00

**TBI#1512 - Lamarc - City of Alvarado, TX**

Owner - City of Alvarado, TX

Engineer - Childress Engineers - Ben Shanklin, PE T - 817-645-1118

GC - Lamarc, Inc. - Leif Amyx T - 903-432-2117

Tank Dimensions - 47' diameter X 24' shell height

Contract Amount - \$289,200.00

**TBI#1623 - City of Round Rock**

Owner - Round Rock, TX

Engineer - City of Round Rock - David Freireich, PE T - 512-671-2756

GC - Tank Builders, Inc.

Tank Dimensions - 52' diameter X 32' shell height

Contract Amount - \$389,800.00

**TBI#1727 - Tidal - Sedona Lakes MUD #1**

Owner - Sedona Lakes MUD #1 - Brazoria County, TX

Engineer - Brown & Gay Engineers - Doug Baker, PE T - 281-558-8700

GC - Tidal Construction - Scott Moreau T - 281-808-2768

Tank Dimensions - 44' diameter X 24' shell height

Contract Amount - \$242,700.00

TBI#1828 - Gemini - Harris County MUD #542

Owner - Harris County MUD #542

Engineer - LJA Engineering, Inc. - Ashley Broughton, PE T - 713-953-5200

GC - Gemini Contracting Services, Inc. - Jim Vanschuyver T - 713-453-4691

Tank Dimensions - 48' diameter X 24' shell height

Contract Amount - \$307,400.00



## WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2023

Production Date: 12/14/2022

State: TEXAS

State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses
TX-B	.12	59,292	90,082	30,790	13,637	29,550	47,845	34,208
(A) Wt	(B)	(C) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses
.12		59,292	90,082	30,790	13,637	29,550	46,927	33,290

	Primary Losses	Stablizing Value	Ratable Excess	Totals	
Actual	(I) 33,290	$C * (1 - A) + G$ 81,727	(A) * (F) 1,636	(J) 116,653	
Expected	(E) 30,790	$C * (1 - A) + G$ 81,727	(A) * (C) 7,115	(K) 119,632	
	ARAP	FLARAP	SARAP	MAARAP	Exp Mod
Factors					(J) / (K) .98

RATING REFLECTS A DECREASE OF 70% MEDICAL ONLY PRIMARY AND EXCESS LOSS DOLLARS WHERE ERA IS APPLIED.

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# WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2023

Production Date: 12/14/2022

State: TEXAS

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2019 Exp Date: 05/27/2020

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.78	.40	1,030,974	8,042	3,217	1001205704	04	F	14,397	14,397
5057	.83	.31	2,584,397	21,450	6,650	5001198661	04	F	32,137	18,500
8227	.50	.36	537,579	2,688	968					
8809	.04	.40	195,000	78	31					
8810	.03	.48	1,106,157	332	159					
<b>Policy Total:</b>			<b>5,454,107</b>	<b>Subject Premium:</b>	<b>258,385</b>	<b>Total Act Inc Losses:</b>			<b>46,534</b>	

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2020 Exp Date: 05/27/2021

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.78	.40	1,012,156	7,895	3,158					
5057	.83	.31	2,230,658	18,514	5,739					
8227	.50	.36	616,569	3,083	1,110					
8809	.04	.40	210,100	84	34					
8810	.03	.48	1,139,041	342	164					
<b>Policy Total:</b>			<b>5,208,524</b>	<b>Subject Premium:</b>	<b>201,357</b>	<b>Total Act Inc Losses:</b>			<b>0</b>	

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2021 Exp Date: 05/27/2022

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.78	.40	1,049,344	8,185	3,274	NO. 2	06	*	1,311	1,311
5057	.83	.31	1,789,605	14,854	4,605					
8227	.50	.36	815,127	4,076	1,467					
8809	.04	.40	210,200	84	34					
8810	.03	.48	1,250,072	375	180					
<b>Policy Total:</b>			<b>5,114,348</b>	<b>Subject Premium:</b>	<b>177,288</b>	<b>Total Act Inc Losses:</b>			<b>1,311</b>	

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\* Total by Policy Year of all cases \$2000 or less.

D Disease Loss

X Ex-Medical Coverage

U USL&HW

C Catastrophic Loss

E Employers Liability Loss

# Limited Loss





## WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2022

Production Date: 12/14/2021

State: TEXAS

State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses
TX-B	.12	64,503	96,366	31,863	14,119	34,300	46,516	32,397
(A) Wt	(B)	(C) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses
.12		64,503	96,366	31,863	14,119	34,300	46,516	32,397
		Primary Losses	Stabilizing Value		Ratable Excess		Totals	
Actual	(I)	32,397	C * (1 - A) + G 91,063		(A) * (F) 1,694		(J) 125,154	
Expected	(E)	31,863	C * (1 - A) + G 91,063		(A) * (C) 7,740		(K) 130,666	
		ARAP	FLARAP	SARAP	MAARAP		Exp Mod	
Factors							(J) / (K) .96	

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# WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2022

Production Date: 12/14/2021

State: TEXAS

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2018 Exp Date: 05/27/2019

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.84	.39	957,620	8,044	3,137					
5057	.91	.30	1,780,934	16,206	4,862					
8227	.57	.35	569,852	3,248	1,137					
8809	.04	.39	141,800	57	22					
8810	.03	.46	1,392,210	418	192					
<b>Policy Total:</b>			<b>4,842,416</b>	<b>Subject Premium:</b>	<b>202,485</b>	<b>Total Act Inc Losses:</b>			<b>0</b>	

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2019 Exp Date: 05/27/2020

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.84	.39	1,030,974	8,660	3,377	1001205704	04	F	14,397	14,397
5057	.91	.30	2,584,397	23,518	7,055	5001198661	04	F	32,119	18,000
8227	.57	.35	537,579	3,064	1,072					
8809	.04	.39	195,000	78	30					
8810	.03	.46	1,106,157	332	153					
<b>Policy Total:</b>			<b>5,454,107</b>	<b>Subject Premium:</b>	<b>258,385</b>	<b>Total Act Inc Losses:</b>			<b>46,516</b>	

42-TEXAS

Firm ID: B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2020 Exp Date: 05/27/2021

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.84	.39	1,012,156	8,502	3,316					
5057	.91	.30	2,230,658	20,299	6,090					
8227	.57	.35	616,569	3,514	1,230					
8809	.04	.39	210,100	84	33					
8810	.03	.46	1,139,041	342	157					
<b>Policy Total:</b>			<b>5,208,524</b>	<b>Subject Premium:</b>	<b>201,357</b>	<b>Total Act Inc Losses:</b>			<b>0</b>	

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\* Total by Policy Year of all cases \$2000 or less. D Disease Loss  
 C Catastrophic Loss E Employers Liability Loss

X Ex-Medical Coverage  
 # Limited Loss

U USL&HW



## WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2021

Production Date: 12/11/2020

State: TEXAS

State	Wt	Exp Excess Losses	Expected Losses	Exp Prim Losses	Act Exc Losses	Ballast	Act Inc Losses	Act Prim Losses
TX-A	.11	770	1,167	397	0	29,850	0	0
TX-B	.11	56,931	89,088	32,157	91,013	29,850	140,410	49,397
(A) Wt	(B)	(C) Exp Excess Losses (D - E)	(D) Expected Losses	(E) Exp Prim Losses	(F) Act Exc Losses (H - I)	(G) Ballast	(H) Act Inc Losses	(I) Act Prim Losses
.11		57,701	90,255	32,554	91,013	29,850	140,410	49,397

	Primary Losses	Stabilizing Value	Ratable Excess	Totals
Actual	(I) 49,397	$C * (1 - A) + G$ 81,204	(A) * (F) 10,011	(J) 140,612
Expected	(E) 32,554	$C * (1 - A) + G$ 81,204	(A) * (C) 6,347	(K) 120,105
	ARAP	FLARAP	SARAP	MAARAP
Factors				(J) / (K) 1.17

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# WORKERS COMPENSATION EXPERIENCE RATING

Risk Name: TANK BUILDERS INC

Risk ID: 420554141

Rating Effective Date: 05/27/2021

Production Date: 12/11/2020

State: TEXAS

42-TEXAS Firm ID:A Firm Name: TANK BUILDERS INC

Carrier: 27243 Policy No. WA565D291984397 Eff Date: 07/14/2017 Exp Date: 07/14/2018

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
5057	.85	.34	137,305	1,167	397					
<b>Policy Total:</b>			137,305	<b>Subject Premium:</b>	3,954	<b>Total Act Inc Losses:</b>		0		

42-TEXAS Firm ID:B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2017 Exp Date: 05/27/2018

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.86	.40	945,996	8,136	3,254	8001094912	04	F	93,909	17,500
5057	.85	.34	1,713,433	14,564	4,952					
8227	.67	.37	511,854	3,429	1,269					
8809	.04	.36	132,926	53	19					
8810	.03	.36	1,313,183	394	142					
<b>Policy Total:</b>			4,617,392	<b>Subject Premium:</b>	242,166	<b>Total Act Inc Losses:</b>		93,909		

42-TEXAS Firm ID:B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2018 Exp Date: 05/27/2019

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.86	.40	957,620	8,236	3,294					
5057	.85	.34	1,780,934	15,138	5,147					
8227	.67	.37	569,852	3,818	1,413					
8809	.04	.36	141,800	57	21					
8810	.03	.36	1,392,210	418	150					
<b>Policy Total:</b>			4,842,416	<b>Subject Premium:</b>	202,485	<b>Total Act Inc Losses:</b>		0		

42-TEXAS Firm ID:B Firm Name: TANK BUILDERS INC

Carrier: 29939 Policy No. 0001224673 Eff Date: 05/27/2019 Exp Date: 05/27/2020

Code	ELR	D-Ratio	Payroll	Expected Losses	Exp Prim Losses	Claim Data	IJ	OF	Act Inc Losses	Act Prim Losses
3620	.86	.40	1,030,974	8,866	3,546	1001205704	04	F	14,397	14,397
5057	.85	.34	2,584,397	21,967	7,469	5001198661	04	F	32,104	17,500
8227	.67	.37	537,579	3,602	1,333					
8809	.04	.36	195,000	78	28					
8810	.03	.36	1,106,157	332	120					
<b>Policy Total:</b>			5,454,107	<b>Subject Premium:</b>	258,385	<b>Total Act Inc Losses:</b>		46,501		

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\* Total by Policy Year of all cases \$2000 or less. D Disease Loss X Ex-Medical Coverage U USL&HW  
 C Catastrophic Loss E Employers Liability Loss # Limited Loss

# Tank Builders, Inc.

## Uncompleted Contracts as of December 31, 2022 to match December 2022 Internal Statement

Updated: 03/29/23: New jobs shown through expected contracts on 03/29/23

Job No.	Contract Description and/or Location	Estimated Completion Date	Contract Price Including Approved Change Orders	Total Amount Billed to Date Including Retainage	Remaining To Be Billed
2018	C4 Partners / FBMUD142	06/23	\$409,500	\$53,303	\$356,197
2034	Nunn / HC MUD 171	04/22	\$517,100	\$517,100	\$0
2036	Musket / Phoenix, AZ	07/23	\$2,162,906	\$522,420	\$1,640,486
2113	IWS / Turners Crossing	09/22	\$930,775	\$930,775	\$0
2116	East Medina SUD	12/22	\$964,400	\$946,900	\$17,500
2117	*New TBI Office Property	05/23	\$0	\$0	\$0
2118	Bell County WC&ID #3	03/23	\$637,500	\$282,169	\$355,331
2119	TVB / City of Blooming Grove	10/22	\$137,910	\$137,910	\$0
2201	TVB / SW Milam WSC	12/22	\$63,695	\$373	\$63,322
2205	R&B / HC MUD #433	08/22	\$563,125	\$526,500	\$36,625
2206	TVB / Hinds-Wildcat	02/23	\$40,325	\$447	\$39,878
2207	TVB / Sun WSC	11/22	\$204,843	\$204,843	\$0
2209	L&S / HC MUD #165	10/22	\$554,000	\$554,000	\$0
2210	Tidal / HC MUD #531	10/22	\$348,600	\$348,600	\$0
2211	Schier / HC MUD #559	01/23	\$499,600	\$439,300	\$60,300
2214	TVB / Polonia WSC / Aqua WSC	10/22	\$107,414	\$85,750	\$21,664
2215	Schier / HC MUD #171	12/22	\$946,100	\$836,050	\$110,050
2216	Musket / Elmendorf, TX	10/23	\$2,803,800	\$981,330	\$1,822,470
2217	Terry Black / Manville WSC	11/22	\$636,800	\$557,300	\$79,500

2219	Liberty Civil / Loop 360 WSC	04/23	\$1,066,650	\$731,650	\$335,000
2220	Barsh / Lacy Lakeview, TX	05/23	\$467,000	\$0	\$467,000
2221	SKM / Grand Island, NE	12/22	\$705,100	\$690,100	\$15,000
2222	TVB / City of Hillsboro, TX	04/23	\$65,044	\$0	\$65,044
2223	G.S. / BC MUD #55	03/23	\$440,100	\$0	\$440,100
2224	TVB / Lometa Regional WS	12/22	\$46,403	\$46,403	\$0
2225	Circle K Expansion (Phoenix, AZ)	09/23	\$2,254,343	\$532,500	\$1,721,843
2226	Circle K Expansion (Phoenix, AZ)	09/23	\$2,254,343	\$532,500	\$1,721,843
2227	WWP / MC MUD #125	04/23	\$274,200	\$0	\$274,200
2228	WWP / Sagemeadow UD	04/23	\$434,500	\$0	\$434,500
2229	Tidal / HC MUD #418	06/23	\$806,500	\$0	\$806,500
2230	TVB / Lake Weatherford Standpipe	05/23	TBD		
2231	Nunn / HC MUD #515	07/23	\$506,300	\$0	\$506,300
2232	Schier / HC MUD #418	07/23	\$712,500	\$0	\$712,500
2233	Schier / HC MUD #418	07/23	\$712,500	\$0	\$712,500
2234	TVB / Green Valley SUD	08/23	TBD		
2301	TVB / Files Valley WSC	08/23	TBD		
2302	TTE / Manville WSC	07/23	\$576,000	\$0	\$576,000
2303	TVB / Diana SUD	08/23	TBD		
2304	Travis County MUD #4 Baffle Rep.	05/23	\$141,000	\$0	\$141,000
2305	Hoover Const. - Canyon Lake WSC	06/24	\$596,800	\$0	\$596,800
2306	WWP / FB MUD #222	07/23	\$473,000	\$0	\$473,000
2307	TVB / McClelland WSC	08/23	TBD		

\*\*\*\*\*  
 \$25,060,676 # \$10,458,223 # \$14,602,453  
 \*\*\*\*\*

## **AGENDA ITEM XII**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. XI

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER AND ACT UPON CHANGE ORDER NO. 2 TO THE CONTRACT WITH THI WATER WELL FOR THE CITY OF WHITEWRIGHT PROPOSED WELL NO. 5 PROJECT**

**ISSUE**

Consider and act upon Change Order No. 2 to the contract with THI Water Well for the City of Whitewright Proposed Well No. 5 Project

**BACKGROUND**

In 2018, the City of Whitewright requested the Authority’s assistance with financing a water system improvement projects. The City is planning projects which include a new water well, ground storage tank, pump station, re-coating of an elevated storage tank, water line replacements, and appurtenances.

The Texas Water Development Board’s (“DWSRF”) Drinking Water State Revolving Fund (“DWSRF”) was identified as the most economical funding source for the identified projects. The 2019 bond issuance through the TWDB was \$3,758,106. The funding for this project includes three (3) separate components due to the City qualifying for loan forgiveness in addition to a portion of the loan being offered at 0% interest. The three (3) portions are 1) Series 2019A which offers a 1.35% interest rate subsidy for 30 years; 2) Series 2019B which offers 0% interest rate for 30 years; and 3) Principal Forgiveness which is not required to be paid back. The three (3) components are summarized below:

1.35% Interest Subsidy, 30-year	\$ 1,645,000
0% Interest, 30-year	\$ 1,025,000
Principal Forgiveness	\$ 1,088,106
<hr/>	
Total	\$ 3,758,106

The waterline replacement project, also funded by this bond issuance, was awarded to Underwood, Inc. in the amount of \$752,421.75. Construction on this project is ongoing.

The Well No. 5 Project consists of drilling a 230 gallons per minute well approximately 1,130 feet deep into the Woodbine aquifer. This project also includes adding an all-weather access road, fencing, electrical, controls and other appurtenances. This well will replace their existing No. 5 well that has “sanded in” and is no longer able to produce water for the City. This project is necessary for the City as they have met the TCEQ ‘s limitations of 0.6gpm per connection limitation for their source water.

THI Water Well was selected for the project in June of 2022 with a bid of \$1,498,788.

During drilling of the new well, the borehole for the new well came in contact with the gravel pack of the existing well. The City and THI planned to cap the existing well, and allow Red River GCD to use the existing well as a monitoring well. Due to this issue, the existing well will need to be plugged. Change Order No. 1 consists of abandoning the existing well on site instead of capping for an increased contract price of \$29,500.





# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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PAGE 2

## **CONSIDERATIONS**

THI has recommended reducing the wellbore size from 20" to 14.750". Reducing the wellbore size will result in a reduction of \$36,170.00 due to reduce gravel, rig time and under reamer.

## **STAFF RECOMMENDATIONS**

The staff recommends approving Change Order No. 2 to decrease the contract to THI Water Well, in the amount of \$36,170.00 for a new contract price of \$1,492,118.00. This item is contingent on the approval of the City of Whitewright.

## **ATTACHMENTS**

Change Order No. 2

Date of Issuance: 07/10/2023	Effective Date: 07/10/2023
Owner: City of Whitewright and GTUA	Owner's Contract No.: TWDB Project No. 62831 CID02
Contractor: Hall Resources dba THI Water Well	Contractor's Project No.: WTW007
Engineer: KSA Engineers, Inc.	Engineer's Project No.: WTW007
Project: Whitewright Proposed Well No. 5	Contract Name: TWDB DWSRF Water Distribution System Improvements Proposed City Well No. 5

The Contract is modified as follows upon execution of this Change Order:

Description: Final well bore to 14.750" from 20" ded gravel, rig time & under reamer See attachment for breakdown

Attachments: 1

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ 1,498,788.00	Original Contract Times: February, 13, 2023 Substantial Completion: July, 13, 2023 (150 days) Ready for Final Payment: August 12, 2023 (180 days) days or dates
<u>[Increase]</u> [Decrease] from previously approved Change Orders No. <u>1</u> to No. <u>2</u> : \$ 29500.00	[Increase] [Decrease] from previously approved Change Orders No. _____ to No. _____ : Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: _____ \$ 1,528,288.00	Contract Times prior to this Change Order: _____ Substantial Completion: 150 Ready for Final Payment: 180 days or dates
<u>[Increase]</u> [Decrease] of this Change Order: <u>2</u> \$ -36,170.00	<u>[Increase]</u> [Decrease] of this Change Order: <u>2</u> Substantial Completion: 240 Ready for Final Payment: 270 days or dates
Contract Price incorporating this Change Order: _____ \$ 1,492,118.00	Contract Times with all approved Change Orders: _____ Substantial Completion: July, 13, 2023 (150 days) Ready for Final Payment: August 12, 2023 (180 days) days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By:  Contractor (Authorized Signature)
Title: _____	Title: _____	Title: <u>President</u>
Date: _____	Date: _____	Date: <u>7/10/2023</u>

Approved by Funding Agency (if applicable)

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

THI  
WATER WELL, LLC  
P.O. BOX 1419  
BOWIE, TEXAS 76230

4/12/2023

City of Whitewright  
Well # 5 Replacement  
Madelyn Tadlock  
Job # 10518

*Change Order Request #2  
emailed to Madelyn  
again 7/6/2023*

Final well bore taken to 14.750" from 20".  
Deduct of Gravel, Rig Time, Under Reamer

Deduct 8 bags of gravel @ 350.00ea	2,800.00
4 days rig time @ 5,500.00	22,000.00
Under Reamer	<u>12,000.00</u>
Deduct	36,800.00

Screen Quote 109'  
Screen Used 115'

6' Of screen added @ 105.00 630.00

Change order in the amount 36,170.00 of the contract price

**AGENDA ITEM XIII**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

---

**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. XIII

**PREPARED AND SUBMITTED BY:** Paul M. Sigle, General Manager

## **CONSIDER AND ACT UPON AN AGREEMENT FOR WATER PRODUCTION SERVICES FOR WESTON WATER SUPPLY CORPORATION**

### **ISSUE**

Consideration of an agreement for water production services with the Weston Water Supply Corporation.

### **BACKGROUND**

Weston Water Supply Corporation Board of Directors President Kevin Thomson requested a water production service proposal. Weston WSC is a small water system with about 320 connections serving the area in and around Weston in Collin County.

The Authority Staff submitted a proposal for providing services for operating the water system and billing services.

### **CONSIDERATIONS**

Weston WSC has decided to accept the proposal and approved the water production services agreement on June 26, 2023. Weston WSC's past contracted operator for the system informed Weston WSC that their last day of operation will be July 11, 2023.

An additional operator will be required to meet the needs of Weston WSC and other future operation services for the area.

### **STAFF RECOMMENDATIONS**

The staff recommends authorizing the execution of an agreement with Weston Water Supply Corporation for Water Production Services.

### **ATTACHMENTS**

Water Production Services Agreement



## GREATER TEXOMA UTILITY AUTHORITY

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5100 Airport Drive  
Denison TX 75020  
Ph. (903) 786-4433  
Fax (903) 786-8211  
gtua@gtua.org

Thursday, May 18, 2023

Weston Water Supply Corporation  
Attn: Board of Directors  
P.O. Box 158  
Weston, TX 75097

Re: Proposal for Water Production Services

Dear President Thompson:

The proposal outlined below is intended to provide you with what we believe to be a typical schedule of activities that would need to be performed to assist you in the operation of your water production facilities. This proposal provides for services associated with the operation of the water production facilities.

### PROPOSAL FOR SERVICES

#### GENERAL

The Authority will provide experienced and licensed personnel to perform operational assistance for the Weston Water Supply Corporation as required in order to meet its water production regulatory requirements.

#### WATER ACTIVITIES

The activities would include, but not necessarily be limited to:

1. Weekly routine duties include testing for chlorine, examining the system for leaks, and on-call services for system issues.
2. Monthly routine duties include monthly operating reports; reading and reporting of customer meters; generating monthly bills; preparing and mailing bills; posting payments to accounting software as they are received; and sending usage/bill summaries.
3. Quarterly routine duties include Quarterly monthly sampling requirements and reporting meter readings to North Texas GCD.
4. Annual routine duties include annual CCR; lead and copper sampling; TCEQ inspections.
5. Perform other duties, as required or necessary to ensure the continued and uninterrupted operation of the water production facilities in compliance with Texas Commission on

K.T.

Environmental Quality regulations.

- Repairs of lines and equipment would be provided by the contractor of Weston WSC chosen. The Authority can provide recommendations if needed.

EMPLOYEE RATES FOR SERVICES

The Authority's basis for offering services is that it be reimbursed for the actual cost incurred for the provision of these services. These costs include hourly wages and benefits of Greater Texoma Utility Authority employees, travel costs to and from the Weston WSC, and all other direct costs associated with the operations of the water production facilities. Additionally, any after-hour work would be charged at times and a half. It is the intent of the Authority to recover its actual costs from the services provided. Below are the current rates for the Authority's employees. These rates are subject to change.

Title	Rate (\$/hour)
General Manager	\$83.13
Operation Supervisor	\$49.63
Operator	\$45.15
Maintenance Technician	\$22.52
Financial Manager	\$80.88
Accountant	\$29.99
Project Coordinator	\$29.19

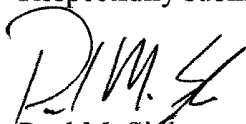
ESTIMATED ANNUAL COST

Below is the estimated annual cost based on the expected employee time.

Employee	Estimated Time	Annual Cost
Operator	10 hours per week for operation requirements; 28 hours a month for meter readings	\$38,648.40
Accountant	72 hours per month for billing	\$25,911.36
<b>Total</b>		<b>\$64,559.76</b>

This estimate is our best estimate on the amount of time employees would typically be dedicated to the Weston WSC system. Additional costs may occur for the first couple of months for setting up the billing system and the operator learning the system.

Respectfully submitted,

  
Paul M. Sigle  
General Manager

K.T.

## WATER PRODUCTION AGREEMENT

STATE OF TEXAS

§

COUNTY OF GRAYSON

§

§

This Agreement, made and entered into this 11 day of July, 2023, by and between the Weston Water Supply Corporation, a non-profit corporation in Grayson County, Texas, hereinafter called "Corporation," and the Greater Texoma Utility Authority, hereinafter called "GTUA."

### WITNESSETH:

WHEREAS, The Corporation owns a water distribution system that provides potable water for its citizens; and

WHEREAS, The Corporation has determined that it is in its best interest that an entity experienced and qualified in water services be engaged to assist in operating, managing and maintaining its water system in compliance with all governmental requirements; and

WHEREAS, The Corporation has determined that the proposal of GTUA, an entity created by an act of the legislature of the State of Texas to provide water, wastewater, and solid waste services to entities, as said proposal is modified and supplemented herein, is in the best interest of Corporation and that GTUA is qualified and capable of providing the services required by the Corporation.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and of the terms and conditions hereinafter set forth, the parties agree as follows:

1. The Proposal. The term "proposal" as used herein refers to the proposal made and submitted by GTUA to the Corporation dated May 18, 2023 as amended, modified, or supplemented herein.

The proposal is a general guideline for the commencement of operation and continued operation, maintenance and management of water distribution facilities. Such proposal is amended and superseded by specific terms of this agreement, which may be amended from time to time upon agreement of GTUA and the Corporation.

2. Operation and Management. GTUA shall provide necessary support services for the operation of the water distribution system, as may be desired by the Corporation.

GTUA shall provide necessary management personnel to assist management, operation and maintenance of the water system effectively and efficiently, and in such a manner as to insure water



quality in compliance with any and all water control orders issued by the Texas Commission on Environmental Quality (Commission), the Environmental Protection Agency (EPA), and any orders or requirements of any governmental agency relating to this plant.

3. Ownership and Financing. The water system is now and shall continue to be owned by the Corporation and it shall be the responsibility of the Corporation to provide such facilities, operating funds, and capital expenditures, as may be necessary to accomplish the quality of water by the Commission, the EPA, and any subsequent orders or requirements of any government agency relating to this plant.

4. Charges and Payment. Monthly payments shall be made by the Corporation to GTUA for actual costs incurred including hourly wages and benefits of the GTUA employees, travel costs to and from Corporation, and other direct costs, including fees for professional services, associated with the operation of the water system. GTUA shall invoice the Corporation for any such services performed hereunder during the preceding thirty (30) day period, said invoice to be presented by the 25th day of each month. Said invoice shall be provided in such a manner that Corporation may determine the reasonableness of the charges submitted. The Corporation shall pay said amount by the tenth day of the month following receipt of any such invoice unless notice of protest or disagreement is given to GTUA within seven (7) days after receipt of said invoice. Failure of GTUA and Corporation to agree upon payment of such invoice within thirty (30) days of protest shall be grounds for termination under Paragraph 6.

Other operating costs including supplies, maintenance and service, shall be paid directly by the Corporation and shall be the financial responsibility of the Corporation. All costs of defending or responding to enforcement actions brought by regulatory agencies or litigation brought by third parties concerning the water facilities covered by this contract or services rendered under this contract, shall be the financial responsibility of the Corporation.

Emergency expenditures not budgeted for may be incurred with the concurrence of the General Manager of the Greater Texoma Utility Authority and the President of the Corporation, subject to the limitations placed on each by the respective governing bodies.

5. Operating Employees. Present Corporation employees, if any, assigned to the water system operations will remain in the employ of the Corporation, but shall be assigned for all operating purposes to GTUA personnel who have the responsibility of the water operations. Such assignments shall be made in writing by the Corporation, and shall clearly state from whom the Corporation employees are to take their operating instructions and work assignments. GTUA shall be responsible for making such work assignments and shift assignments as may be necessary to the efficient operation of the water production facilities. In the event that existing personnel are not responsive to work assignments within the water activities, the Corporation agrees to transfer or re-assign such personnel to other work assignments within the Corporation operations or terminate such employees if they fail to follow work assignments.

GTUA employees shall be responsible for reporting to the Mayor of Corporation.

6. Termination. Either the Corporation or GTUA may terminate this agreement for any reason upon ninety (90) days written notice of termination to the other party. In such event, upon the request of the Corporation, GTUA shall continue its operations for a period of up to ninety (90) additional days, upon the same terms and conditions contained herein. However, if at any time during the term of this agreement or any extension thereof, the Corporation refuses to provide the financial resources necessary to operate the water production facilities in accordance with the rules and regulations of the Commission and the EPA, or pay invoices submitted pursuant to Paragraph 4, GTUA may terminate the contract upon seven (7) days notice.

7. Indemnity. Neither the Corporation nor GTUA shall be liable to the other for loss, either direct or consequential, arising out of death or injury to persons, or out of damage to or destruction of the water facilities, the associated buildings, equipment, or contents, whether such losses are caused by negligence of either party or by an act of God, or by any of the perils which are or could be included within, or insured against by, a form of property insurance, workers' compensation insurance or liability insurance. All such claims for any and all loss, however caused, are hereby waived. Said absence of liability shall exist whether or not the damage, destruction, injury, or loss of life is caused by the negligence of either party or of any of their respective agents, servants, or employees. It is the intention and agreement of both parties that the operating budget, charges and payments described in Paragraph 4, will be fixed in contemplation that each party shall look to its respective insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this agreement. Neither party shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof, unless it is specifically covered therein as an additional insured.

8. Insurance. GTUA shall obtain the following insurance coverage with insurance companies licensed in the State of Texas and shall provide a certificate of insurance as evidence of such coverage to the Mayor of the Corporation:

A. Comprehensive general liability, with a minimum single limit of liability for bodily injury and property damage of \$300,000 per occurrence and annual aggregate. The coverage shall include: premises and operations, product and completed operations, independent contractors, contractual liability, and personal injury liability.

B. Automobile liability, with a minimum combined single limit of liability for bodily injury and property damage of \$100,000 each occurrence. The coverage shall include owned, hired, and non-owned autos.

C. Workers' compensation and employer's liability insurance in compliance with the laws of the State of Texas.

All certificates shall provide that the policy shall not be changed or canceled until at least ten

(10) days prior written notice shall have been given to the Corporation.

9. Inspection. GTUA shall, during the term of this agreement, make available for inspection by any governmental agency with lawful jurisdiction, the operations and site of the water production facilities. In addition, all books and records kept by GTUA with regard to the operation of the water production facilities shall be subject to reasonable inspection of the Corporation.

10. Independent Contractor. GTUA is, and shall perform this agreement as, an independent contractor, and as such, shall have and maintain complete control over all of its employees, subcontractors, agents, and operations. Neither GTUA nor anyone employed by it shall be, represent, act, purport to act or be deemed to be the agent, representative, subcontractor, employee, officer or servant of the Corporation. No employee or agent of the Corporation shall be, represent, act, or purport to act or be deemed to be the agent, representative, subcontractor, employee, officer, or servant of GTUA.

11. Assignment. This Agreement shall not be assignable except at the written consent of GTUA and the Corporation hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of GTUA and the Corporation thereto.

12. Notices. All notices given under this agreement shall be deemed properly served if delivered in writing personally, or sent by certified mail to Corporation, addressed to the President, Weston Water Supply Corporation, P.O. Box 158, Weston, Texas 75097 and to GTUA addressed to the General Manager, Greater Texoma Utility Authority, 5100 Airport Drive, Denison, TX 75020. The date of service of notice served by mail shall be the date on which such notice is deposited in a post office of the United States Postal Service.

13. GTUA's Financial Obligations. Nothing in this agreement shall be construed to require GTUA to expend funds from any source other than the revenues received hereunder. All costs required by valid rules, regulations, laws, or orders passed or promulgated by the United States of America, the State of Texas, and regulatory or judicial branches thereof having lawful jurisdiction shall be the responsibility of the Corporation.

14. Entire Agreement. This agreement embodies the entire understanding between GTUA and the Corporation hereto relative to the subject matter hereof and shall not be modified, changed or altered in any respect except in writing signed by GTUA and the Corporation.

15. Governing Law and Severability. This agreement shall be governed by the laws of the State of Texas. The provisions of this agreement shall be deemed to be severable and the invalidity of or inability to enforce other provisions hereof. In the event of a conflict between the terms of this agreement and any exhibit attached hereto, the terms and conditions of this agreement shall take precedence.

16. Interpretation. Although drawn by GTUA, this contract shall, in the event of any

dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

IN WITNESS WHEREOF, the parties hereto have caused the signatures of their legally authorized representatives to be affixed hereto, having been duly approved by the respective governing bodies.

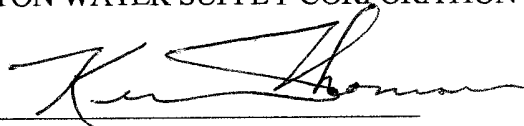
**GREATER TEXOMA UTILITY AUTHORITY**

BY: \_\_\_\_\_  
President

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

ATTEST:  
  
\_\_\_\_\_  
Secretary

**WESTON WATER SUPPLY CORPORATION**

BY:   
President

DATE: 6/27/2023

ATTEST:  
  
\_\_\_\_\_  
Secretary

**AGENDA ITEM XIV**

**AGENDA ITEM XV**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. XV

## **DISCUSSION AND POSSIBLE ACTION ON THE AUTHORITY'S HEALTH INSURANCE PLAN.**

### **ISSUE**

Our health insurance provider, Blue Cross Blue Shield, notified the Authority that our premiums are set to increase.

### **BACKGROUND**

Blue Cross Blue Shield was selected as the health insurance plan for the Authority in July of 2018 after the past health insurance provider increased the rates by over 20%.

Blue Cross Blue Shield has notified the Authority the premiums will increase by about 9.73% starting in October.

### **ALTERNATIVE**

The Board could choose to seek quotes from other health insurance providers and compare them to the current rates.

### **STAFF RECOMMENDATIONS**

The Authority Staff recommends accepting the increase in premiums from Blue Cross Blue Shield.

BCBS Health Plan Options/Comparison			
	P620CHC	G654CHC	S663CHC
<b>Deduct Ind/Family (In Network)</b>	\$250/\$500	\$1250/\$2500	\$3,000/\$6,000
<b>Co-Ins In/Out</b>	80%/60%	80%/60%	70%/50%
<b>Out of Pocket Ind/Family(In Network)</b>	\$1,500/Unlimited	\$5,000/Unlimited	\$9,000/Unlimited
<b>Office Visit/Illness</b>	30/30	45/45	45/45
<b>Specialist</b>	\$60	\$90	\$90
<b>Non-Preferred RX</b>	\$10/\$20/\$55/\$95/\$150/\$250	\$10/\$20/\$70/\$120/\$150/\$250	\$10/\$20/\$70/\$120/\$150/\$250
<b>Total Monthly Premiums</b>			
Employee Only	\$ 1,343.07	\$ 1,145.85	\$ 1,011.48
Employee/Spouse	\$ 2,686.14	\$ 2,291.70	\$ 2,022.96
Employee/Child	\$ 2,686.14	\$ 2,291.70	\$ 2,022.96
Employee Family	\$ 4,029.21	\$ 3,437.55	\$ 3,034.44
<b>Employee Share of Monthly Premiums</b>			
Employee Only	\$ 443.21	\$ 378.13	\$ 333.79
Employee/Spouse	\$ 886.43	\$ 756.26	\$ 667.58
Employee/Child	\$ 886.43	\$ 756.26	\$ 667.58
Employee Family	\$ 1,329.64	\$ 1,134.39	\$ 1,001.37



BCBS Insurance renewal

BCBS Health Plan Options/Comparison						
	P620CHC		G654CHC		S663CHC	
<b>Total Monthly Premiums 2022</b>						
Employee Only	\$ 1,228.37		\$ 1,044.05		\$ 919.35	
Employee/Spouse	\$ 2,456.74		\$ 2,088.10		\$ 1,838.70	
Employee/Child	\$ 2,456.74		\$ 2,088.10		\$ 1,838.70	
Employee Family	\$ 3,685.11		\$ 3,132.15		\$ 2,758.05	
Current Monthly Premiums	\$ 2,456.74		\$ 8,352.40		\$ 2,758.05	\$ 13,567.19
<b>Total Monthly Premiums 2023</b>						
Employee Only	\$ 1,343.07		\$ 1,145.85		\$ 1,011.48	
Employee/Spouse	\$ 2,686.14		\$ 2,291.70		\$ 2,022.96	
Employee/Child	\$ 2,686.14		\$ 2,291.70		\$ 2,022.96	
Employee Family	\$ 4,029.21		\$ 3,437.55		\$ 3,034.44	
Renewal rates w/current coverage	\$ 2,686.14		\$ 9,166.80		\$ 3,034.44	\$ 14,887.38
Rate difference =	9.34%		9.75%		10.02%	9.73%

**AGENDA ITEM XVI**



# GREATER TEXOMA UTILITY AUTHORITY AGENDA COMMUNICATION

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**DATE:** July 20, 2023

**SUBJECT:** AGENDA ITEM NO. XVI

**PREPARED BY:** Debi Atkins, Finance Officer  
**SUBMITTED BY:** Paul M. Sigle, General Manager

**CONSIDER AND ACT UPON ALL MATTERS INCIDENT AND RELATED TO THE REQUEST FOR PROPOSALS RELATED TO INVESTMENT ADVISING SERVICES FOR THE AUTHORITY, INCLUDING APPOINTING A SELECTION COMMITTEE.**

**ISSUE**

Consider and act upon all matters incident and related to the request for proposals related to investment advising services for the Authority, including appointing a selection committee.

**BACKGROUND**

The Greater Texoma Utility Authority (“Authority”) currently maintains over 100 bank accounts in order to service the more than \$650 million in debt issued on many of the area’s water and wastewater providers’ behalf. In order to maximize the benefit that the Authority provides, the staff invests funds during the times in which the Authority holds them. This has enabled the Authority to issue and manage debt at minimal cost to the water and wastewater providers we assist. The Authority staff invests all funds in accordance with the Public Funds Investment Act and the Authority’s Investment Policy.

In 2015, the Board authorized the staff to solicit Requests for Proposals for Investment Management Services at the April 2015 meeting. Proposals were solicited, and the Board selected Valley View Consulting, and their current contract expires on December 31, 2023. The Board requested the Authority Staff solicit new proposals at the end of the current contract for Valley View Consulting.

**RECOMMENDATION**

The Authority Staff recommends authorizing the General Manager to solicit Requests for Proposals for investment management services and appointment of a selection committee.

**Attachments**

Draft Request for Proposals

The Greater Texoma Utility Authority (“Authority”) is soliciting Request for Proposal (“RFP”) from qualified investment advisor firms to provide Investment Advisory Services. The initial contract period will begin December 1, 2023, with the next solicitation being in 5 years, as long as both parties are happy with the service. Sealed applications will be accepted until November 6, 2023 at 4:00 P.M. Response envelopes shall be sealed and clearly marked “**Do Not Open: RFP Response Enclosed**”. The envelopes shall contain one original and one (1) complete bound copy of the response.

RFP Mailing Address:

Greater Texoma Utility Authority

Attn: Finance Department

5100 Airport Drive

Denison, Texas 75020

RFP Courier Delivery Address:

Greater Texoma Utility Authority

Attn: Finance Department

5100 Airport Drive

Denison, Texas 75020

Any responses received after the time and date stated above, regardless of delivery, will not be considered and will be returned unopened. Questions concerning this Request for Proposal or requests for a copy of the RFP documents should be directed to Debi Atkins, Finance Officer, at (903) 786-4433 or via e-mail at [debia@gtua.org](mailto:debia@gtua.org).

## INTRODUCTION

The Authority is requesting proposals from eligible and qualified investment advisor firms to serve as Investment Advisor to the Authority. The services provided will be in accordance with this RFP. A separate contract detailing the terms and conditions of the services will be duly executed between the Authority and the selected firm.

Any and all charges and fees associated with the contract must be clearly and accurately included in the RFP response. The charges and fees represented in the RFP response shall overrule any and all previous agreements between the Authority and the firm, as they relate to the services included herein. The Authority will not be obligated by any charges and fees not clearly and accurately presented in the RFP response. Services initiated after consummation of the contract shall carry charges and fees mutually agreed to, in writing, by the Authority and the firm. Regardless of time delay, the firm shall refund or credit the Authority for any erroneous charges and fees not agreed to in writing.

The philosophy incorporated into this RFP is to solicit proposals for advisory services currently utilized or open for consideration by the Authority, based on projected activity and transaction volumes. The Authority intends to manage its funds to optimize interest income as authorized by the Authority's Investment Policy and as permitted by state law.

All transactions will be approved by the Authority's Finance Officer and/or the General Manager prior to execution. The purchase of individual securities shall be executed "delivery versus payment" (DVP) through the Authority's safekeeping agent. By so doing, Authority funds are not released until the Authority has received, through the safekeeping agent, the securities purchased.

The investment advisor contract will begin December 1, 2023. The Authority reserves the right to cancel the contract on 30 days notice, at any time, without cause.

The investment advisor will be an important component of the treasury and cash management system of the Authority. From this perspective, the Authority is seeking a firm that is:

- Capable of providing the services required by the Authority;
- Willing to be attentive and responsive to the Authority's needs; and
- Experienced and established with Texas Public Funds Management.

The evaluation of the proposals will be based on the "best value" as determined by the Authority.

Exceptions, conditions, or qualifications to the provisions of the Authority's specifications or requirements must be clearly identified as such, with the reasons therefore, and alternate language proposed, if any, clearly stated and inserted in the appropriate place in the firm's submission.

Each of these exceptions, conditions, or qualifications to the Authority's specifications will be included, as appropriate, in the Contract documents. Items and matters not explicitly excepted in this manner shall be deemed to be in conformance with the Authority's specifications.

The RFP also requests certain information to be attached and specifically labeled. Responses must be complete, address all aspects of the RFP, and include all requested information to receive full consideration by the Authority in the selection process. The Authority may choose to waive any irregularities in any responses received and reserves the right to reject all proposals.

The Authority desires to enter into a contract of mutual party benefit and will answer all questions pertaining to this RFP.

# **Greater Texoma Utility Authority**

## **Investment Advisory Services**

### **Section**

1. Organization
2. Personnel
3. Investment Management Approach
4. Reporting
5. Fees
6. General
7. References

## 1. Organization

- a) Describe the organization, date founded, and ownership of your firm, as well as any subsidiaries and affiliates relevant to the Authority.
- b) Describe the experience of the firm in serving as investment advisor for Texas local governments and other public entities.
- c) Identify the types of accounts primarily sought by your firm.
- d) Describe any censure, arbitration, or litigation involving the investment advisory services of your firm.
- e) How many client relationships does your firm have in the public sector and what are the assets under management?
- f) Does the firm, its affiliates, or the ultimate parent of the firm act as a securities broker dealer or introducing broker for clients?

## 2. Personnel

- a) Identify the investment professionals who would be directly involved in providing services to the Authority. Describe their role in your firm, their responsibilities, their investment management experience, and specifically with the public sector investment management, and the number of years they have been associated with your firm.
- b) Have any of the above personnel ever been investigated or subject to arbitration for alleged improper, fraudulent or unfair activities related to the sale of securities? If so, please provide details.
- c) What efforts does your firm make to keep its investment professionals informed of developments relevant to government investment managers?

## 3. Investment Management Approach

- a) Outline the steps that would be taken to ensure the Authority's objectives of safety, liquidity, and yield are met.
- b) Describe your firm's primary strategies for adding value to portfolios. Include a current client report with similar size and objectives as the Authority.
- c) Describe your daily procedures for portfolio review and client contact.
- d) Describe your normal settlement, safekeeping and custodial procedures.
- e) Describe your selection process for broker/dealers and financial institutions.



#### 4. Reporting

- a) Describe and submit samples of the reports that would be provided and their frequency. Include the methods and formulas used to calculate yield and performance.

#### 5. Fees

- a) Please include a copy of your firm's fee schedule.
- b) Please indicate whether they include custodial fees.
- c) Is there a minimum annual fee?
- d) Are fees charged when there is no activity in the account?

#### 6. General

- a) In less than five (5) sentences, describe how your firm could improve the rate of return on the Authority's investments while preserving and protecting principal.
- b) In less than five (5) sentences, describe how your firm could help the Authority invest bond funds held for construction. Currently, these funds are typically held in an ESCROW and spent over the course of 1-3 years and construction progresses.

#### 7. References

- a) Provide a short list of comparable public sector clients, including contact persons and telephone numbers.

We have attached a copy of the Authority's previous three (3) Quarterly Investment Reports and a copy of the Investment Policy

**ADJOURN**