



NORTH TEXAS MUNICIPAL WATER DISTRICT

**501 E. Brown Street • Wylie, Texas 75098
(972) 442-5405 – Phone • (972) 295-6440 – Fax**

TO: BOARD OF DIRECTORS

FROM: JENNA COVINGTON, EXECUTIVE DIRECTOR

DATE: JUNE 17, 2022

SUBJECT: REGULAR MEETING – THURSDAY, JUNE 23, 2022

This month marks the transition at the front table in the Board Room. As Director May steps up as President and Director Peasley moves to the Vice President's chair, we are pleased to welcome Director Crump to the Board Secretary role. I am very grateful for the leadership and support of Director Dyer and look forward to his continued involvement on the Executive Committee as Past President.

When you arrive to the meeting on Thursday, you will also notice the seating has changed for most of the Directors. We try to shift Directors who have been on the sides to the middle and vice versa and allow Directors a chance to mingle with different neighbors. Moreover, we try to pair up new Directors with their counterparts from their cities as well as more tenured Directors. Please let Brian know if there are any changes we need to make for accommodation purposes.

Strategic Objective Highlight: Objective 1.4 – Reliable and Resilient Systems

Significant progress has been made towards Strategic Initiative 1.4.3 (Maximize the Site Life of the 121 Regional Disposal Facility). Space (cubic yards) available for waste disposal in a landfill is measured in terms of "airspace." Taking the amount of airspace available and dividing it by the amount of waste consumed each year yields the remaining lifetime of the site. Effectively managing the waste consumed each year extends the life of the landfill, reducing future capital costs. This is achieved by improving two operations at the landfill: Waste and Soil processing.

On the waste management front, all Heavy Equipment Operators were retrained with new optimum waste handling procedures to maximize compaction rates and challenging compaction goals were set. This included identifying processing rates for equipment, placement of waste, lift thickness, and visual compaction indicators. On the soil side, NTMWD is required by our permit to place soil on the waste at the end of each working day. To reduce the need for soil, an Alternate Daily Cover (ADC) program was permitted with the TCEQ to allow for a foam covering to be used in place of soil in certain conditions. Additionally, the size of the working face of the landfill was optimized to reduce the square footage. This allowed for less soil and/or foam to be used.

Both waste and soil operations are managed on a daily tracking program to determine compliance with the program. The Landfill Manager and Lead Operators provide daily feedback to the operators to make sure they know they are following the plan. In the last 6 months, the program has seen a 50 percent reduction in soil usage compared to the previous year. Compaction is

MEMORANDUM TO BOARD OF DIRECTORS

JUNE 17, 2022

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measured and reported to the TCEQ on an annual basis. The next official survey will be January 2023 with a goal of 1,400 lbs per cubic yard with the end goal of achieving 1,700 lbs per cubic yard by 2026.

New Committee Assignments

As mentioned in last week's update, President May has drawn up the committees for the upcoming year. The task of assigning Directors to committees can be likened to a careful balancing act – mixing experience with opportunities for Directors to contribute to new areas while also trying to maintain balance of representation. The new assignments will take effect on July 1. I have attached the assignments to this memo.

Farewell and Thank You to Director John Murphy

At the Board Meeting, we will be honoring the service and contributions of Director John Murphy. For the past nine years, Director Murphy has represented the City of Richardson and the region with integrity and diligence. We wish him well and appreciate the tireless service.

The City of Richardson appointed Randy Roland on June 13 to fill the vacancy. Please join me in welcoming Director Roland.

NORTH TEXAS MUNICIPAL WATER DISTRICT

BOARD OF DIRECTORS COMMITTEES 2022-2023

EXECUTIVE COMMITTEE

Jenna Covington, Champion

1. Jack May President
2. Richard Peasley Vice-President
3. George Crump Secretary
4. Phil Dyer Past President

WATER COMMITTEE

Billy George, Champion

1. Terry Sam Anderson, Chairman
2. Marvin Fuller
3. Don Gordon
4. David Hollifield
5. Chip Imrie
6. Geralyn Kever
7. Larry Thompson

WASTEWATER COMMITTEE

Billy George, Champion

1. Ron Kelley, Chairman
2. Rockwall, TBD
3. Joe Farmer
4. Blair Johnson
5. Brenda Jean Patrick
6. Keith Stephens
7. John Sweeden

SOLID WASTE COMMITTEE

Jeff Mayfield, Champion

1. Jim Kerr, Chairman
2. Robert Appolito
3. John Carr
4. Brenda Jean Patrick
5. Randy Roland
6. Lynn Shuyler
7. Jody Sutherland

FINANCE COMMITTEE

Jeanne Chipperfield, Champion

1. Chip Imrie, Chairman
2. Terry Sam Anderson
3. Kalen Boren
4. Don Gordon
5. Ron Kelley
6. Randy Roland
7. Larry Thompson

PERSONNEL COMMITTEE

Jeanne Chipperfield, Champion

1. Keith Stephens, Chairman
2. Robert Appolito
3. John Carr
4. David Hollifield
5. Jim Kerr
6. Brenda Jean Patrick
7. Lynn Shuyler

REAL ESTATE

Cesar Baptista, Champion

1. David Hollifield, Chairman
2. Robert Appolito
3. Kalen Boren
4. Jim Kerr
5. Lynn Shuyler
6. Jody Sutherland
7. John Sweeden

LEGISLATIVE

David Kelly, Champion

1. Marvin Fuller, Chairman
2. Joe Farmer
3. Blair Johnson
4. Geralyn Kever
5. Jody Sutherland
6. John Sweeden
7. Rockwall, TBD

POLICY

Brian Brooks, Champion

- | | |
|-----------------------|-------------|
| 1. Jack May, Chairman | President |
| 2. Terry Sam Anderson | Water |
| 3. Ron Kelley | Wastewater |
| 4. Jim Kerr | Solid Waste |
| 5. Chip Imrie | Finance |
| 6. Keith Stephens | Personnel |
| 7. David Hollifield | Real Estate |
| 8. Marvin Fuller | Legislative |

WILSON CREEK OVERSIGHT COMMITTEE

1. Jack May, Chairman

JOHN BUNKER SANDS WETLAND CENTER BOARD OF DIRECTORS

1. Terry Sam Anderson
2. Don Gordon
3. Jenna Covington/Billy George, Alternate
4. Joe Farmer, Board Member Emeritus



NORTH TEXAS MUNICIPAL WATER DISTRICT

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BOARD OF DIRECTORS REGULAR MEETING (IN PERSON AND BY VIDEOCONFERENCE) THURSDAY, JUNE 23, 2022 2:30 P.M.

Notice is hereby given pursuant to V.T.C.A., Government Code, Chapter 551, that the Board of Directors of North Texas Municipal Water District (NTMWD) will hold a regular meeting in person and by videoconference, accessible to the public, on Thursday, June 23, 2022, at 2:30 p.m., at the following meeting location: NTMWD Administrative Offices, 501 E. Brown Street, Wylie, Texas 75098.

The Presiding Officer and a quorum of the Board of Directors will be present at the meeting location or by videoconference with two-way video and audio communication between Board members participating at the meeting location and by videoconference. The public may attend the meeting in person at the meeting location. Audio and video of Board members participating by videoconference will be broadcast live and will be visible to members of the public. The meeting will be recorded and available on the NTMWD website after the meeting.

Members of the public wishing to listen to live audio of the meeting may do so by calling in at **(469) 210-7159** or toll free **(844) 621-3956** and entering the following access code: **928 587 040**. Please note this line will not provide for two-way communication and public comment at the meeting must be made in person at the meeting location.

AGENDA

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. PLEDGE OF ALLEGIANCE TO THE TEXAS FLAG

V. ROLL CALL/ANNOUNCEMENT OF QUORUM

VI. OPENING REMARKS

- A. President's Remarks concerning current events, conduct of meeting, posted agenda items, committee assignments, and related matters
- B. Executive Director's Status Report concerning legislation and regulatory matters, budgets, current projects and ongoing programs of the District including the Regional Water System, Regional Wastewater System, Regional Solid Waste System, Watershed Protection, and Water Conservation

VII. PUBLIC COMMENTS

Prior to the start of the meeting, speakers must complete and submit a “Public Comment Registration Form.” During the public comment portion of the meeting, speakers will be recognized by name and asked to provide their comments. The time limit is three (3) minutes per speaker, not to exceed a total of thirty (30) minutes for all speakers. The Board may not discuss these items, but may respond with factual or policy information.

VIII. DISCUSSION ITEMS

- A. Update on Bois d’Arc Lake

IX. EXECUTIVE SESSION (to begin at approximately 2:45 p.m. and end approximately at 3:45 p.m.)

The Presiding Officer will announce that the meeting will move into closed executive session and identify the agenda items to be discussed in executive session. The executive session will conclude so that the public meeting will resume at approximately 3:45 p.m.

- A. Consult with legal counsel regarding pending or contemplated litigation (Tex. Gov’t Code Section 551.071)
1. Benny L. Mondy v. *NTMWD, Civil Action No. 4:21-cv-431*
 2. Buffalo Creek Parallel Interceptor, Phase I Project
 3. *NTMWD v. S.J. Louis Construction of Texas, Ltd., ACT Pipe and Supply, Inc., J-M Manufacturing, Inc., d/b/a JM Eagle, Inc.*, Cause No. 429-06607-2019, 429th Judicial District, Collin County, Texas (121 Force Main)

X. RECONVENE INTO REGULAR SESSION

In accordance with Texas Government Code, Chapter 551, the Board of Directors of NTMWD will reconvene into regular session to consider action, if any, on matters discussed in Executive Session.

XI. CONSENT AGENDA ITEMS

The Consent Agenda allows the Board of Directors to approve all routine, noncontroversial items with a single motion, without the need for discussion by the entire Board. Any item may be removed from consent and considered individually upon request of a Board member or NTMWD staff member.

- A. **Approval of Regular Board Meeting Minutes - Consent Agenda Item No. 22-06-01**
- Consider approval of May 26, 2022, Board of Directors Regular meeting minutes
- B. **Approval of Board Work Session Minutes - Consent Agenda Item No. 22-06-02**
- Consider approval of May 19, 2022, Board of Directors Work Session meeting minutes
- C. **Approval of Monthly Construction Report - Consent Agenda Item No. 22-06-03**
- Consider approval of June 2022 Monthly Construction Report
- D. **Authorize a partial release of retainage for the Bois d’Arc Lake Raw Water Pipeline project - Consent Agenda Item No. 22-06-04**
- Consider authorizing a partial release of retainage in the amount of \$4,617,321.63 to Construction Manager At-Risk, Garney Companies, Inc. for Project No. 101-0424-16, Bois d’Arc Lake Raw Water Pipeline

XII. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION

GENERAL / ADMINISTRATIVE AGENDA ITEMS

- A. **Adoption of Resolution No. 22-28 commending Director John Murphy**
- Consider adoption of Resolution No. 22-28 commending Director John Murphy for over 9 years of service as a member of the NTMWD Board of Directors

WATER AGENDA ITEMS

- B. **Authorize execution of the first amendment to the potable water supply contract with the City of Crandall – Administrative Memorandum No. 5839**
- Consider authorizing the execution of the first amendment to the potable water supply contract with the City of Crandall to extend the deadline for Crandall to construct its new point of delivery
- C. **Authorize execution of a potable water supply contract with the City of Josephine - Administrative Memorandum No. 5840**
- Consider authorizing the execution of a potable water supply contract with current customer, City of Josephine, with a contract term of 20 years

WASTEWATER AGENDA ITEMS

- D. **Authorize execution of a Multijurisdictional Pretreatment Agreement (MJPA) and Pretreatment Budget Agreement with the City of Richardson - Administrative Memorandum No. 5841**
- Consider authorizing the execution of a MJPA and Pretreatment Budget Agreement with the City of Richardson, and the addition of an Environmental Specialist I for the Pretreatment Department to manage the additional workload related to the addition of the Richardson industries
- E. **Authorize additional legal services for the 121 Force Main Improvements, Phase I project - Administrative Memorandum No. 5842**
- Consider authorizing additional legal services with Saunders, Walsh & Beard, Attorneys and Counselors, in the amount of \$400,000 for legal services, expert fees and costs for Project No. 501-0491-18, 121 Force Main Improvements, Phase I
- F. **Authorize execution of an amendment to the Construction Manager At-Risk (CMAR) for the South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion project - Administrative Memorandum No. 5843**
- Consider authorizing the Executive Director to execute the first amendment to the CMAR agreement with Archer Western Construction, LLC in the amount of \$11,944,463.24 for partial Guaranteed Maximum Price No. 1 for construction of work packages including early peak flow material procurement and influent Pump Station No. 3 site preparation for Project No. 301-0525-18, South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion

- G. **Authorize ratifying the execution of Agreed Order and Supplemental Environmental Project (SEP) with the Texas Commission on Environmental Quality (TCEQ) - Administrative Memorandum No. 5844**
- Consider authorizing the ratification of the Executive Director's execution of an Agreed Order and SEP with the TCEQ in the amount of \$136,350 relating to events at the Wilson Creek, Rowlett Creek and Floyd Branch Regional Wastewater Treatment Plants and the North Garland Pipeline under Crystal Mountain Drive in Richardson, Texas

XIII. CLOSING ITEMS

- A. Opportunity for Board members to provide feedback or request potential future agenda items.

XIV. ADJOURNMENT

REQUIRED LEGAL NOTICES

The Board of Directors is authorized by the Texas Open Meetings Act to convene in closed or executive session for certain purposes. These purposes include receiving legal advice from its attorney (Section 551.071); discussing real property matters (Section 551.072); discussing gifts and donations (Section 551.073); discussing personnel matters (Section 551.074); or discussing security personnel or devices (Section 551.076). If the Board of Directors determines to go into executive session on any item on this agenda, the Presiding Officer will announce that an executive session will be held and will identify the item to be discussed and provision of the Open Meetings Act that authorizes the closed or executive session.

Persons with disabilities who plan to attend the NTMWD meeting and who may need auxiliary aids or services are requested to contact Shannon Sauceman in the NTMWD Administrative Offices at (972) 442-5405 as soon as possible. All reasonable efforts will be taken to make the appropriate arrangements.

Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm. Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun. Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

CONSENT AGENDA ITEM NO. 22-06-01

MAY 2022 REGULAR BOARD MEETING MINUTES

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors approve the minutes of the regular Board meeting held on Thursday, May 26, 2022 as presented. (See attached.)



NORTH TEXAS MUNICIPAL WATER DISTRICT

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MINUTES OF REGULAR MEETING OF THE BOARD OF DIRECTORS MAY 26, 2022

The North Texas Municipal Water District (NTMWD) Board of Directors met in a regular meeting on Thursday, May 26, 2022, at 2:30 p.m. Notice of the meeting was legally posted in accordance with Government Code, Title 551, Open Meetings.

I. CALL TO ORDER

President Phil Dyer called the meeting to order at approximately 2:30 p.m.

President Dyer advised the following regarding the meeting:

The meeting today is being conducted in person with two-way video and audio communication between Board members participating by videoconference, establishing a quorum. The public may attend the meeting in person. Audio and video of Board members participating by videoconference will be visible. Members of the public wishing to listen to live audio from the meeting may do so by calling in.

II. INVOCATION

Director Geralyn Kever offered the invocation.

III. PLEDGE OF ALLEGIANCE

President Dyer led the Pledge of Allegiance.

IV. PLEDGE OF ALLEGIANCE TO THE TEXAS FLAG

President Dyer led the Pledge of Allegiance to the Texas Flag.

V. ROLL CALL/ANNOUNCEMENT OF QUORUM

The roll was called, and attendance was confirmed as follows:

	DIRECTORS	ABSENT	REMOTE
1	Anderson, Terry Sam		
2	Appolito, Robert		
3	Boren, Kalen		

4	Carr, John	√	
5	Crump, George		
6	Dyer, Phil		
7	Farmer, Joe		
8	Fuller, Marvin		
9	Gordon, Don		
10	Hollifield, David		
11	Imrie, Chip		
12	Johnson, Blair		
13	Kelley, Ron		
14	Kerr, James (Jim)		
15	Kever, Geralyn		
16	May, Jack		
17	Murphy, John		√
18	Parks, Larry		
19	Patrick, Brenda Jean		√ (no video)
20	Peasley, Richard		
21	Shuyler, Lynn		
22	Stephens, Keith	√	
23	Sutherland, Jody		
24	Sweeden, John	√	
25	Thompson, Larry		

The following NTMWD legal and professional consultants attended the meeting:

Lauren Kalisek, Sheila Gladstone, Sarah Glaser and Jessi Maynard – Lloyd Gosselink Rochelle & Townsend
Lewis Isaacks and Mark Walsh – Saunders Walsh & Beard
Nick Bulaich – Hilltop Securities
Molly Carson – McCall Parkhurst & Horton

VI. **OPENING REMARKS**

- A. President's Remarks concerning current events, conduct of meeting, posted agenda items, committee assignments, and related matters

President Dyer announced that Directors Terry Anderson, John Carr, and Richard Peasley have been reappointed by their cities.

President Dyer advised that the 2022-2023 Standing Committee assignments are still being prepared. They will be emailed to Directors when available and will be included in the June Board Packet per Section 7.3 of the Board Policies Manual "all appointments must be reported to the Board of Directors at the next regular meeting and included in the formal minutes of that meeting". Committee assignments will become effective on July 1st.

President Dyer reviewed the tentative schedule of meetings for June as follows:

- Wednesday, June 8th – Executive and Finance Committees
- Wednesday, June 22nd – Wastewater and Water Committees
- Thursday, June 23rd – Board Meeting

- B. Executive Director's Status Report concerning legislation and regulatory matters, budgets, current projects and ongoing programs of the District including the Regional Water System, Regional Wastewater System, Regional Solid Waste System, Watershed Protection, and Water Conservation

Executive Director Jenna Covington advised that each year the District recognizes Board Members' service milestones, and she announced the following for 2022:

Director Robert Appolito

- Director Appolito is receiving his one-year service pin as an NTMWD Director.
- Mr. Appolito was appointed by the City of McKinney in 2021.
- He has served on the Legislative, Solid Waste, and Wastewater Committees and is Vice-Chair of the Real Estate Committee.

Director Kalen Boren

- Director Boren is receiving his one-year service pin as an NTMWD Director.
- Mr. Boren was appointed by the City of Forney in 2021.
- He has served on the Finance and Water Committees.

Director Geralyn Kever

- Director Kever is receiving her one-year service pin as an NTMWD Director.
- Ms. Kever was appointed by the City of McKinney in 2021.
- She has served on the Real Estate and Solid Waste Committees.

Director David Hollifield

- Director Hollifield is receiving his five-year service pin as an NTMWD Director.
- Mr. Hollifield was appointed by the City of Royse City in 2017.
- He has served on all but one standing committee and has served as Chairman of the Personnel and Real Estate Committees.

President Dyer presented service pins to these Directors.

Executive Director Covington advised that the John Bunker Sands Wetland Center was presented with the 2022 Texas Leopold Conservation Award. This is the most prestigious award for land stewardship in the state of Texas, recognizing landowners who inspire others with their dedication to land, water, and wildlife habitat management. It was received in partnership with the Texas Parks and Wildlife Lone Star Land Stewards Award program. A video of the JBS Wetland Center, including its functions, uses and educational value, was presented.

Executive Director Covington advised there will be a Board tour of the Main Stem Pump Station and the Wetland Center on June 3, 2022.

Executive Director Covington advised that there are some completed projects on the Consent Agenda to recognize. She commended staff on these projects.

VII. PUBLIC COMMENTS

Prior to the start of the meeting, speakers must complete and submit a “Public Comment Registration Form.” During the public comment portion of the meeting, speakers will be recognized by name and asked to provide their comments. The time limit is three (3) minutes per speaker, not to exceed a total of thirty (30) minutes for all speakers. The Board may not discuss these items but may respond with factual or policy information.

There were no requests for public comment.

VIII. EXECUTIVE SESSION

At 2:51 p.m. President Dyer announced the need for an Executive Session of the Board of Directors to discuss items VIII. A. and B., pursuant to the Texas Government Code, Sections 551.071 Consultation with Attorney, and 551.074 Personnel Matters.

- B. Consult with legal counsel regarding pending or contemplated litigation (Tex. Gov’t Code Sections 551.071)
 - 1. Update on contractual issues with a contractor performing residuals removal, hauling and disposal
- A. Discuss Executive Director/General Manager Annual Evaluation (Tex. Gov’t Code Sections 551.071 and 551.074)

President Dyer confirmed with staff that the public access line was disconnected and that the audio recording was disabled during the Executive Session discussion.

IX. RECONVENE INTO REGULAR SESSION

In accordance with Texas Government Code, Chapter 551, the Board of Directors of NTMWD will reconvene into regular session to consider action, if any, on matters discussed in Executive Session.

Open Session reconvened at 4:45 p.m. The public teleconference line was reconnected.

No action was taken in Executive Session. No action was taken in open session as a result of Executive Session.

X. CONSENT AGENDA ITEMS

President Dyer inquired whether any Director wished to remove any item from the Consent Agenda for separate discussion. Director Larry Parks requested that Consent Item X.D. (No. 22-05-04) be pulled from the Consent Agenda for separate discussion so that he may abstain from voting on this item.

Upon a motion to approve the remaining Consent Agenda Items by Director Geralyn Kever and a second by Director David Hollifield, the Board of Directors voted unanimously to approve Consent Agenda Items A. – C. and E. – J. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

- A. **Approval of Regular Board Meeting Minutes - Consent Agenda Item No. 22-05-01**
 - Consider approval of April 28, 2022, Board of Directors Regular meeting minutes

- B. **Approval of Board Work Session Minutes - Consent Agenda Item No. 22-05-02**
- Consider approval of April 7, 2022, Board of Directors Work Session meeting minutes
- C. **Approval of Monthly Construction Report - Consent Agenda Item No. 22-05-03**
- Consider approval of May 2022 Monthly Construction Report
- ~~D. **Authorize adjustments to engineering services agreements on various Bois d'Arc Lake projects - Consent Agenda Item No. 22-05-04**~~
- ~~• Consider authorizing adjustments to six engineering services agreements with Freese and Nichols, Inc., CP&Y, Inc., Black & Veatch Corporation, HDR, Inc. and Pacheco Koch Consulting Engineers, Inc. resulting in the overall reduction of engineering services costs in the amount of (\$648,291) for:
Project No. 101-0358-14, Bois d'Arc Lake Raw Water Pump Station
Project No. 101-0424-16, Bois d'Arc Lake Raw Water Pipeline, Segment B
Project No. 101-0424-16, Bois d'Arc Lake Raw Water Pipeline, Segment C
Project No. 101-0425-16, Treated Water Pipeline from Leonard Water Treatment Plant to McKinney No. 4
Project No. 101-0436-16, Bois d'Arc Lake Boat Ramps and Lake Facilities~~
- E. **Authorize execution of a facility use agreement between NTMWD and the Texas Parks and Wildlife Department (TPWD) for use of the Bois d'Arc Lake (BDL) Operations Center - Consent Agenda Item No. 22-05-05**
- Consider authorizing the execution of a facility use agreement granting the TPWD access to the Bois d'Arc Lake Operations Center for the purpose of TPWD carrying out law enforcement and public safety activities on and around BDL for an initial 5-year term with the option to renew for an additional 5-year term
- F. **Adoption of Resolution 22-21 authorizing the use of Competitive Sealed Proposal (CSP) procurement method for construction of Bonham Water Treatment Plant (WTP) Intake Improvements project - Consent Agenda Item No. 22-05-06**
- Consider adoption of Resolution No. 22-21 authorizing the use of CSP procurement method under Texas Government Code Chapter 2269 for Project No. 101-0582-21, Bonham WTP Intake Improvements
- G. **Adoption of Resolution No. 22-22 authorizing conveyance of property at the Sister Grove Regional Water Resource Recovery Facility (RWRRF) - Consent Agenda Item No. 22-05-07**
- Consider adoption of Resolution No. 22-22 authorizing the Executive Director to execute a permanent easement with Rayburn Electric Cooperative in the form of approximately 8.893 acres for Project 301-0426-16, Sister Grove Regional Water Resource Recovery Facility (RWRRF)

- H. **Adoption of Resolution No. 22-23 authorizing the execution of a right-of-way acquisition program to acquire property for the Sister Grove Regional Water Resource Recovery Facility (RWRRF) project - Consent Agenda Item No. 22-05-08**
- Consider authorizing the Executive Director to execute a property acquisition program and adoption of Resolution No. 22-23 authorizing the use of eminent domain to acquire property for a fiber optic communication line for Project No. 301-0426-16, Sister Grove Regional Water Resource Recovery Facility (RWRRF)
- I. **Adoption of Resolution No. 22-24 authorizing the execution of an Interlocal Agreement (ILA) with the City of Sachse - Consent Agenda Item No. 22-05-09**
- Consider adoption of Resolution No. 22-24 authorizing the Executive Director to execute an ILA with the City of Sachse for easement rights during the expansion of Merritt Road for Project No. 101-0611-22, ILA between the City of Sachse and the NTMWD Regarding Encroachment on 72-inch Garland to Mesquite, Phase II Waterline Easement
- J. **Adoption of Resolution No. 22-25 authorizing the execution of an amendment to a right-of-way acquisition program for the McKinney East Side Extension Improvements project - Consent Agenda Item No. 22-05-10**
- Consider authorizing the Executive Director to amend a previously executed right-of-way acquisition program and adoption of Resolution No. 22-25 authorizing the use of eminent domain to acquire right-of-way for the Project No. 501-0551-19, McKinney East Side Extension Improvements

President Dyer requested a separate motion on Consent Item D.

- D. **Authorize adjustments to engineering services agreements on various Bois d'Arc Lake projects - Consent Agenda Item No. 22-05-04**
- Consider authorizing adjustments to six engineering services agreements with Freese and Nichols, Inc., CP&Y, Inc., Black & Veatch Corporation, HDR, Inc. and Pacheco Koch Consulting Engineers, Inc. resulting in the overall reduction of engineering services costs in the amount of (\$648,291) for:
Project No. 101-0358-14, Bois d'Arc Lake Raw Water Pump Station
Project No. 101-0424-16, Bois d'Arc Lake Raw Water Pipeline, Segment B
Project No. 101-0424-16, Bois d'Arc Lake Raw Water Pipeline, Segment C
Project No. 101-0425-16, Treated Water Pipeline from Leonard Water Treatment Plant to McKinney No. 4
Project No. 101-0436-16, Bois d'Arc Lake Boat Ramps and Lake Facilities

Upon a motion by Director Terry Sam Anderson and a second by Director Don Gordon, the Board of Directors voted to approve Consent Agenda Item D. Director Larry Parks abstained from voting on this item. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

XI. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION

GENERAL / ADMINISTRATIVE AGENDA ITEMS

President Dyer advised that Agenda Items XI. A. and B. are being moved to the end of the agenda.

- A. ~~**Adoption of Resolution No. 22-26 regarding commending Director Phil Dyer's service as President in 2021-2022**~~
- ~~• Consider adoption of Resolution No. 22-26 commending Director Phil Dyer for his service as President of the Board of Directors~~
- B. ~~**Consider election of Officers for the Board of Directors for 2022-2023**~~
- ~~• Consider election of Board of Directors Officers for 2022-2023 including Board President, Vice President and Secretary~~
- C. **Adoption of Resolution No. 22-27 authorizing NTMWD Regional Solid Waste System Revenue Bonds, Series 2022 - Administrative Memorandum No. 5833**
- Consider adoption of Resolution No. 22-27 authorizing the issuance, sale and delivery of NTMWD Regional Solid Waste Disposal System Revenue Bonds, Series 2022, in the amount of approximately \$7,620,000; and approving and authorizing instruments and procedures relating thereto

Director Chip Imrie advised that this item was reviewed by the Finance Committee on April 13, 2022. The Finance Committee voted unanimously for the Board of Directors to adopt Resolution No. 22-27 authorizing the "issuance, sale and delivery of NTMWD Regional Solid Waste Disposal System Revenue Bonds, Series 2022, in the amount of approximately \$7,620,000; and approving and authorizing instruments and procedures relating thereto". Six bids were received. The Baker Group won the bid with an interest rate of 3.49%. Director Imrie advised Nick Bulaich with Hilltop Securities was present and available to answer questions regarding the sale of the bonds.

Upon a motion by Director Chip Imrie and a second by Director Lynn Shuyler, the Board of Directors voted unanimously to approve. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

WASTEWATER AGENDA ITEMS

- D. **Authorize execution of an engineering services agreement for the Floyd Branch Regional Wastewater Treatment Plant Peak Flow and UV Improvements project - Administrative Memorandum No. 5834**
- Consider authorizing the Executive Director to execute an engineering services agreement with CDM Smith, Inc. in the amount of \$3,229,089 for preliminary and final engineering design for Project No. 301-0610-22, Floyd Branch Regional Wastewater Treatment Plant Peak Flow and UV Improvements

Director George Crump advised that the Wastewater Committee discussed this item at the April 27th meeting.

This item will authorize an engineering service agreement for preliminary and final design of the Floyd Branch Regional Wastewater Treatment Plant peak flow and UV improvements project.

Preliminary and final design will incorporate recommendations of the Master Plan including improvements to the existing Plant, facilities to increase the peak flow storage, emergency standby power generation, new UV equipment, and an Operations Building. These improvements will reduce the risk of permit exceedances from peak wet weather events and will reduce the probability of sanitary sewer overflows events in the service area of the Plant.

Upon a motion by Director George Crump and a second by Director Marvin Fuller, the Board of Directors voted unanimously to approve. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

E. Authorize execution of Amendment No. 8 to the Construction Manager At-Risk (CMAR) for the Sister Grove Regional Water Resource Recovery Facility (RWRRF) project - Administrative Memorandum No. 5835

- Consider authorizing the Executive Director to execute the eighth amendment to Change Order No. 2 in the amount of \$4,620,477.96 for Project No. 301-0426-16, Sister Grove Regional Water Resource Recovery Facility

Director George Crump advised that the Wastewater Committee discussed this item at the April 27th meeting.

This authorizes Amendment No. 8 for Change Order No. 2 to the Construction Manager At-Risk Agreement for the Sister Grove Regional Water Resource Recovery Facility project.

Change Order No. 2 includes additional work to construct the outfall piping made necessary due to a residential development located within City of Princeton. The residential development progression requires changes to the planned open-cut pipeline construction methods.

Upon a motion by Director George Crump and a second by Director James Kerr, the Board of Directors voted unanimously to approve. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

F. Authorize execution of contract amendment with B.C. Golf Limited for the use of reclaimed water for the Buffalo Creek Golf Course - Administrative Memorandum No. 5836

- Consider authorizing the execution of a contract amendment to extend the contract terms with B.C. Golf Limited to eight years, when the Buffalo Creek Wastewater Treatment Plant is anticipated to be decommissioned

Director George Crump advised that the Wastewater Committee discussed this item at the April 27th meeting.

This authorizes execution of an extension to contract for the use of reclaimed water with B.C. Golf Limited for the Buffalo Creek Golf Course.

NTMWD and B.C. Golf Limited wish to execute the amendment to extend the term of the agreement eight years from November 30, 2022 to November 30, 2030 when the Buffalo Creek Wastewater Treatment Plant is anticipated to be decommissioned.

Upon a motion by Director George Crump and a second by Director Larry Parks, the Board of Directors voted unanimously to approve. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

G. Authorize execution of a Multijurisdictional Pretreatment Agreement (MJPA) and Pretreatment Budget Agreement with the City of Richardson - Administrative Memorandum No. 5837

- Consider authorizing the execution of a MJPA and Pretreatment Budget Agreement with the City of Richardson, and the addition of an Environmental Specialist I for the Pretreatment Department to manage the additional workload related to the addition of the Richardson industries

Executive Director Covington requested that the Board take no action on this item due to further negotiations with the city of Richardson. She advised staff plans to bring this back at next month's Board meeting.

No action was taken by the Board based on staff's recommendation.

LAND ACQUISITION / RIGHT OF WAY ITEMS

H. Authorize amendment to land acquisition program and Adoption of Resolution No. 22-28 authorizing the use of eminent domain to acquire property for the Bonham Water Treatment Plant Intake Improvements project - Administrative Memorandum No. 5838

- Consider authorizing the Executive Director to amend a previously executed property acquisition program for additional funding in the amount of \$350,000 and adoption of Resolution No. 22-28 authorizing the use of eminent domain to acquire property and right-of-way for Project No. 101-0582-21, Bonham Water Treatment Plant Intake Improvements

Upon a motion by Director David Hollifield and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

Items XI. A. and B. postponed earlier in this meeting were addressed at this time.

B. Consider election of Officers for the Board of Directors for 2022-2023

- Consider election of Board of Directors Officers for 2022-2023 including Board President, Vice President and Secretary

President Dyer advised that per the Board Policies Manual, the past three Presidents (Directors Larry Parks, Don Gordon and John Sweeden) met and Director Parks would provide the recommendation for the slate of officers.

Director Larry Parks advised that he and Directors Gordon and Sweeden recommend the following slate of officers for 2022-2023:

Director Jack May – President
Director Richard Peasley – Vice President
Director George Crump – Secretary

There were no nominations from the floor.

Director Larry Parks made the motion to recommend the following slate of officers: Jack May – President; Richard Peasley – Vice President, and George Crump - Secretary. Director Joe Farmer seconded motion. The Board of Directors voted unanimously to approve as nominated. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

A. Adoption of Resolution No. 22-26 regarding commending Director Phil Dyer's service as President in 2021-2022

- Consider adoption of Resolution No. 22-26 commending Director Phil Dyer for his service as President of the Board of Directors

Vice-President May called for a motion on this item.

Director Terry Sam Anderson made a motion to adopt Resolution No. 22-26 as presented. Director Marvin Fuller seconded the motion.

Executive Director Covington read Resolution No. 22-26 recognizing Director Phil Dyer for his service as President for 2021-2022.

The Board of Directors voted unanimously to approve Resolution No. 22-26. Directors John Murphy and Brenda Jean Patrick were absent for the vote.

Vice-President May presented the Resolution to Director Phil Dyer at the podium. Director Dyer expressed his appreciation for staff and consultants who have assisted him during his term. Director Parks offered appreciation to Director Dyer for his service as President.

Several Directors recognized Director Larry Parks, noting this was his last meeting on the Board of Directors. He will be formally recognized at the July meeting.

At this time, it was noted that Director Hollifield previously provided an incorrect motion on Item XI. H. President Dyer readdressed this item and Director Hollifield provided a new motion. See Item XI. H. above.

XII. CLOSING ITEMS

- A. Opportunity for Board members to provide feedback or request potential future agenda items.

There were no follow up items or requests for potential future agenda items.

XIII. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 5:12 p.m.

APPROVED:

JACK MAY, President

ATTEST:

GEORGE CRUMP, Secretary

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

CONSENT AGENDA ITEM NO. 22-06-02

MAY 2022 BOARD WORK SESSION MEETING MINUTES

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors approve the minutes of the Board Work Session Meeting minutes held on Thursday, May 19, 2022 as presented. (See attached.)



NORTH TEXAS MUNICIPAL WATER DISTRICT

**501 E. Brown Street • Wylie, Texas 75098
(972) 442-5405 – Phone • (972) 295-6440 – Fax**

MINUTES OF WORK SESSION MEETING OF THE BOARD OF DIRECTORS MAY 19, 2022

The North Texas Municipal Water District (NTMWD) Board of Directors met in a Work Session meeting on Thursday, May 19, 2022, at 1:00 p.m. Notice of the meeting was legally posted in accordance with Government Code, Title 551, Open Meetings.

I. CALL TO ORDER

President Phil Dyer called the meeting to order at approximately 1:00 p.m.

President Dyer advised the following regarding the meeting:

The meeting today is being conducted in person with two-way video and audio communication between Board members participating by videoconference, establishing a quorum. The public may attend the meeting in person. Audio and video of Board members participating by videoconference will be visible. Members of the public wishing to listen to live audio from the meeting may do so by calling in.

II. ROLL CALL/ANNOUNCEMENT OF QUORUM

The roll was called, and attendance was confirmed as follows:

	DIRECTORS	ABSENT	REMOTE
1	Anderson, Terry Sam		
2	Appolito, Robert	√	
3	Boren, Kalen	√	
4	Carr, John	√	
5	Crump, George		
6	Dyer, Phil		
7	Farmer, Joe		
8	Fuller, Marvin		√
9	Gordon, Don		√
10	Hollifield, David		
11	Imrie, Chip		
12	Johnson, Blair		
13	Kelley, Ron		
14	Kerr, James (Jim)	√	
15	Kever, Geralyn		√
16	May, Jack		√
17	Murphy, John	√	

18	Parks, Larry		
19	Patrick, Brenda Jean		√
20	Peasley, Richard		
21	Shuyler, Lynn		
22	Stephens, Keith		√
23	Sweeden, John		√
24	Sutherland, Jody	√	
25	Thompson, Larry		√

The following NTMWD legal and professional consultants attended the meeting:

Lauren Kalisek, Mike Gershon, and Sara Thornton – Lloyd Gosselink Rochelle & Townsend
Tom Gooch and Lissa Gregg – Freese and Nichols
Harry Seely – West Water Exchange
James Beach – Advanced Groundwater

III. **OPENING REMARKS**

- A. President's Remarks concerning current events, conduct of meeting, posted agenda items, committee assignments, and related matters

President Dyer advised that there is one discussion item for this meeting. The meeting will begin in open session then convene into Executive Session for the remainder of the discussion item.

- B. Executive Director's Status Report concerning legislation and regulatory matters, budgets, current projects and ongoing programs of the District including the Regional Water System, Regional Wastewater System, Regional Solid Waste System, Watershed Protection, and Water Conservation

Executive Director Jenna Covington offered opening remarks.

IV. **PUBLIC COMMENTS**

Prior to the start of the meeting, speakers must complete and submit a "Public Comment Registration Form." During the public comment portion of the meeting, speakers will be recognized by name and asked to provide their comments. The time limit is three (3) minutes per speaker, not to exceed a total of thirty (30) minutes for all speakers. The Board may not discuss these items, but may respond with factual or policy information.

There were no requests for public comments.

V. **DISCUSSION ITEMS**

- A. Update on Long Range Water Supply Plan

Assistant Deputy R.J. Muraski provided a review of the agenda and advised that the purpose of the meeting is to review NTMWD short-term and long-term water needs, and provide a detailed update on a potential water supply. He noted this is the third work session on this subject. Mr. Muraski reviewed that there is a

known need for additional water supply by the year 2036 and that demands are continuing to grow with 55,000 people per year moving into the service area.

Mr. Muraski provided a chart reflecting the current water supplies and projecting dry year needs through 2080. He advised that in 2036 there will be a demand gap. The District has two new sources that will become available in the interim. In 2031 the parallel line from Lake Texoma will be available to provide water to the Leonard Water Treatment Plant to be mixed with Bois d'Arc Lake water. Also, by 2036 the parallel line from Lake Texoma to the Howe balancing reservoir will allow additional water delivered for the Wylie Water Treatment Plant.

Mr. Muraski provided a chart of funding needs that indicate \$1.5 billion through 2032 for new raw water supplies and infrastructure. He noted that these costs were included to the Member Cities as part of the Strategic Financial Plan. A capital improvement project graph reflecting the cost of the raw water supplies and infrastructure was reviewed.

At 1:15 p.m. President Dyer announced the need for an Executive Session of the Board of Directors to discuss Item V. A. on the agenda pursuant to Texas Government Code, Section 551.071, Consultation with Attorney and Section 551.072, Real Property.

President Dyer confirmed with staff that the public access line was disconnected and that the audio recording was disabled during the Executive Session discussion.

Open Session reconvened at 4:54 p.m. The public teleconference line was reconnected.

No action was taken in Executive Session. No action was taken in open session as a result of Executive Session.

VI. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 4:54 p.m.

APPROVED:

JACK MAY, President

ATTEST:

GEORGE CRUMP, Secretary

(Seal)

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

CONSENT AGENDA ITEM NO. 22-06-03

MONTHLY CONSTRUCTION REPORT

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Monthly Construction Report in accordance with NTMWD's Board Policies Manual for project changes greater than \$100,000 and less than \$500,000.

I. CONSTRUCTION CHANGE ORDERS ONLY

WATER SYSTEM

a. None.

WASTEWATER SYSTEM

a. Project No. 509-0455-17, Forney Mustang Creek Lift Station, Phase I, Change Order No. 12

Description	Amount	Days
Original Contract Amount	\$15,197,000.00	634
Prior Change Order(s) Total	\$2,562,407.00	585
Proposed Change Order No. 12		
Pump alternation and cleaning cycle re-programming	\$6,410.00	0
Auto exercise for the generator	\$2,850.00	0
Aluminum covers over the hatches	\$85,238.00	0
Swap the meter and coupling	\$31,933.00	0
Monorail and hoist	\$23,724.00	0
Relocate radar	\$11,467.00	0
Credit for Unused Bid Item 18 – Flowable Fill Embedment	(\$135,585.00)	0
Credit for Unused Bid Item 22 – All Weather Access Road with Asphalt	(\$72,070.00)	0
Proposed Change Order No. 12 Decrease	(\$46,033.00)	0
Revised Contract Amounts	\$17,713,374.00	1,219

Original Completion Dates: Substantial – December 14, 2020; Final – February 12, 2021

Revised Completion Dates: Substantial – July 22, 2022; Final – September 20, 2022

Funding in the amount of (\$46,033.00) for Change Order No. 12 to Crescent Constructors, Inc., will be credited back to the Forney Mustang Creek Wastewater Interceptor System Capital Improvement Fund

- b. Project No. 301-0426-16, Sister Grove Regional Water Resource Recovery Facility, Change Order No. 3.

Description	Amount	Days
Original Contract Amount	\$359,134,722.91	991
Prior Change Order(s) Total	\$4,816,736.96	157
Proposed Change Order No. 3		
CMR (Contract Modification Request)-07 – Headworks building mechanical changes	(\$12,629.60)	
CMR-10 – Electrical duct bank and conduit routing changes within the water resource recovery facility site	\$449,312.18	
CMR-11 – Centrifugal blower blow-off valve and line resizing	(\$4,397.00)	
CMR-13 – Aeration basin drainage ports addition	\$12,661.00	
CMR-16 – Omit manhole coatings (credit)	(\$160,660.00)	
CMR-17 – PLC enclosure sizing increase	\$81,895.87	
CMR-18 – Glass lined plug valves substitution (credit)	(\$3,852.75)	
CMR-19 – East swale culverts – added wing walls	\$187,581.88	
CMR-20 – Peak flow basin underdrain elevation changes and clarifications	\$9,634.00	
CMR-21 – 48-inch force main connection to North McKinney Transfer Force Main	\$159,185.00	
CMR-23 – Electrical changes (transformer pad, electrical manholes, and duct banks) due to a 64-inch fiberglass reinforced polymer (FRP) pipe at the peak flow basin (credit)	(\$142,910.00)	
CMR-24 – Blower building wall sleeves	\$4,505.00	
CMR-28 – Grates and frame for precast inlets	\$11,610.94	
CMR-31 – Intrusion switches on the Programmable Logic Controller (PLC), network, and Uninterruptible Power Supply (UPS) cabinets	\$12,408.00	
Reallocation from Amendment 2, Guaranteed Maximum Price (GMP) No. 1, Bid Package (BP) 1.2-ALL.4	(\$90,000.00)	
Reallocation from Amendment 2, GMP No. 1, BP 1.3-ALL.1	(\$45,280.00)	
Reallocation from Amendment 4, GMP No. 3, BP 3.6-ALL.1	(\$144,064.52)	
Reallocation from Amendment 4, GMP No. 3, BP 3.6-ALL.2	(\$325,000.00)	
Contingency Reconciliation from Change Order No. 1	\$1,858.56	
Proposed Change Order No. 3 Increase	\$1,858.56	
Revised Contract Amounts	\$363,953,318.43	1148

Original Completion Dates: Substantial – July 28, 2023; Final – September 29, 2023

Revised Completion Dates: Substantial – December 30, 2023; Final – March 4, 2024

Funding in the amount of \$1,858.56 for Change Order No. 3 to Garney Companies, Inc., is to be made available in the Regional Wastewater System Clean Water State Revolving Construction Fund contingent upon Texas Water Development Board approval the contract and release of funds.

The funding reallocation on Administrative Memorandum No. 5835 incorrectly reported the amount as \$1,851,845.45. The correct reallocated amount is \$1,851,845.94. The total cost for Change Order No. 2 does not change with this correction.

SOLID WASTE SYSTEM

- a. None.

II. AUTHORIZATION TO ISSUE CONSTRUCTION FINAL PAYMENT ONLY

Work on the following projects is substantially complete with only minor deficiencies remaining. Final payment in the total amounts shown will be made on these projects when completion of all deficiency items is verified.

WATER SYSTEM

- a. None.

WASTEWATER SYSTEM

- a. Project No. 501-0319-13, Lower Rowlett Creek and Lower Cottonwood Creek Lift Station Improvements

Description	Amount	Days
Original Contract Amount	\$3,012,500.00	1,095
Prior Change Order(s) Total	\$86,498.39	775
Previous Payments	\$2,931,024.30	
Proposed Final Payment to Pepper Lawson Waterworks, LLC	\$167,974.09	
Final Contract Amounts	\$3,098,998.39	1,870

Original Completion Dates: Substantial – January 26, 2020; Final – March 26, 2020

Revised Completion Dates: Substantial – March 11, 2022; Final – May 10, 2022

No additional funding is required for final payment.

SOLID WASTE SYSTEM

- a. Project No. 401-0560-20, 121 Regional Disposal Facility (121 RDF) Intermediate Cover Improvements

Description	Amount	Days
Original Contract Amount	\$1,456,263.35	255

Prior Change Order(s) Total	\$74,735.99	507
Previous Payments	\$1,336,445.12	
Proposed Final Payment to Hammett Excavation, Inc.	\$194,554.22	762
Final Contract Amounts	\$1,530,999.34	762

Original Completion Dates: Substantial – December 10, 2020; Final – January 9, 2021
Revised Completion Dates: Substantial – May 1, 2022; Final – May 31, 2022

No additional funding is required for final payment.

III. CONSTRUCTION CHANGE ORDER AND AUTHORIZATION TO ISSUE FINAL PAYMENT ONLY

Work on the following projects is substantially complete with only minor deficiencies remaining. Final payment in the total amounts shown will be made on these projects when all work associated with the change order shown on the tabulation shall have been completed and accepted, and completion of all deficiency items is verified.

WATER SYSTEM

- a. None.

WASTEWATER SYSTEM

- a. None.

SOLID WASTE SYSTEM

- a. None.

IV. AMENDMENTS TO ENGINEERING, INSPECTION AND/OR LEGAL SERVICES ONLY:

WATER SYSTEM

- a. Project No.101-0344-13, Bois d'Arc Lake Dam and Intake Structure; Project No. 101-0358-14, Bois d'Arc Lake Raw Water Pump Station; Project No. 101-0366-14, Bois d'Arc Lake Mitigation Property; Project No. 101-0374-14, Bois d'Arc Lake Program Management Services; Project No. 101-0384-15, Leonard Water Treatment Plant; Project No. 101-0425-16, Treated Water Pipeline from Leonard Water Treatment Plant to McKinney No. 4; Project No. 101-0428-16, Leonard Water Treatment Plant High Service Pump Station; Project No. 101-0436-16, Bois d'Arc Lake Boat Ramps and Lake Facilities – Adjust Construction Management and Program Management Engineering Services and Inspection Services Agreements as follows:

DESCRIPTION	AMOUNT
Current Engineering Services Agreement (ESA) for Construction Management Services (CM) – Project No. 101-0344-13, Bois d’Arc Lake (BDL) Dam and Intake Structure	\$2,461,405.00
Current Inspection Services Agreement (ISA) – Project No. 101-0344-13 BDL Dam and Intake Structure	\$5,915,330.00
Current Inspection Services Agreement (ISA) – Project No. 101-0358-14, BDL Raw Water Pump Station	\$2,122,020.00
Current ESA for CM Services – Project No. 101-0366-14, BDL Mitigation Property	\$394,030.00
Current ISA – Project No. 101-0366-14, BDL Mitigation Property	\$1,175,096.00
Current Program Management (PM) Services Agreement – Project No. 101-0374-14	\$26,770,611.00
Current ESA CM – Project No. 101-0384-15, Leonard Water Treatment Plant	\$2,524,915.00
Current ISA – Project No. 101-0425-16 Treated Water Pipeline from Leonard Water Treatment Plant to McKinney No. 4	\$2,859,645.00
Current ESA CM – Project No. 101-0428-16, Leonard Water Treatment Plant High Service Pump Station	\$922,590.00
Current ISA – Project No. 101-0428-16	\$1,272,000.00
Current ISA – Project No. 101-0436-16, BDL Operations Center and Boat Ramps	\$1,070,884.00
Proposed Change in Services	
Project No. 101-0344-13 – ESA CM - Increase	\$65,000.00
Project NO. 101-0344-13 – ISA – Decrease	(\$60,000.00)
Project No. 101-0358-14 – ISA - Increase	\$45,000.00
Project No. 101-0366-14 – ESA CM – Decrease	(\$10,000.00)
Project No. 101-0366-14 – ISA – Decrease	(\$40,000.00)
Project No. 101-0374-14 – PM Services – Decrease	(\$240,000.00)
Project No. 101-0384-15 – ESA - Decrease	(\$90,000.00)
Project No. 101-0425-16 – ISA - Increase	\$500,000.00
Project No. 101-0428-16 – ESA CM - Decrease	(\$90,000.00)
Project No. 101-0428-16 – ISA - Decrease	(\$15,000.00)
Project No. 101-0436-16 – ISA - Decrease	(\$65,000.00)
Revised Contract Amounts	

Project No. 101-0344-13 – Revised ESA CM	\$2,526,405.00
Project No. 101-0344-13 – Revised ISA	\$5,855,330.00
Project No. 101-0358-14 – Revised ISA	\$2,167,020.00
Project No. 101-0366-14 – Revised ESA CM	\$384,030.00
Project No. 101-0366-14 – Revised ISA	\$1,135,096.00
Project No. 101-0374-14 – PM Services – Revised PM Services Agreement	\$26,530,611.00
Project No. 101-0384-15 – Revised ESA	\$2,434,915.00
Project No. 101-0425-16 – Revised ISA	\$3,359,645.00
Project No. 101-0428-16 – Revised ISA	\$832,590.00
Project No. 101-0428-16 – Revised ISA	\$1,257,000.00
Project No. 101-0436-16 – Revised ESA CM	\$1,005,884.00

No additional funding is requested at this time. All adjustments to Freese and Nichols, Inc Construction Management, Program Management Engineering Services and Inspection Services Agreements is to utilize previously authorized funding in the Regional Water System SWIFT Construction Funds contingent upon Texas Water Development Board approval of the contracts and release of funding.

b. Project No. 101-0506-18, Pipeline Relocations at FM 2478 (Custer Road)

DESCRIPTION	AMOUNT
Original ESA	\$327,550.00
Prior Additional Services	\$81,800.00
Proposed Additional Services	\$40,410.00
Additional construction phase services due to extended comment and revision requested by TxDOT. This project is TxDOT reimbursable.	
Revised ESA Amount	\$449,760.00

Funding in the amount of \$40,410.00 to Freese and Nichols, Inc., is available in the Regional Water System Capital Improvement Fund

WASTEWATER SYSTEM

a. Project No. 301-0432-16, Floyd Branch Regional Wastewater Treatment Plant Process Optimization Improvements

DESCRIPTION	AMOUNT
Original ESA	\$1,004,887.00
Prior Additional Services	\$538,064.00
Proposed Additional Services	\$48,431.00
Supplemental construction phase services due to process technology change with additional submittal reviews and extended construction duration	
Revised ESA Amount	\$1,591,382.00

The cumulative amount requested exceeds 25% of the original contract value. NTMWD staff recommends approval of the additional services on this report in lieu of an individual Administrative Memorandum due to the immediate need for construction phase engineering services through the duration of the construction project.

Funding in the amount of \$48,431.00 to Arcadis U.S., Inc., is to be made available utilizing the Regional Wastewater System Extendable Commercial Paper (ECP) Program as the appropriation source; actual issuance of ECP notes will occur as cash needs arise.

b. Project No. 507-0484-17, Buffalo Creek Parallel Interceptor, Phase I

DESCRIPTION	AMOUNT
Original ESA	\$1,345,990.00
Prior Additional Services	\$560,049.09
Proposed Additional Services	\$55,240.00
Additional venting and odor control design, additional design due to Parcel No. 12 changes, and additional access Easement No. 7 changes	
Revised ESA Amount	\$1,961,279.09

The cumulative amount requested exceeds 25% of the original contract value. NTMWD staff recommends approval of the additional services on this report in lieu of an individual Administrative Memorandum due to the minimal amount requested.

Funding in the amount of \$55,240.00 to Huitt-Zollars, Inc. is available in the Buffalo Creek Wastewater Interceptor System 2020 Construction Fund

SOLID WASTE SYSTEM

a. None.

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

CONSENT AGENDA ITEM NO. 22-06-04

REGIONAL WATER SYSTEM
BOIS D'ARC LAKE RAW WATER PIPELINE
PROJECT NO. 101-0424-16

CONSTRUCTION MANAGEMENT AT-RISK AGREEMENT
PARTIAL RELEASE OF RETAINAGE

ACTION (*What*)

Authorize a partial release of retainage for the Bois d'Arc Lake (BDL) Raw Water Pipeline (RWPL).

PURPOSE (*Why*)

All work packages are complete with the exception of very minor punch list items that includes establishing vegetation in several areas. The Texas Water Development Board (TWDB) has inspected the BDL RWPL project, and it has determined the project to be substantially complete. The BDL RWPL construction management and inspection staff recommends a partial release of retainage on work that has been completed and has the ability to be placed into service at this time.

RECOMMENDATION

The Executive Director, NTMWD staff, Freese and Nichols, Inc. (FNI), CP&Y, Inc., and Black and Veatch Corporation recommend the Board of Directors authorize partial release of retainage as follows:

CMAR: Garney Companies, Inc.

Scope: Partial Release of Retainage

Project: Project No. 101-0424-16, Bois d'Arc Lake Raw Water Pipeline

Reduction in
Retainage: \$4,617,321.63

Strategic Objective: 1.2 Successfully Deliver Capital Projects

DRIVER(S) FOR THIS PROJECT

- | | |
|--|---|
| <input type="checkbox"/> Regulatory Compliance | <input type="checkbox"/> Asset Condition |
| <input checked="" type="checkbox"/> Capacity | <input type="checkbox"/> Redundancy/Resiliency |
| <input type="checkbox"/> Relocation or External Requests | <input type="checkbox"/> Operational Efficiency |
| <input type="checkbox"/> Safety | <input type="checkbox"/> Administrative |
| <input type="checkbox"/> Policy | <input type="checkbox"/> Other _____ |

PROJECT PURPOSE

- Provide raw water transmission from Bois d'Arc Lake (BDL) to the terminal storage reservoir on the Leonard Water Treatment Plant (WTP) site.
- The raw water pipeline consists of approximately 35 miles of 90-inch diameter pipe and is divided into three segments (Segment A, B and C).

PROJECT COMPONENTS

- Construct approximately 35 miles of 90-inch diameter raw water pipeline, isolation valves, air valves, blow off valves, cathodic protection system, fiber optic cable and other associated appurtenances as required.
- Includes roadway, railway, utility, and creek crossings
- Connections to the BDL Raw Water Pump Station (RWPS) discharge piping and the terminal storage reservoir at the Leonard WTP site.

PROPOSED PARTIAL RELEASE OF RETAINAGE

- All work packages are complete except for establishing vegetation in several areas and other minor punch list items. The raw water pipeline has been hydrostatically tested, and it is ready for water once the BDL Raw Water Pump Station is ready to pump water from BDL. The Texas Water Development Board inspected the project on April 5, 2022, and it is willing to release retainage down to 2% based upon the results of that inspection. The 2% retainage will be held pending verification that vegetation has been established in all locations and all punch list items are complete.
- Bois d'Arc Lake staff recommends reducing retainage from 5% to 2% for this project. The current total contract price for this project is \$171,096,674.89, which includes preconstruction services, procurement services, work package costs, CMAR general conditions, CMAR fee, allowances and contingencies. Retainage is withheld only on work packages for actual work performed, which is \$153,910,721.15. As of May 25, 2022, 5% retainage on actual work performed was \$7,695,536.06. This request reduces the retainage by 3% of work performed or \$4,617,321.63 and leaves \$3,078,214.43 or 2% of the total price for work performed until vegetation is established at all locations and the minor punch list items are resolved.

CONTRACT SUMMARY

Description	Amount	Days
Work Packages Amount (including allowances and contingencies)*	\$153,910,721.15	N/A
Work Packages Retainage at 5%	\$7,695,536.06	
Proposed Reduced Retainage (3%)		
Reduced Retainage Amount	\$4,617,321.63	
Remaining Retainage (2%)	\$3,078,214.43	

FUNDING

FUND(S): Funding was previously authorized in the Regional Water System SWIFT Construction Funds. No additional funding is requested at this time.



NORTH TEXAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 22-28

A RESOLUTION COMMENDING DIRECTOR JOHN MURPHY FOR HIS SERVICE AS A MEMBER OF THE NTMWD BOARD OF DIRECTORS

WHEREAS, John Murphy was appointed to the NTMWD Board of Directors in 2013 representing the City of Richardson; and,

WHEREAS, during John Murphy's tenure of service, he served on served on the Wastewater, Solid Waste, Finance and Policy Committees; and,

WHEREAS, John Murphy served as Chairman of the Legislative Committee; and,

WHEREAS, John Murphy has worked for the betterment of the NTMWD region and the City of Richardson during his tenure in office.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTH TEXAS MUNICIPAL WATER DISTRICT THAT:

John Murphy has served as a distinguished Director of the North Texas Municipal Water District from 2013 to 2022 by sincere and honest efforts to always improve and enhance NTMWD programs and activities. The thanks of the NTMWD Board of Directors, staff, and cities served cannot express the true appreciation deserved.

**THIS RESOLUTION PASSED BY THE NTMWD BOARD OF DIRECTORS ON THIS
THE 23rd DAY OF JUNE, 2022.**

George Crump, Secretary

Jack May, President

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5839

AUTHORIZATION OF EXECUTION OF FIRST AMENDMENT TO THE POTABLE WATER SUPPLY CONTRACT WITH CITY OF CRANDALL

ACTION (*What*)

Authorize execution of the first amendment to the Potable Water Supply Contract with City of Crandall, a current customer of NTMWD.

PURPOSE (*Why*)

NTMWD and City of Crandall wish to amend the existing Potable Water Supply Contract to extend of the deadline for Crandall to construct its new point of delivery.

RECOMMENDATION

The Executive Director and NTMWD staff and Lloyd, Gosselink, Rochelle & Townsend, P. C., recommend the Board of Directors authorize execution of the first amendment to the potable water supply contract with the City of Crandall.

Contracting

Party: City of Crandall

Purpose: First Amendment to Potable Water Supply Contract

Contract

Term: 20 years

Strategic Objective: 3.2 Engaged Members, Customers and Stakeholders

This will be an item on the June 22, 2022, Water Committee agenda.

DRIVER(S) FOR THIS PROJECT

- | | |
|--|--|
| <input type="checkbox"/> Regulatory Compliance | <input type="checkbox"/> Asset Condition |
| <input type="checkbox"/> Capacity | <input type="checkbox"/> Redundancy/Resiliency |
| <input type="checkbox"/> Relocation or External Requests | <input type="checkbox"/> Operational Efficiency |
| <input type="checkbox"/> Safety | <input checked="" type="checkbox"/> Administrative |
| <input type="checkbox"/> Policy | <input type="checkbox"/> Other _____ |

BACKGROUND

PURPOSE

- NTMWD and City of Crandall previously entered into the Potable Water Supply Contract dated September 8, 2020.
- The Contract required City of Crandall to construct its new Point of Delivery within two (2) years from the Contract Date.
- City of Crandall is currently working on the design of its new Point of Delivery and requested an extension of an additional twenty-four (24) months to complete the construction.

COMPONENTS OF THE FIRST AMENDMENT TO THE CONTRACT WITH CITY OF CRANDALL

- Revise the requirement in the contract to construct its new Point of Delivery from “within two (2) years from the Contract Date” to “within four (4) years from the Contract Date”
- Add to Special Conditions to require that within ninety (90) days of completion of construction of the Point of Delivery, NTMWD and City of Crandall will enter into and execute a new Potable Water Supply Contract that replaces and supersedes this Contract

Crandall City Council approved this contract amendment at its June 6, 2022 meeting. A copy of the contract amendment is attached.

**NORTH TEXAS MUNICIPAL WATER DISTRICT
CITY OF CRANDALL
FIRST AMENDMENT TO THE POTABLE WATER SUPPLY CONTRACT**

THE STATE OF TEXAS §
 §
THE COUNTY OF COLLIN §

THIS AMENDMENT (the “First Amendment”) made and entered into as of this the ____ day of June 2022, by and between the North Texas Municipal Water District, hereinafter called “NTMWD”, a conservation and reclamation district created under Article 16, Section 59, of the Texas Constitution, and the City of Crandall, hereinafter called “Customer.” NTMWD and Customer are each referred herein as “Party” and jointly referred to as “Parties” in this First Amendment.

W I T N E S S E T H :

WHEREAS, NTMWD and Customer are authorized to enter into this First Amendment pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon's Texas Civil Statutes), Chapter 791 of the Texas Government Code (the “Interlocal Cooperation Act”) and other applicable laws;

WHEREAS, NTMWD and Customer previously entered into the Potable Water Supply Contract dated September 8, 2020 (the “Contract”);

WHEREAS, the Contract required Customer to construct its new Point of Delivery within two (2) years from the Contract Date;

WHEREAS, Customer seeks an extension of an additional twenty-four (24) months to complete the construction of its new Point of Delivery from the date set forth in Section 27 of the Contract;

WHEREAS, except as expressly modified herein, the terms and conditions of the Contract are hereby incorporated by reference and made a part of this First Amendment;

WHEREAS, capitalized terms used in this First Amendment and not otherwise defined herein shall have the meanings assigned to them in the Contract; and

WHEREAS, the Parties wish to extend the time to complete the construction of the new Point of Delivery from the date set forth in Section 27 of the Contract as set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NTMWD and Customer agree that Section 27 of the Contract shall be amended and modified as follows:

Section 27. SPECIAL CONDITIONS.

(b) If Customer’s construction of the of metering facilities and control equipment necessary to utilize the Point of Delivery is not complete within four (4) years from the Contract Date, the provisions in this Contract related to NTMWD’s provision of service through the Point of Delivery and Customer’s

payments for such service shall terminate and be of no further force or effect unless such deadline is extended by written approval of NTMWD.

(c) Within ninety (90) days of completion of construction of the Point of Delivery as provided in this Section, NTMWD and Customer will enter into and execute a new Potable Water Supply Contract that replaces and supersedes this Contract.

Except as expressly modified herein, the terms and conditions of the Contract are hereby incorporated by reference and made a part of this First Amendment. If any terms or conditions of this First Amendment conflict with or are contrary to any terms in the Contract, the terms and conditions of this First Amendment shall govern and control.

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

(Signatures on following pages)

CITY OF CRANDALL

By: _____
David Lindsey, Mayor

Date: _____, 2022

ATTEST:

Douglas "Deuce" Waters II, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on this _____ day of _____, 2022, by David Lindsey, Mayor of the City of Crandall, a political subdivision of the State of Texas, on behalf of the City of Crandall.

Notary Public, State of Texas
Printed Name of Notary:

My Commission Expires: _____

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: _____
Jack May, President

Date: _____, 2022

ATTEST:

George Crump, Secretary

THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on this _____ day of _____, 2022, by Jack May, President of the Board of Directors of North Texas Municipal Water District, a conservation and reclamation district and political subdivision of the State of Texas, on behalf of said conservation and reclamation district.

Notary Public, State of Texas
Printed Name of Notary:

My Commission Expires: _____

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5840

AUTHORIZATION OF EXECUTION OF POTABLE WATER SUPPLY CONTRACT WITH CITY OF JOSEPHINE

ACTION (*What*)

Authorize execution of a Potable Water Supply Contract with City of Josephine, a current customer of NTMWD.

PURPOSE (*Why*)

NTMWD and City of Josephine wish to restate and enter into a new Potable Water Supply Contract since City of Josephine is approaching the expiration of their current contract and wish to take advantage of the new annual minimum methodology as applied to Member Cities.

RECOMMENDATION

The Executive Director, NTMWD staff and Lloyd, Gosselink, Rochelle & Townsend, P. C., recommend the Board of Directors authorize execution of a potable water supply contract with the City of Josephine.

Contracting
Party:

City of Josephine

Purpose:

Potable Water Supply Contract

Contract
Term:

20 years

Strategic Objective: 3.2 Engage Members, Customers and Stakeholders.

This will be an item on the June 22, 2022, Water Committee agenda.

DRIVER(S) FOR THIS PROJECT

- | | |
|--|--|
| <input type="checkbox"/> Regulatory Compliance | <input type="checkbox"/> Asset Condition |
| <input type="checkbox"/> Capacity | <input type="checkbox"/> Redundancy/Resiliency |
| <input type="checkbox"/> Relocation or External Requests | <input type="checkbox"/> Operational Efficiency |
| <input type="checkbox"/> Safety | <input checked="" type="checkbox"/> Administrative |
| <input type="checkbox"/> Policy | <input type="checkbox"/> Other _____ |

BACKGROUND

PURPOSE

- City of Josephine entered into Potable Water Supply Contract with NTMWD dated March 31, 1995.
- City of Josephine's current contract will expire March 31, 2025 and the City desires to enter into a new Potable Water Supply Contract.
- The new potable water supply contract conforms to the new customer contract language approved by the Board April 22, 2021.

COMPONENTS OF THE CONTRACT WITH CITY OF JOSEPHINE

- Contract term of 20 years.
- The Point of Delivery for Customer is on the 24" Wylie-Rockwall-Farmersville Pipeline near County Road No. 543.
- Will provide new methodology for calculating annual minimums.
- An annual maximum of 365,000,000 gallons per year.
- Cost of potable water is set at the current water rate established for customer entities by the Board of Directors.
- Any water delivered in excess of the annual minimum will also be purchased at the water rate established by the Board of Directors.
- If City of Josephine exceeds the maximum rate of delivery of 2.2 times the daily average City of Josephine shall pay three times the customer entity water rate for such quantity. There is a provision for emergency conditions extending up to 48 hours during which NTMWD may, at its sole discretion, waive the additional cost.
- NTMWD, in its sole discretion and at any time, may deliver water to City of Josephine at a delivery rate greater than 2.2 times the daily average for the purpose of (i) minimizing or managing energy costs (4CP); or (ii) managing hydraulic constraints in NTMWD's system. If NTMWD exercises either of these options, City of Josephine shall only pay the contract water rate for water received.
- If NTMWD does not have infrastructure installed with the capability of limiting the delivery rate of water to 2.2 times the daily average, or such infrastructure is currently inoperable, City of Josephine shall pay the contract water rate for water received from NTMWD.
- A provision that allows NTMWD to charge three times the water rate for such quantity of water used by the customer that is above the authorized amount or authorized rate of delivery as allowed by NTMWD's Water Conservation and Drought Contingency Plan, as such plan may be amended from time to time.

The City of Josephine approved the contract at their June 13, 2022, City council meeting. A copy of the proposed contract is attached.

**NORTH TEXAS MUNICIPAL WATER DISTRICT
CITY OF JOSEPHINE, TEXAS
AMENDED AND RESTATED POTABLE WATER SUPPLY CONTRACT**

THE STATE OF TEXAS §
 §
THE COUNTY OF COLLIN §

THIS CONTRACT (the “Contract”) made and entered into as of this the _____ day of June, 2022, by and between the North Texas Municipal Water District, hereinafter called “NTMWD,” a conservation and reclamation district created under Article 16, Section 59, of the Texas Constitution, and the City of Josephine, hereinafter called “Customer.” NTMWD and Customer are each referred herein as “party” and jointly referred to as “parties” in this Contract.

W I T N E S S E T H :

WHEREAS, NTMWD and Customer are authorized to enter into this Contract pursuant to Chapter 62, Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon’s Texas Civil Statutes), Chapter 791 of the Texas Government Code (the “Interlocal Cooperation Act”) and other applicable laws;

WHEREAS, Customer and NTMWD previously entered into that certain Amended and Restated Potable Water Supply Contract dated March 31, 1995, which was subsequently amended on July 25, 1996 by that certain Potable Water Supply Amendatory Contract (collectively referred to herein as the “Previous Contract”);

WHEREAS, Customer and NTMWD desire to amend and completely restate the terms of the Previous Contract, and supersede and replace the Previous Contract in its entirety, as provided herein, and the Previous Contract shall have no further force and effect;

WHEREAS, Customer desires to obtain an adequate and dependable water supply from NTMWD;

WHEREAS, NTMWD was created, among other things, to serve the water needs of its Member Cities, as defined below;

WHEREAS, Customer acknowledges and understands that this Contract establishes a maximum amount of potable water that NTMWD is required to deliver to Customer;

WHEREAS, Customer agrees to construct and operate adequate water distribution, storage and pump station facilities so that the maximum delivery rate of water will not exceed, at any time, 2.2 times the Highest Historical Average at the Point(s) of Delivery(s), as such terms are defined herein;

WHEREAS, Customer acknowledges and understands that NTMWD determines the rates to be paid by Member Cities and Customer and that rates for Customer will not be the same as and are higher than the rates for Member Cities; and

WHEREAS, Customer is not compelled to purchase water from NTMWD and is voluntarily entering into this Contract;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, NTMWD agrees to furnish water, and Customer agrees to pay for water, upon the terms and conditions and for the consideration hereinafter set forth, to wit:

Section 1. DEFINITION OF TERMS. The following terms and expressions as used in this Contract, unless the context clearly shows otherwise, shall have the following meanings:

- (a) "Annual Minimum" means the minimum amount of potable water Customer must compensate NTMWD for during the Annual Payment Period, and each year thereafter, regardless of whether Customer actually takes such quantity of water. The Annual Minimum shall be adjusted annually after the first Annual Payment Period as provided in Section 8;
- (b) "Annual Maximum" means the maximum amount of potable water that NTMWD agrees to sell and deliver to Customer during any Water Year under this Contract;
- (c) "Annual Payment" means the amount of money to be paid to NTMWD by Customer during each Annual Payment Period;
- (d) "Annual Payment Period" means NTMWD's fiscal year, which currently begins on October 1 of each calendar year and ends on September 30 of the next following calendar year, but which may be any twelve (12) consecutive month period fixed by NTMWD;
- (e) "Contract Date" means the effective date of this Contract as executed by both parties, which is the day and year first above written;
- (f) "Customer" means City of Josephine as defined in the preamble to this Contract;
- (g) "Customer Entity or Customer Entities" means any customer other than the Member Cities with which NTMWD contracts with to furnish water;
- (h) "Emergency Condition" means a condition that necessitates an expeditious delivery of water to prevent or combat imminent peril to the public health, safety, or welfare;
- (i) "Highest Historical Average" means the higher of (1) 382,797 gallons per day, that being 1/365 of the Annual Minimum as provided in Section 8 of this Contract at the Point(s) of Delivery, or (2) 1/365 of the highest annual amount of potable water delivered to the Customer at the Point(s) of Delivery in a Water Year during the term of this Contract;
- (j) "Member City or Member Cities" means the Cities of Allen, Farmersville, Forney, Frisco, Garland, McKinney, Mesquite, Plano, Princeton, Richardson, Rockwall, Royse City, Wylie, and any other city that may hereafter legally be annexed into the service area of NTMWD in accordance with Tex. Rev. Civ. Stat. Art. 8280-141;
- (k) "NTMWD" means the North Texas Municipal Water District as defined in the preamble to this Contract;
- (l) "Point(s) of Delivery" means the meter vault(s) at which water service is delivered by NTMWD to Customer at the location specified in Section 5, all facilities upstream of which shall be the sole responsibility of NTMWD, and all facilities downstream of which shall be the sole responsibility of the Customer except as otherwise provided herein by this Contract;

- (m) “Regional Contract” means the “North Texas Municipal Water District Regional Water Supply Facilities Amendatory Contract,” dated August 1, 1988, as amended, together with all similar contracts between NTMWD and contracting parties;
- (n) “System” means, collectively, the existing system and the future improvements and water of NTMWD included as part of the System under the Regional Contract for projects, water storage, treatment, transmission and supply, including all dams, reservoirs, and other properties or interests therein wherever located. Said terms do not include any of NTMWD’s facilities that provide wastewater treatment or disposal services, or solid waste disposal services, of any kind. Said terms do not include any facilities acquired or constructed by NTMWD with the proceeds from the issuance of “Special Facilities Bonds,” which are payable from any source, contract, or revenues whatsoever, other than revenues from the System; and,
- (o) “Water Year” means the period of August 1 of each calendar year through July 31 of the next following calendar year, or such other twelve (12) month period designated by NTMWD to all Member Cities and Customer Entities.

Section 2. DELIVERY OF WATER. NTMWD agrees to sell and to deliver potable water under this Contract to Customer at its Point(s) of Delivery as described in Section 5 hereof, and Customer agrees to take at its Point(s) of Delivery all water required for use by Customer during the term of this Contract, including all potable water for Customer’s own use and for distribution to all customers served by Customer’s water distribution system, or within Customer’s existing certificated retail service area regulated by the Public Utility Commission of Texas (“PUCT”), or any successor agency. It is specifically provided, however, that after the Contract Date, Customer shall be required to enter into a new potable water supply contract with NTMWD to replace and supersede this Contract in its entirety prior to the Customer entering into, renewing, or amending with regard to volume of water to be supplied, any agreement to provide wholesale or retail potable water for use outside its boundaries, its extraterritorial jurisdiction, or its certificated retail service area. Customer shall not become a party to any contract for the sale of potable water that would violate or be inconsistent with the provisions of this Contract. NTMWD will use its best efforts to furnish and remain in a position to furnish potable water sufficient for all reasonable potable water requirements of Customer, but its obligation shall be limited to the amount of potable water available to it from the System during routine operation.

The Annual Maximum that NTMWD agrees to sell and deliver to Customer under this Contract at the Point(s) of Delivery shall be 365,000,000 gallons per year. If Customer exceeds the Annual Maximum for the Point(s) of Delivery during any Water Year, within sixty (60) days of such exceedance Customer agrees to commence negotiations with NTMWD for the execution of a new or an amended or restated contract.

Except as provided in Section 8(j), the maximum rate of delivery at the Point(s) of Delivery shall not exceed 2.2 times the Highest Historical Average supplied to Customer hereunder, which is consistent with the capabilities and abilities of NTMWD facilities, and it is understood that NTMWD may from time to time adjust the maximum rate of delivery on an equitable and uniform basis to all Customer Entities.

Section 3. OTHER CONTRACTS. NTMWD reserves the right to supply potable water from the System to additional parties as determined by the Board of Directors of NTMWD.

Section 4. QUALITY. The water to be delivered by NTMWD and received by Customer shall be potable water. Customer has satisfied itself that such water will be suitable for its needs, but NTMWD is obligated to treat such water so as to meet the standards of all State and Federal agencies having jurisdiction over water quality. NTMWD and Customer shall cooperate, each within its legal powers, in preventing, to the extent practicable, the pollution and contamination of the reservoirs and watersheds from which water is obtained.

Section 5. POINT(S) OF DELIVERY. The Point(s) of Delivery for Customer is on the twenty-four inch (24") Wylie-Rockwall-Farmersville Pipeline near County Road No. 543. Exhibit A attached hereto identifies the location of the Point(s) of Delivery. The parties agree that if the twenty-four inch (24") Wylie-Rockwall-Farmersville Pipeline is abandoned or relocated either at the request of the Customer, or for any other reason, the Customer shall pay all costs associated with the construction of a new Point(s) of Delivery or connection to a different pipeline at the discretion of NTMWD, including any and all costs associated with furnishing the site of the new Point(s) of Delivery as described in this section. NTMWD, in its sole discretion, may pay the costs associated with the construction of a new Point(s) of Delivery.

Customer agrees to furnish the site at the Point(s) of Delivery and to construct and operate adequate water distribution, storage, and pump station facilities so that the maximum rate of delivery will not exceed 2.2 times the Highest Historical Average at the Point(s) of Delivery. Customer shall design and construct a separate vault for the Point(s) of Delivery. The vault will include the billing meter, control valve, and appropriate SCADA equipment. Customer shall also provide one level transmitter for the ground storage tank for NTMWD use and shall provide a separate air gap for the Point(s) of Delivery at the ground storage tank. At the request of the Customer, or upon NTMWD's own determination, NTMWD may install isolation valves associated with the Point(s) of Delivery. NTMWD may require Customer to bear all costs associated with such installation.

Customer shall provide to NTMWD all plans for the design, construction, and installation of any facilities and equipment required to receive and take all potable water delivered to it under this Contract and Customer shall not proceed with any construction or installation without NTMWD's prior written approval of such plans, which approval shall not be unreasonably withheld. Further, NTMWD shall have the right to inspect any and all facilities and equipment to ensure compliance with the NTMWD approved plans. Customer shall also perform and coordinate with NTMWD regarding any and all construction activities that involve the System. Customer shall construct, maintain, and operate, at its own cost and expense, all facilities and equipment necessary to receive and take all potable water delivered to it under this Contract. Regardless of NTMWD's approval of any Customer plans for the design, construction, and installation of any facilities and equipment required to receive and take all potable water delivered to it under this Contract, Customer is solely responsible for the sufficiency of design to receive volume(s) of water established pursuant to this Contract. Any construction from NTMWD's pipeline through the air gap must meet NTMWD standard specifications. Any change in the Point(s) of Delivery, including but not limited to a change in the type or size of meters, or size of tap, shall only be allowed if the Customer enters into a new or an amended and restated contract in accordance with Section 10, MODIFICATION. In NTMWD's sole discretion, NTMWD may waive the requirement for a new or an amended and restated contract for a change in the Point(s) of Delivery and allow such change through an amendment to this Contract.

Section 6. MEASURING EQUIPMENT. Customer shall furnish, and install at its own expense at, or near, the Point(s) of Delivery the necessary rate of flow equipment, of a standard type approved by NTMWD, for measuring properly in both low and high flow periods the quantity of potable water delivered under this Contract and such billing meter and other equipment so installed shall become the property of NTMWD. In its sole discretion, NTMWD may furnish, install and/or replace at its own expense at, or near, the Point(s) of Delivery the necessary rate of flow equipment for measuring properly in both low and high flow periods the quantity of potable water delivered under this Contract and such billing meter and other equipment so installed shall remain the property of NTMWD. Customer shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be accomplished only by the employees or agents of NTMWD. For the purpose of this Contract, the original record or reading of the meter shall be the journal or other record book, including, but not limited to electronic databases, maintained by NTMWD in its office in which the records of the employees or agents of NTMWD who take the reading may be transcribed. Upon written request of Customer, NTMWD will provide a copy of such journal or record book, or permit it to have access to the same in the office of NTMWD during reasonable business hours.

Not more than once in any six (6) month time period, NTMWD shall test its billing meter if requested in writing by Customer to do so, in the presence of a representative of Customer, and the parties shall jointly observe any adjustments that are made to the billing meter in case any adjustments shall be necessary. If upon any test, the percentage of inaccuracy of any billing meter equipment is found to be in excess of two percent (2%), registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months. If for any reason any billing meters are out of repair so that the amount of water delivered cannot be ascertained or computed from the reading thereof, the water delivered through the period such billing meters are out of service or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available. For such purpose, the best data available shall be deemed to be the registration of any check meter or meters if the same have been installed and are accurately registering. Otherwise, the amount of water delivered during such period may be estimated (i) by correcting the error if the percentage of the error is ascertainable by calibration tests or mathematical calculation, or (ii) estimating the quantity of delivery by deliveries during the preceding periods under similar conditions when the billing meter or meters were registering accurately.

Customer may, at its option and its own expense, install and operate a check meter downstream of the Point(s) of Delivery to check each billing meter installed by NTMWD, but the measurement of water for the purpose of this Contract shall be solely by NTMWD's meters, except in the cases hereinabove specifically provided to the contrary. All such check meters shall be of standard make and shall be subject at all reasonable times to inspection and examination by any employee or agent of NTMWD.

Section 7. UNIT OF MEASUREMENT. The unit of measurement for potable water delivered under this Contract shall be 1,000 gallons of water, U.S. Standard Liquid Measure.

Section 8. PRICE AND TERMS. The service to be performed under this Contract by NTMWD consists of the readiness of NTMWD to deliver to Customer upon its demand, water in accordance with the conditions, limitations and provisions of this Contract.

In return for such service, Customer agrees to compensate NTMWD by payment of certain minimum annual sums of money, for each of which said sums NTMWD agrees, if required by Customer, to deliver all, or so much thereof as Customer may desire, of a certain corresponding volume of water, as follows:

(a) Customer will compensate NTMWD at the current water rate established for Customer Entities by the Board of Directors of NTMWD ("Water Rate"), as such Water Rate may be changed from time to time, for an Annual Minimum of 139,721,000, gallons of water (a daily average of 382,797 gallons per day), regardless of whether said quantity is actually taken by Customer, and any water delivered in excess of the amount allowed for the Annual Minimum will also be purchased at the Water Rate. The Board of Directors of NTMWD shall have exclusive authority to establish the Water Rate. The Annual Minimum Customer will be required to purchase at the above Water Rate, or such other Water Rate as may be from time to time determined by NTMWD, shall be calculated annually for each ensuing year and such minimum amount shall not be less than the value as calculated by using the same methodology as applied to the Member Cities or 139,721,000 gallons, whichever is greater; provided however, Customer cannot take more than 365,000,000 gallons per year as provided in Section 2 of this Contract, and Customer shall pay the Water Rate for any water taken in excess of 365,000,000 gallons per year.

(b) If potable water must be rationed, such rationing shall, within the limits permitted by law, be accomplished by NTMWD on an equal basis of the relative actual total amount of all potable water taken by each Customer Entity, respectively, during the last preceding Annual Payment Period in which rationing among said Customer Entities was not necessary.

(c) The Annual Minimum as set forth in Section 8 hereof shall be reviewed at the end of the first Annual Payment Period, and each year thereafter, and shall be re-determined by the Board of Directors of NTMWD at that time.

(d) Payment of the minimum annual service charge listed above shall be made each year by Customer to NTMWD in twelve (12) equal monthly installments, each of which shall be due and payable on or before the 10th day of the month following the service.

(e) It is further agreed that, in addition to the amounts required to be paid by Customer herein, if during any Water Year Customer uses System treated water in excess of the Annual Minimum for the Annual Payment Period that commenced during such Water Year up to the Annual Maximum allowed in Section 8(a) or in excess of the Annual Maximum allowed in Section 8(a), then Customer shall pay for excess water in accordance with the provisions of Section 8(a). Excess water charges shall be billed by NTMWD to Customer as soon as practicable after the end of such Water Year and shall be paid to NTMWD as soon as practicable thereafter, and in all events prior to the beginning of the next Annual Payment Period.

(f) Liability for making payments, as herein set forth, shall commence on the date of the first tender of delivery of water to Customer by NTMWD at the Point(s) of Delivery.

(g) In the event that Customer shall fail to make any such monthly payment or annual payment within the time herein in this section specified, interest on such amount shall accrue at the rate of ten percent (10%) per annum from the date such payment becomes due until paid in full with the interest as herein specified. In the event such payment is not made within thirty (30) days from the date such payment becomes due, NTMWD may at its option discontinue delivery of water to Customer until the amount due NTMWD is paid in full with interest as herein specified.

(h) If Customer takes an amount of water above the authorized amount or authorized rate of delivery allowed by NTMWD's water conservation plan and drought contingency plan, as may be amended from time to time, NTMWD may require the Customer to pay three (3) times the Water Rate for water taken in excess of the authorized amount or authorized rate of delivery under either plan.

(i) Any time Customer exceeds the maximum rate of delivery of 2.2 times the Highest Historical Average at the Point(s) of Delivery as determined by the NTMWD, Customer shall pay three (3) times the Water Rate for such water.

(j) In the event of an Emergency Condition, as that term is defined herein, NTMWD may, in its sole discretion, waive this increased rate in Section 8(i) for exceedance of the maximum rate of delivery of 2.2 times the Highest Historical Average for the Point(s) of Delivery. This waiver shall apply for a 48-hour period, after which such waiver shall terminate. In its sole discretion, NTMWD may extend the waiver for additional 48-hour periods, if NTMWD determines that an extension of the waiver is warranted.

NTMWD, at its sole discretion and at any time, may deliver water to Customer at a delivery rate greater than 2.2 times the Highest Historical Average for the purpose of (i) minimizing or managing energy costs (e.g. 4 Coincident Peak (4CP), minimizing pump starts and/or stops, etc.); or (ii) managing hydraulic constraints in the System. In the event NTMWD exercises either of these options, Customer shall pay only the Water Rate for water received. Additionally, if NTMWD does not have infrastructure installed with the capability of limiting the delivery rate of water to 2.2 times the Highest Historical Average, or such infrastructure is inoperable, Customer shall pay the Water Rate for water received from NTMWD.

(k) Customer shall have the right to challenge any change in the Water Rate in violation of this Contract before the PUCT, or any successor agency having jurisdiction over same. If Customer initiates or participates in any proceeding regarding the Water Rate and NTMWD's policies under this Contract and advocates a position that is adverse to NTMWD, and NTMWD prevails, Customer shall reimburse NTMWD for its reasonable expenses, including attorneys' fees in the proceeding, within thirty (30) days after NTMWD's demand for payment.

Section 9. TERM OF CONTRACT. This Contract shall commence on the Contract Date and shall continue for a term of twenty (20) years following the Contract Date.

Section 10. MODIFICATION. This Contract may be changed or modified only by written agreement of the parties and only after having obtained approval from the governing bodies of both NTMWD and Customer. No change or modification shall be made to this Contract which will affect adversely the prompt payment when due of all monies required to be paid by Customer under the terms of this Contract.

Section 11. FORCE MAJEURE. If by reason of force majeure any party hereto shall be rendered unable wholly or in part to carry out its obligations under this Contract, other than the obligation of Customer to make the payments required under Section 8 of this Contract, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics (including pandemics), landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or on account of any other causes not reasonably within the control of the party claiming such inability.

Section 12. INSURANCE. NTMWD agrees to carry and arrange for fire, casualty, public liability, and/or other insurance, including self-insurance for purposes and in amounts which, as determined by NTMWD, ordinarily would be carried by a privately-owned utility company owning and operating such facilities, except that NTMWD shall not be required to provide liability insurance except to insure itself against risk of loss due to claims for which it can, in the opinion of NTMWD's legal counsel, be liable under the Texas Tort Claims Act or any similar law or judicial decision. Such insurance will provide, to the extent feasible and practicable, for the restoration of damaged or destroyed properties and equipment, to minimize the interruption of the services of such facilities. All premiums for such insurance shall constitute just and reasonable operation and maintenance expense. The insurance coverage referenced herein does not extend to any facility owned by Customer.

Section 13. REGULATORY BODIES AND LAWS. This Contract is subject to all applicable Federal and State laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum, having jurisdiction.

Section 14. NOTICES. Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made, or accepted by any party to any other party must be in writing and may be given or be served by depositing the same in the United States mail, addressed to the party to be notified and sent via first-class mail and by certified mail/return-receipt requested, or by delivering the same to an officer of such party. Notice deposited in the mail in the manners hereinabove described shall be deemed to be effective, unless otherwise stated herein, from and after the expiration of three (3) days after it is so deposited. Notice given in any other manner shall be effective only if

and when received by the party to be notified. For the purposes of Notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to NTMWD, to:

Executive Director/General Manager
North Texas Municipal Water District
P.O. Box 2408
Wylie, Texas 75098

If to Customer, to:

Mayor
City of Josephine
P.O. Box 99
Josephine, Texas 75164

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

Section 15. SEVERABILITY. The parties hereto specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be, or should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State of Texas or the United States of America, or in contravention of any such laws or constitutions, such invalidity, unconstitutionality, or contravention shall not affect any other sections, subsections, provisions, clauses, or words of this Contract or the application of such sections, subsections, provisions, clauses, or words to any other situation or circumstance, and it is intended that this Contract shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the parties hereto shall be construed and remain in force accordingly.

Section 16. VENUE. All amounts due under this Contract including, but not limited to, payments due under this Contract or damages for the breach of this Contract, shall be paid and be due in Collin County, Texas, which is the County in which the principal administrative offices of NTMWD are located. It is specifically agreed among the parties to this Contract that Collin County, Texas, is a principal place of performance of this Contract.

Section 17. OPERATING CONDITIONS AND PROVISIONS.

(a) Operation and Maintenance of System. NTMWD will continuously operate and maintain the System in an efficient manner and in accordance with good business and engineering practices, and at reasonable cost and expense.

(b) Title to Water; Indemnification. NTMWD shall retain title to all water supplied to Customer up to the Point(s) of Delivery, at which point title to such water shall pass to Customer. NTMWD and Customer shall save and hold each other harmless from all claims, demands, and causes of action that may be asserted by anyone on account of the transportation and delivery of said water while title remains in such party. As between the parties, Customer shall have the first right to use all effluent produced from any wastewater treatment plant that treats the wastewater resulting from the use of the water made available under this Contract for direct reuse, but solely for its own purposes, and not for sale to, or use by, any customer of the Customer. To the extent that effluent produced by a wastewater treatment plant that treats the wastewater resulting from the use of water made available under this

Contract is discharged to water courses of the State, the right of Customer to reuse such effluent produced from such wastewater treatment is terminated, and NTMWD shall have the right, as between the parties, pursuant to any necessary authorization of the State, to indirectly reuse said effluent. Customer shall ensure via any wholesale contract with a subsequent customer, entered into after the Contract Date, to maintain NTMWD's right to indirectly reuse treated effluent, the underlying source of which is water from NTMWD made available under this Contract.

(c) Operating Expenses of Customer. Customer represents and covenants that all payments to be made by it under this Contract shall constitute reasonable and necessary "operating expenses" of its system, as defined in Section 1502.056, Texas Government Code, and that all such payments will be made from the revenues of its system. Customer represents and has determined that the potable water supply to be obtained from the System is absolutely necessary and essential to the present and future operation of its water system and is the only available and adequate source of supply of potable water. Accordingly, all payments required by this Contract to be made by Customer shall constitute reasonable and necessary operating expenses of its respective system as described above, with the effect that the obligation to make such payments from revenues of such system shall have priority over any obligation to make any payments from such revenues (whether of principal, interest, or otherwise) with respect to all bonds or other obligations heretofore or hereafter issued by Customer.

(d) Customer's Rate for Waterworks System. Customer agrees throughout the term of this Contract to continuously operate and maintain its waterworks system, and to fix and collect such rates and charges for water services to be supplied by its waterworks system as aforesaid as will produce revenues in an amount equal to at least (i) all of its payments under this Contract and (ii) all other amounts required to be paid from said revenues by the provisions of the ordinances or resolutions authorizing its revenue bonds or other obligations now or hereafter outstanding and to file appropriate financial reports related to the Customer's system including annual audits.

(e) Equity. Customer acknowledges that it will accrue no equity or any other interest in the System or any other assets of NTMWD as a result of payment or other performance pursuant to this Contract.

Section 18. WATER CONSERVATION. Customer agrees to adopt, implement, and enforce any and all ordinances and policies related to water conservation and drought management as required by the Texas Water Code, rules of the TCEQ and/or as may be adopted by the Board of Directors of NTMWD. NTMWD's obligations pursuant to this Contract shall be subject to Customer preparing and implementing a water conservation plan or water conservation measures, as well as implementing any water conservation plans and drought contingency plans adopted by NTMWD and required or approved by the TCEQ, the Board, or any other federal, state, or local regulatory authority with power to require or approve water conservation and drought contingency plans. Upon execution of this Contract, Customer shall submit its water conservation plan or water conservation measures, and drought contingency plan, to NTMWD for review and approval, and Customer agrees to amend its water conservation plan or water conservation measures, and drought contingency plan as requested by NTMWD in order to comply with requirements of NTMWD's water conservation plan and drought contingency plan, program and/or rules. Customer shall also submit any changes or amendments to its water conservation plan or water conservation measures, and drought contingency plan, to NTMWD for review and approval.

NTMWD has adopted a water conservation plan and a drought contingency plan, and may amend both from time to time. If Customer fails to implement NTMWD's and its own drought contingency plan when trigger conditions occur, NTMWD may implement rationing and collect the rate for water withdrawn as provided in Section 8(h) of this Contract, as well as enforce any contractual, statutory, or common law remedies available. The amount of water that is provided pursuant to this Contract when Customer is not in compliance with NTMWD's water conservation plan and drought contingency plan will be reduced to the amount estimated as necessary to satisfy Customer's demand if Customer was operating in compliance with both NTMWD's and Customer's drought contingency plans.

If NTMWD authorizes Customer to resell water from the System pursuant to the conditions included herein, Customer shall require through a contract condition that any successive user(s) of water from the System must implement water conservation measures that comply with NTMWD's and Customer's water conservation plans, measures, programs, and/or rules.

Section 19. DEMAND ASSESSMENT. The location of the delivery point(s) and any quantity set forth in this Contract are intended to meet the water needs of Customer. The needs of Customer are independently determined by Customer, and NTMWD has conducted no independent evaluation of the Customer's water system.

Section 20. SOLE AGREEMENT. This Contract constitutes the sole and only agreement of Customer and NTMWD and supersedes any prior understanding or oral or written agreements between Customer and NTMWD with respect to the subject matter of this Contract.

Section 21. NO THIRD PARTY BENEFICIARIES. This Contract shall inure only to the benefit of the parties hereto and third persons not privy hereto shall not, in any form or manner, be considered a third-party beneficiary of this Contract. Each party hereto shall be solely responsible for the fulfillment of its customer contracts or commitments, and NTMWD shall not be construed to be responsible for Customer's contracts or commitments by virtue of this Contract or any provision contained herein.

Section 22. WAIVER. Failure to enforce or the waiver of any provision of the Contract or any breach or nonperformance by the Customer or NTMWD shall not be deemed a waiver by the Customer or NTMWD of the right in the future to demand strict compliance and performance of any provision of this Contract. No officer or agent of Customer or NTMWD is authorized to waive any provision of the Contract.

Section 23. DISPUTES OTHER THAN RATE OR FEE DISPUTES; ABATEMENT. In accordance with the provisions of Subchapter I, Chapter 271, Texas Local Government Code, the parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Contract, the parties will first attempt to resolve the dispute as provided as follows:

(a) The dissatisfied party shall deliver a written notice substantially describing the nature of the dispute to the other party, requesting the other party to deliver a written response within ten (10) business days after receipt of the notice of dispute;

(b) If the response does not, in the opinion of the dissatisfied party, reasonably resolve the dispute, the dissatisfied party shall notify the other party in writing. Each party shall then appoint a person having authority over the activities of the respective parties who shall promptly meet, in person or via a virtual meeting, in an effort to resolve the dispute; and

(c) If those persons cannot or do not resolve the dispute, then the parties shall each appoint a person from the highest tier of managerial responsibility within each respective party, who shall then promptly meet, in person or via a virtual meeting, in an effort to resolve the dispute.

Any lawsuit filed prior to performing these steps shall be abated pending completion of this dispute resolution process. This section shall not apply to any disputes regarding rates or fees NTMWD charges Customer. The provisions of this section are a condition precedent to the filing of any other action or complaint with any regulatory authority, governing body, or state or federal court.

Section 24. RATE OR FEE DISPUTES. Customer agrees that, as a condition precedent to instituting any lawsuit or other proceeding arising from a rate or fee dispute (including any other charges NTMWD may assess) under this Contract, Customer shall first attempt to resolve the dispute as provided as follows:

(a) Customer shall deliver a written notice substantially describing the nature of and reasons for the dispute to NTMWD;

(b) NTMWD shall respond to the dispute notification in writing within ten (10) business days after receipt of the notice of dispute;

The provisions of this section are a condition precedent to the filing of any other action or complaint with any regulatory authority, governing body, or state or federal court.

Section 25. **TERMINATION AND MATERIAL BREACH.** Any material breach of the duties or obligations of this Contract, or failure to faithfully keep and perform any of the terms, conditions and provision hereof shall be subject to the remedies provided in Section 26, including but not limited to termination. The non-breaching party shall provide the breaching party ninety (90) days written notice of its intention to terminate this Contract if the breaching party fails to cure the material breach. The written notice shall include a reasonable description of the breach. If the Customer is the breaching party, and fails or refuses to cure the breach, then NTMWD shall have the right, with five (5) years advance written additional notice to Customer and without any liability whatsoever on the part of NTMWD, to declare the Contract terminated. In the event of termination of this Contract, all rights, powers, and privileges of Customer pursuant to this Contract shall cease and terminate and Customer shall make no claim of any kind whatsoever against NTMWD, its agents or representatives, by reason of such termination or any act incident thereto. In any event, the non-breaching party shall advise the alleged breaching party in writing immediately upon acceptance of the cure of any default. The following shall, without limitation, be considered to be a material breach:

(a) Customer's failure to adopt and enforce policies or standards necessary to enforce any applicable NTMWD policies, contractual requirements, or any applicable state or federal laws or regulations;

(b) Customer's failure to pay any bill, charge or fee as provided for in this Contract;

(c) Customer's failure to provide NTMWD ingress and egress for purposes of sampling and operation and maintenance of any metering or any sampling facility; and

(d) NTMWD's failure to timely provide water to Customer in an amount sufficient to serve existing customers of the Customer, up to the Annual Maximum set forth in Sections 2 and 8.

Section 26. **REMEDIES.** It is not intended hereby to specify (and this Contract shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies, including termination as provided in Section 25, existing at law or in equity may be availed of by any party hereto and shall be cumulative.

Section 27. INDEMNITY. BY SIGNING THIS CONTRACT, CUSTOMER AGREES, ON BEHALF OF ITSELF AND ITS SUCCESSORS AND ASSIGNS, THAT IT RELINQUISHES AND DISCHARGES, AND WILL, TO THE FULLEST EXTENT PERMITTED BY LAW, DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS NTMWD AND NTMWD'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, COSTS, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, CONTRACT OR ANY OTHER BASIS AND OF EVERY KIND AND CHARACTER WHATSOEVER (INCLUDING BUT NOT LIMITED TO ALL COSTS OF DEFENSE, SUCH AS FEES AND CHARGES OF ATTORNEYS, EXPERT WITNESSES, AND OTHER PROFESSIONALS INCURRED BY NTMWD AND ALL COURT OR ARBITRATION OR OTHER DISPUTE RESOLUTION COSTS) ARISING OUT OF OR INCIDENT TO, DIRECTLY OR INDIRECTLY, THIS CONTRACT, INCLUDING BUT NOT LIMITED TO, ANY SUCH CLAIM FOR BODILY INJURY, DEATH, PROPERTY DAMAGE, CONSEQUENTIAL DAMAGE, OR ECONOMIC LOSS AND ANY CLAIM THAT MAY ARISE IN CONNECTION WITH THE QUALITY,

QUANTITY, USE, MISUSE, IMPOUNDMENT, DIVERSION, TRANSPORTATION, AND MEASUREMENT OF WATER AND ANY CLAIM THAT MAY ARISE AS A RESULT OF INSTALLATION, INSPECTION, ADJUSTING, OR TESTING OF MEASURING AND RECORDING EQUIPMENT INVOLVING NTMWD DELIVERY OF WATER TO CUSTOMER, AS WELL AS ANY CLAIM THAT MAY ARISE FROM ANY CONDITION OF CUSTOMER'S FACILITIES, SEPARATE OPERATIONS BEING CONDUCTED ON CUSTOMER'S FACILITIES, OR THE IMPERFECTION OR DEFECTIVE CONDITION, WHETHER LATENT OR PATENT, OF ANY WATER, MATERIAL OR EQUIPMENT SOLD, SUPPLIED, OR FURNISHED BY NTMWD. THIS AGREEMENT BY CUSTOMER TO INDEMNIFY AND HOLD HARMLESS EXPRESSLY EXCLUDES ANY CLAIMS, LOSSES, EXPENSES, COSTS DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS AND LIABILITY IN TORT, OR ANY OTHER BASIS, ARISING SOLELY FROM ANY NEGLIGENT ACT OR OMISSION OF NTMWD, ITS EMPLOYEES, AGENTS OR CONTRACTORS.

PROVISIONS OF THIS SECTION SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS CONTRACT.

Section 28. ASSIGNMENT. Customer shall not assign this Contract or any of its rights hereunder without first obtaining the express prior written consent of NTMWD.

Section 29. RECITALS AND EXHIBITS INCORPORATED. The recitals contained in the preamble hereof and the exhibit(s) hereto are hereby found to be true, and such recitals and exhibit(s) are hereby made a part of this Contract for all purposes.

Section 30. SPECIAL CONDITIONS. Notwithstanding Sections 5 and 6, the Parties agree to the following:

(a) NTMWD will own, operate, and maintain all of the piping and valve(s) from the existing eight-inch (8") connection to the twenty-four inch (24") NTMWD conveyance pipeline through the existing billing meter vault, including the vault itself and all piping and equipment within the walls of the vault and associated with it. Similarly, NTMWD will also own, operate, and maintain the existing rate of flow control vault located at the pump station site including the vault itself and all piping and equipment within the walls of the vault and associated with it.

(b) Customer will own, operate, and maintain all of the piping and valves between the existing billing meter vault and the rate of flow control vault and downstream of the rate of flow control vault. Customer will provide and pay for the electric power necessary to operate the equipment in the rate of flow control vault. Customer will provide space within the pump station building for NTMWD's SCADA cabinets and allow unrestricted access to both the rate of flow control vault and SCADA cabinets.

(c) If NTMWD desires new billing meter and rate of flow control facilities, NTMWD will construct the new facilities at its own expense. NTMWD will then own, operate, and maintain all of the piping and valves from the existing connection to the NTMWD conveyance pipeline through the new meter vault. NTMWD will provide and pay for electric power to the new billing meter and flow control facilities. Ownership and maintenance responsibility of the remaining infrastructure will not change.

(d) If Customer desires to upsize the existing connection, pipeline and metering and flow control facilities owned by NTMWD, Customer will construct these at its own expense to NTMWD standards. Any new connection must include installation of isolation valves on the NTMWD conveyance pipeline and new connection pipeline. After the construction, NTMWD will assume ownership and maintenance responsibility of the portion described in previous paragraphs if the construction complies with NTMWD standard specifications.

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, which is the Contract Date.

(Signatures on following pages)

City of Josephine

By: _____
Jason Turney, Mayor

_____ Date

ATTEST:

Patti Brooks, City Secretary

STATE OF TEXAS §
 §
COUNTY OF ROCKWALL §

This instrument was acknowledged before me on this _____ day of _____, 2022, by Jason Turney, Mayor, City of Josephine, Texas.

Notary Public, State of Texas
Printed Name of Notary:

My Commission Expires: _____

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: _____
Jack May, President

Date

ATTEST:

George Crump, Secretary

[illegible]

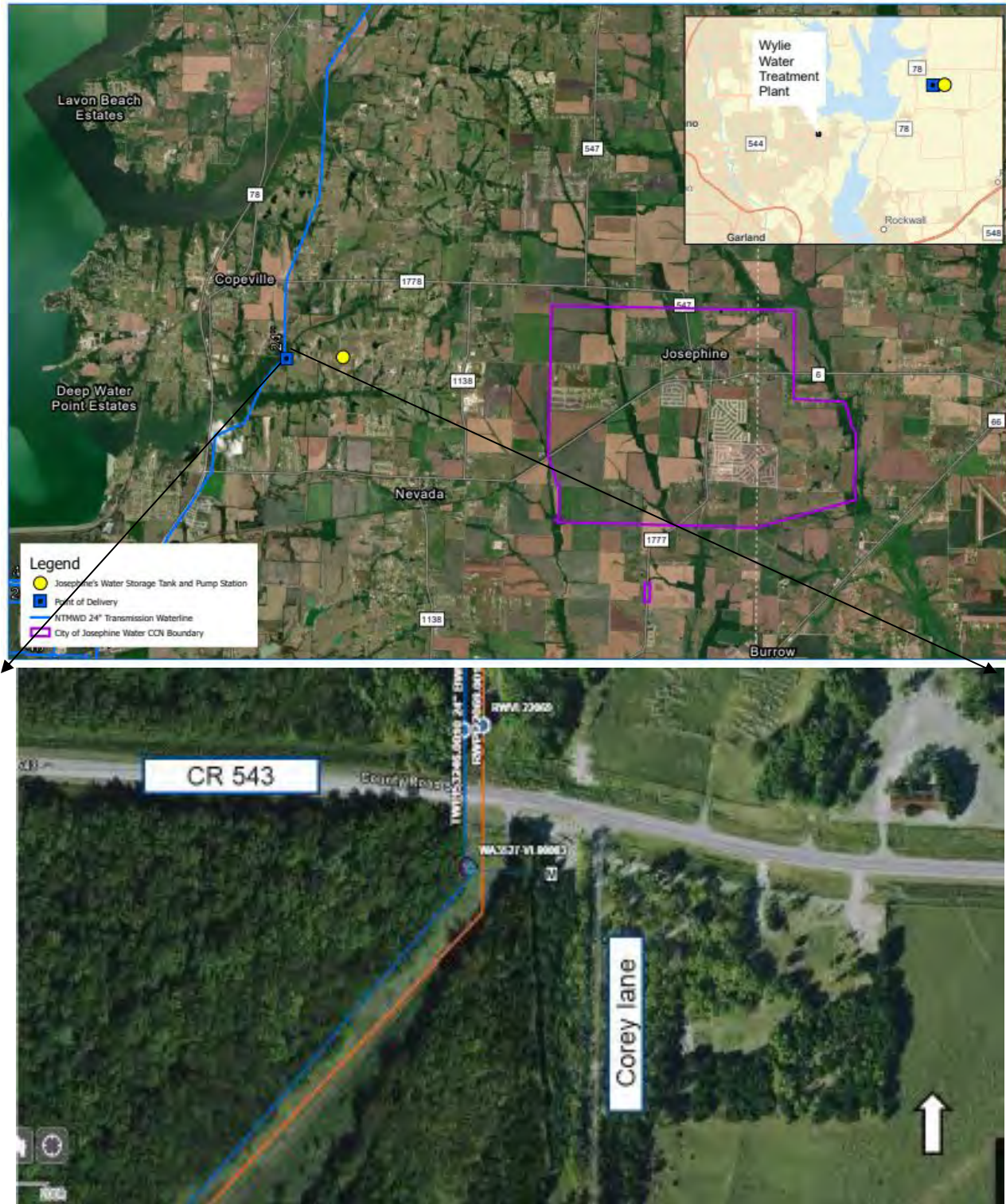
This instrument was acknowledged before me on this _____ day of _____, 2022, by Jack May, President of the Board of Directors of North Texas Municipal Water District, a conservation and reclamation district and political subdivision of the State of Texas, on behalf of said conservation and reclamation district.

Notary Public, State of Texas
Printed Name of Notary:

My Commission Expires: _____

EXHIBIT A

Location of Point(s) of Delivery



NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5841

AUTHORIZE EXECUTION OF MULTIJURISDICTIONAL PRETREATMENT AGREEMENT AND PRETREATMENT BUDGET AGREEMENT BETWEEN THE CITY OF RICHARDSON, TEXAS AND THE NORTH TEXAS MUNICIPAL WATER DISTRICT

ACTION (*What*)

Authorize the Executive Director to execute the Multijurisdictional Pretreatment Agreement, authorize the Board President to execute the Pretreatment Budget Agreement with the City of Richardson, and authorize the addition of an Environmental Specialist I position for the Pretreatment Department as NTMWD will be administering the pretreatment program for the City of Richardson.

PURPOSE (*Why*)

Authorization of these agreements will shift the responsibility for the day to day implementation of the pretreatment program from the City of Richardson to NTMWD. Additionally, NTMWD will begin charging the City of Richardson for Pretreatment services through the annual budget. A budget neutral additional position is being requested mid-year to ensure adequate implementation and oversight of the pretreatment program for the addition of seven industrial users located in Richardson.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the execution of the Multijurisdictional Pretreatment Agreement (MJPA) and Pretreatment Budget Agreement with the City of Richardson. Further, the Executive Director and NTMWD staff recommend the addition of an Environmental Specialist I for the Pretreatment Department to manage the additional workload related to the addition of the Richardson industries.

Contracting

Party: City of Richardson, Texas

Purpose: Execution of Multijurisdictional Pretreatment and Pretreatment Budget Agreements and the addition of an Environmental Specialist I position for the Pretreatment Department

Amount: \$77,000 (FY2023 Estimate for salary and benefits) this amount will be covered by the additional funds contributed by the City of Richardson for the pretreatment services

Strategic Objective: 3.2 Engaged Members, Customers, and Stakeholders

This item was discussed with the Wastewater Committee on February 23, 2022

DRIVER(S) FOR THIS PROJECT

<input checked="" type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input type="checkbox"/> Capacity	<input type="checkbox"/> Redundancy/Resiliency
<input type="checkbox"/> Relocation or External Requests	<input type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input checked="" type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other _____

BACKGROUND

- The NTMWD currently has a MJPA in effect with the City of Richardson. The MJPA is an integral component of the pretreatment program to ensure the program is enforceable, funded, and operated according to regulations. The MJPA component of the approved program establishes the legal framework for the responsibilities of each entity in regards to the pretreatment program. In addition, the NTMWD has Budget Agreements with cities that have permitted industries which allows for cost allocation of the pretreatment program annual budget.
- Under the current MJPA with the City of Richardson (City) the City is responsible for the day to day implementation of the program. The City has requested NTMWD to assume the responsibility for implementation of the program which includes identifying industrial users, review and drafting of permits, performing sampling, inspections, document review, and compliance review including drafting enforcement actions as needed.
- Currently, the City of Richardson has seven permitted industrial users that discharge to Floyd Branch Regional Wastewater Treatment Plant (WWTP), Rowlett Creek Regional WWTP, and the City of Garland's Duck Creek WWTP and Rowlett Creek WWTP. Upon approval of the budget agreement the City will start contributing to the Pretreatment fund based on the number of industrial users in the City. The amount that Richardson will be charged offsets the cost of adding the additional staff member to the department. This will result in no net increase to the other cities paying for pretreatment services.
- The City attorney has reviewed the agreements presented for approval and the Richardson City Council will consider the agreements at a June city council meeting. Once executed the NTMWD Pretreatment team will begin oversight of all seven industries in the City of Richardson. Costs incurred for the pretreatment services this fiscal year will be sent to the City with the final billing adjustment letter. Richardson will be included in the entirety of the FY2023 budget and will be included in the allocations for the preliminary budget letters.

FUNDING

FUND(S): No additional funding is requested. The cost of the additional staff will be covered by current budget savings. Total system costs will be reallocated to the participating cities at fiscal year-end.

MULTIJURISDICTIONAL PRETREATMENT AGREEMENT

STATE OF TEXAS	§	CITY OF RICHARDSON
	§	
	§	NORTH TEXAS MUNICIPAL
COUNTIES OF DALLAS AND COLLIN	§	WATER DISTRICT

This **MULTIJURISDICTIONAL PRETREATMENT AGREEMENT** is entered into as of the Effective Date by and between the City of Richardson, Texas, (the “City”) and North Texas Municipal Water District (“NTMWD”). City and NTMWD are referred to herein collectively as “the Parties” and separately as “Party.”

RECITALS:

WHEREAS, the Parties executed and entered into an Agreement dated the 9th day of January, 1978 wherein NTMWD provided wastewater treatment services to the City, which Agreement, inclusive of all amendment thereto, is incorporated herein by reference; and

WHEREAS, the U.S. Environmental Protection Agency (“EPA”) has promulgated regulations at 40 CFR Part 403 which establish mechanisms and procedures for enforcing National Pretreatment Standards controlling the introduction of wastes from non-domestic (or industrial) sources into Publicly Owned Treatment Works (“POTWs”); and

WHEREAS, the Texas Commission on Environmental Quality (“TCEQ”) has promulgated regulations entitled “Pretreatment Regulations for Existing and New Sources of Pollution,” Title 30 of the Texas Administrative Code (“TAC”) Chapter 315, which incorporate by reference 40 CFR Part 403; and

WHEREAS, the City enacted Chapter 23, Article IV, Division 3 of the City of Richardson, Texas, Code of Ordinances (the “City’s Industrial Pretreatment Ordinance”), as amended, setting forth pretreatment requirements for users of the wastewater collection system, which is incorporated herein by reference; and

WHEREAS, the City has primary responsibility for enforcing the City’s Industrial Pretreatment Ordinance; and

WHEREAS, NTMWD owns and operates the Floyd Branch Regional Wastewater Treatment Plant (“Floyd Branch RWWTP”) and Rowlett Creek Regional Wastewater Treatment Plant (“Rowlett RWWTP”) which provides wastewater treatment service for the City;

WHEREAS, applicable EPA and TCEQ regulations and Texas Pollutant Discharge Elimination System (“TPDES”) Permit Nos. WQ0010257001 and WQ0010363001 require that NTMWD operate the Floyd Branch RWWTP and Rowlett Creek RWWTP according to the pretreatment program approved on December 23, 1983, and modified on December 4, 1992; and

WHEREAS, the City entered into that certain Wastewater Pretreatment Contract dated March 19, 1984, with the City of Garland (“Garland”) that requires the City to adopt and enforce Garland’s Industrial Pretreatment Ordinance (“Garland’s Industrial Pretreatment Ordinance”); and

WHEREAS, applicable EPA and TCEQ regulations and TPDES Permit Nos. WQ0010090001 and WQ0010090002 require that Garland operate its Duck Creek and Rowlett

Creek Wastewater Treatment Plants according to the respective pretreatment programs approved on October 29, 1984, and modified on May 28, 1993, and February 27, 2010; and

WHEREAS, the City has included relevant provisions in the City's Industrial Pretreatment Ordinance to allow it to implement, administer, and enforce Garland's Industrial Pretreatment Ordinance; and

WHEREAS, the City now desires to contract with NTMWD to implement and administer the City's Industrial Pretreatment Ordinance, including those provisions specific to Garland's Industrial Pretreatment Ordinance; and

WHEREAS, NTMWD and the City both desire to enter into an agreement setting forth the duties and responsibilities of each Party in the conduct of the required pretreatment programs for NTMWD and Garland; and

WHEREAS, the City entered into a Multijurisdictional Pretreatment Agreement dated the 24th day of May, 1990, with NTMWD regarding the rights and responsibilities of the City and NTMWD in the conduct of NTMWD's pretreatment program, which is replaced and superseded in its entirety by the execution of this Multijurisdictional Pretreatment Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

SECTION I.

Unless the context specifically indicates otherwise, the meaning of the terms and phrases used herein shall be given the same meaning as that given in the City's Industrial Pretreatment Ordinance, which are herein incorporated by reference.

SECTION II.

The effects of certain types of industrial waste upon wastewater, wastewater treatment processes, and wastewater treatment facilities require that careful consideration be made of each industrial connection. This is a matter of concern both to NTMWD and to the City. The City covenants that it has adopted and will continue to enforce the City's Industrial Pretreatment Ordinance in a manner acceptable to Federal and State agencies or departments having lawful jurisdiction to set standards for waste discharges. Through the City's Industrial Pretreatment Ordinance, the City will carry out a pretreatment program in compliance with applicable Federal and State laws and regulations (the "Pretreatment Program") for both the City and Garland. The Pretreatment Program shall include the following activities:

- a. The City shall require SIUs to comply with applicable Federal Categorical Pretreatment Standards, local limits, and the City's Industrial Pretreatment Ordinance, as well as any applicable state and local standards;
- b. The City shall maintain certain information contained in permit applications as confidential at an SIU's request insofar as said request may be honored under the provisions of the Texas Public Information Act; and
- c. The City shall disallow dilution as a means of reducing pollutant concentrations in an SIU's waste stream.
- d. The City and/or NTMWD shall be authorized to enter IU premises at any time for independent monitoring and sampling. Visits/inspections shall be conducted jointly by the

Parties. As identified in the City's Industrial Pretreatment Ordinance, authorized representatives of EPA, TCEQ, Texas Department of Health, or any successor agencies, bearing proper credential and identification, also shall be permitted to enter the premises of any IU at any time for the purpose of independent monitoring and/or sampling.

- e. The City and NTMWD shall be authorized to enter IU premises at any reasonable time for inspection, or review of applicable records, or to conduct metering operations to determine compliance. Visits/inspections may be conducted jointly by the City and NTMWD, when feasible. As identified in the City's Industrial Pretreatment Ordinance, authorized representatives of EPA, TCEQ, Texas Department of Health, or any successor agencies, bearing proper credential and identification, also shall be permitted to enter the premises of any IU at any reasonable time for the purpose of inspection, review of applicable records, or to conduct metering operations to determine compliance.
- f. The City shall require adherence to SIU compliance schedules, where necessary.
- g. The City shall annually provide public notification for instances of significant violation, as required, by the City's Industrial Pretreatment Ordinance and applicable federal and state regulations.
- h. The City shall deny/revoke an Industrial User Wastewater Discharge Permit, disallow/disconnect service, assess civil or criminal penalties, and/or seek other available legal and equitable remedies against an SIU for:
 - 1. Discharge to the wastewater collection system resulting in violations of the POTW's discharge permit conditions;
 - 2. Hazard to health or life of NTMWD or City personnel or users of receiving waters;
 - 3. Violation of any applicable ordinance or regulation; and/or
 - 4. False information transmitted to the City, NTMWD, EPA, or TCEQ through permit application, monitoring, reports, or other official documents.
- i. The City shall furnish to NTMWD all documents and records, in addition to those outlined herein, as necessary to demonstrate compliance by all IUs, including any communications with IUs.
- j. The City shall provide NTMWD with a list of all non-residential (commercial), excluding all irrigation meters, water users annually with annual consumption numbers.
- k. In addition, the City shall provide, on an annual basis, lists of businesses and industries, as prepared by the local Chamber of Commerce, if such lists are available. The City shall regularly review all commercial building permits, certificates of occupancy, and all water and sewer connection requests to identify businesses that may require regulation by the Pretreatment Program.
- l. The City shall, on a quarterly basis, provide NTMWD with a list of all commercial building permits, certificates of occupancy, and a list of all water and sanitary sewer connection requests the City has identified as potentially requiring regulation by the Pretreatment

Program. Upon written request, the City shall provide to NTMWD a map of its sewer/wastewater collection system (the “City’s Sewer Map”) and a zoning map of the City. The information contained in the City’s Sewer Map shall at time be owned by the City. NTMWD acknowledges and agrees that the City’s Sewer Map constitutes information about the City’s critical infrastructure (as defined in Texas Government Code §421.001), some or all of which may be subject to withholding from public disclosure pursuant to Texas Government Code §418.181. NTMWD shall not release any information from the City’s Sewer Map to any third party without the prior written consent of the City.

- m. On or before March 1 of each year during the term of this Agreement, the City may request that NTMWD amend this Agreement to redefine or change the City's or NTMWD's responsibilities and activities. Upon the approval of NTMWD, which shall not be unreasonably withheld, such changes will be implemented on or before October 1st of the year in which such amendment was requested.
- n. The City shall designate NTMWD to be its authorized agent to administer the provisions of the City’s Industrial Pretreatment Ordinance as outlined in Section III, below.
- o. The City shall have the authority to deny or condition new or increased contributions of pollutants to the POTW by IUs where such contributions do not comply with applicable pretreatment standards and requirements or could cause the POTW to violate its TPDES permit.
- p. The City shall provide interface with all regulatory personnel of both TCEQ and EPA regarding required recordkeeping, reporting, and audits, with copies of notification of any such communications to be provided to NTMWD.

SECTION III.

NTMWD covenants that it will administer a Pretreatment Program as required by applicable Federal and State laws and regulations (including the provisions of TPDES Permit Nos. WQ0010257001 and WQ0010363001) and will act as the City's authorized agent to administer the Pretreatment Program as contemplated by the City's Industrial Pretreatment Ordinance, including the provisions relevant to Garland’s pretreatment programs, with the following responsibilities:

- a. NTMWD shall identify all SIUs and at least every three (3) years update their IU Inventory.
- b. NTMWD shall annually review sources of information such as commercial water users, certificates of occupancy, Chamber of Commerce data, phone books, building permits, industrial waste questionnaires, and available commercial/industrial listings (such as the Directory of Texas Manufacturers) to gather information to update the list of industrial users within the City.
- c. NTMWD shall notify all IUs of applicable pretreatment standards.
- d. For each existing and future SIU, NTMWD shall require said SIU to complete and submit a permit application meeting TCEQ and EPA requirements. After NTMWD approval of the application, NTMWD shall develop a draft Industrial User Wastewater Discharge Permit. NTMWD shall provide to the City a copy of the permit application and the draft Industrial User Wastewater Discharge Permit for review. The City may provide comments on said application and draft Industrial User Wastewater Discharge Permit to NTMWD not later than fifteen (15) days after receipt of same. Failure to comment within said fifteen

(15) day period shall be construed as concurrence by the City. The City is not required to provide comments on a permit application and the draft Industrial User Wastewater Discharge Permit to NTMWD. After review of the permit application and the draft Industrial User Wastewater Discharge Permit, the City shall issue the Industrial User Wastewater Discharge Permit. All SIUs must be in possession of a valid Industrial User Wastewater Discharge Permit before said SIU will be authorized to discharge industrial wastes into the wastewater collection system. A copy of the issued Industrial User Wastewater Discharge Permit shall be sent to NTMWD by the City.

- e. For all SIUs, NTMWD and/or the City shall conduct scheduled and unscheduled sampling.
- f. NTMWD shall require all SIUs to self-monitor and report, as needed. NTMWD shall require all SIUs to install monitoring equipment and facilities, as needed.
- g. NTMWD shall choose or approve laboratories to analyze industrial wastes for self-reporting.
- h. NTMWD shall require all IUs to notify NTMWD, the City, and the POTW promptly upon the discharge of any slug load or spill that might contribute to an interference to the POTW.
- i. NTMWD shall have the authority to change or add to local limits to prevent exceedances of stream standards for specific pollutants as promulgated by TCEQ, or to prevent interference with the operation of the POTW (including sludge treatment processes, use, and disposal). Such changes to the local limits must be included in the City's Industrial Pretreatment Ordinance and approved by TCEQ.
- j. NTMWD shall establish monitoring methods and minimum sampling frequency for SIU self-monitoring as prescribed in the approved NTMWD Pretreatment Program and the City's Industrial Pretreatment Ordinance.
- k. NTMWD shall analyze or cause to be analyzed all industrial waste samples collected by NTMWD personnel (not the IUs). NTMWD will annually establish as part of the budget, the cost for the scheduled analyses, but reserves the right to charge for sampling, analytical, equipment, supply, and etc. costs according to an agreed fee schedule for demand or other samples.
- l. NTMWD will charge the City for costs (labor, supplies, analytical, equipment, etc.) incurred for conducting Technically Based Local Limit studies and other nonemergency items not contained within this Agreement subject to prior approval of NTMWD and the City.
- m. NTMWD, with prior notification or immediate follow-up to the City, shall provide interface with all regulatory personnel of both TCEQ and EPA regarding required recordkeeping, reporting, and audits.
- n. NTMWD shall inform the City of changes in pretreatment guidance and rules that will require amendments or changes to the Pretreatment Program and provide expertise in the implementation of such changes.
- o. NTMWD shall maintain certain information contained in permit applications as confidential at a SIU's request, to the extent said request may be honored under the Texas Public Information Act.

- p. NTMWD shall develop SIU compliance schedules and meet with the City and the SIU in determining the conditions of the schedule.
- q. NTMWD shall provide the required public notification documents for the City to publish, as required by 40 CFR Part 403 and 30 TAC § 315.1.
- r. NTMWD shall aid the City in legal actions by providing expert testimony regarding sample analyses and custody transfer, the Pretreatment Program, and other related acts as necessary.
- s. NTMWD shall provide the City all documents and records submitted to TCEQ and EPA regarding pretreatment activities involving the City and its IUs.
- t. NTMWD will assist the City in processing requests for public information pursuant to the Texas Public Information Act regarding the Pretreatment Program.
- u. Before March 1 of any year during the term of this Agreement, NTMWD may request that the City amend this Agreement to redefine or change the City's or NTMWD's responsibilities and activities. Upon the approval of the City, which shall not be unreasonably withheld, such changes will be implemented on or before October 1st of the year in which such amendment was requested.

SECTION IV.

The Parties agree to the following:

- a. *Term.* This Agreement shall be effective as of the Effective Date, which is the date the Agreement is signed by the authorized representatives of both Parties as indicated below. Either Party may terminate this Agreement by notifying the other Party in writing not less than thirty (30) days prior to the requested termination date, which notice shall contain the reason(s) for termination, a copy of official notice to the EPA and TCEQ of the proposed termination, and agreement for settling any outstanding financial obligations. It is further understood that termination of this Agreement terminates the Pretreatment Budget Agreement between NTMWD and the City.
- b. *Severability.* The provisions of this Agreement are severable and if, for any reason, any one or more of the provisions contained in the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.
- c. *Waiver.* No waiver by either Party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.
- d. *Remedies.* Upon the violation or breach by any Party of any of the terms, provisions, covenants, representations, or warranties of this Agreement, the other Parties may pursue any available remedy, at law or in equity, including, but not limited to, specific performance.

- e. *Regulatory Bodies and Laws.* This Agreement is subject to all applicable Federal and State Laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state or federal governmental authority having or asserting jurisdiction in the service area which is the subject matter of this Agreement. Nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum, having jurisdiction.
- f. *Force Majeure.* If by reason of force majeure any Party shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then if such Party shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such Party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term “Force Majeure” as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, pandemics, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or on account of any other causes not reasonably within the control of the party claiming such inability.
- g. *Governing Law; Venue.* This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. No presumption will apply in favor of either Party in the interpretation of this Agreement or in the resolution of any ambiguity of any provisions thereof. Venue for any dispute between the Parties arising from or relating to this Agreement shall be in a state court in Collin County, Texas.
- h. *No Third Party Beneficiaries.* It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and NTMWD, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. It is the express intention of the City and NTMWD that any person other than the City or NTMWD receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- i. *Assignment.* Neither Party may assign any interest herein to any person or entity without the consent of the other Party expressed in writing. Nothing herein contained, however, shall be construed as preventing the reorganization of any Party hereto nor as preventing any other body corporate and politic succeeding to the rights, privileges, powers, immunities, liabilities, disabilities, and duties of either Party, as may be authorized by law, in the absence of any prejudicial impairment of any obligation of contract hereby imposed.
- j. *Entire Agreement.* This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have

any force or effect unless embodied in a written amendment or other agreement executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors, and assigns.

- k. *Recitals Incorporated.* All of the above recitals are incorporated and made a part of this Agreement.
- l. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
- m. *Interlocal Agreement; Current Funds.* This Agreement constitutes an interlocal cooperation agreement entered into by the Parties pursuant to Chapter 791 of the Texas Government Code, as amended, relating to the provision of governmental functions or services. Each Party acknowledges that in paying for the performance of the government functions or provision of services pursuant to this Agreement, such payments shall be from current revenues available to the paying Party.

IN WITNESS WHEREOF, the Parties acting under authority of their respective governing bodies have caused this Agreement to be duly executed in several counterparts, each of which shall constitute an original, all as of the later date signed below, which is the Effective Date of this Multijurisdictional Pretreatment Agreement .

[Signatures on following page]

City of Richardson, Texas

North Texas Municipal Water District

Don Magner
City Manager

Jennafer P. Covington
Executive Director/General Manager

Date signed _____

Date signed _____

ATTEST:

ATTEST:

Aimee Nemer
City Secretary

Shawwna Helmberger
Notary Public, State of Texas

Date signed _____

Date signed _____

PRETREATMENT BUDGET AGREEMENT

STATE OF TEXAS

§

CITY OF RICHARDSON

COUNTY OF COLLIN

§

§

NORTH TEXAS MUNICIPAL

WATER DISTRICT

This **PRETREATMENT BUDGET AGREEMENT** is entered into as of the Effective Date by and between the City of Richardson, Texas, (the “City”) and North Texas Municipal Water District (“NTMWD”). The City and NTMWD are referred to herein collectively as “the Parties” and separately as “Party.”

RECITALS

WHEREAS, the Parties executed and entered into an Agreement dated January 9, 1978, wherein NTMWD agreed to provide wastewater treatment service to the City, which Agreement is incorporated herein by reference, including any amendments thereto; and

WHEREAS, the City has duly executed and entered into a Multijurisdictional Pretreatment Agreement with NTMWD (the “MPA”) concurrently with this document, and to which AGREEMENT reference is hereby made for all purposes; and

WHEREAS, funding must be provided and a budget developed to carry out the Pretreatment Program of the City as outlined in the MPA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the City and NTMWD agree as follows:

- a. NTMWD will prepare an annual Pretreatment Budget (the “Budget”) reflecting all anticipated costs in connection with pretreatment in sufficient detail to justify expenditures for salaries, materials, supplies, and contractual services. The Budget will be submitted to the City on or before August 1 of each year. If a protest or request for a hearing on the Budget is not presented within thirty (30) days after submittal of the Budget or prior to September 1, whichever is later, the Budget, on adoption by NTMWD, shall be considered the “Annual Pretreatment Budget” for the City’s ensuing fiscal year. For purpose of this Agreement, “fiscal year” means each period during the term of this Agreement beginning each calendar year on October 1st and ending on September 30th of the immediately following calendar year.
- b. If the Parties are not able to agree on the Budget prior to October 1st, the Budget for the previous fiscal year shall apply for the first sixty (60) days of the City’s new fiscal year, with adjustments only to budget expenses chargeable to the City to which the Parties have agreed in writing. If the Parties have failed to agree on the contents of the Budget

before the conclusion of said sixty (60) day period, NTMWD shall fix the date and time for a hearing on the Budget before its Board of Directors and notify the City in writing. The NTMWD Board of Directors shall consider the testimony and showings in such a hearing and may adopt the Budget or make such amendments thereof as it may deem proper.

- c. The City agrees to pay NTMWD for the services provided by NTMWD pursuant to the MPA an amount equal to the approved Budget (the “MPA Fee”). The MPA Fee shall be paid in eleven (11) installments as follows:

- (1) The first installment shall be an amount equal to 1/6th of the Annual Pretreatment Budget and shall be paid on or before October 10th;

- (2) The remaining ten (10) installments shall be an amount equal to 1/12th of the Annual Pretreatment Budget and shall be paid on or before the 10th day of each month from November through August.

- (3) At the end of each fiscal year, if the MPA Fee paid by the City exceeds the funds spent by NTMWD in the performance of its obligations pursuant to the MPA, such surplus shall be applied as a credit against the amount of the MPA Fee to be paid by the City pursuant to the approved Budget for the next fiscal year.

- d. Emergency expenditures not budgeted may be incurred with the concurrence of the NTMWD’s Executive Director and the City’s City Manager, subject to limitations placed on each by its respective governing bodies, with appropriate adjustments in monthly payments. Costs related to enforcement actions requiring expenditures beyond funds budgeted will be treated as emergency expenditures. Routine requests for adjustments in monthly payments must receive prior written approval from the City.

- e. If the City fails to make any monthly installment of the MPA Fee by the twentieth (20th) day of the month in which due, after written notice to the City, the District may suspend services pursuant to the MPA until the City becomes current on payment of all MPA Fees.

- f. Nothing in this Agreement shall be construed as requiring NTMWD to expend funds from any source other than the revenues received hereunder. NTMWD shall not be liable for any costs under the contract required by valid rules, regulations, laws, or orders passed or promulgated by the United States, the State of Texas, and regulatory and judicial branches thereof, having lawful jurisdiction.

- g. *Term.* This Agreement shall be effective as of the Effective Date, which is the date the Agreement is signed by the authorized representatives of both Parties as indicated below. Either Party may terminate this Agreement by notifying the other Party in writing not less than thirty (30) days prior to the requested termination date, which notice shall contain the reason(s) for termination, a copy of official notice to the EPA

and TCEQ of the proposed termination, and agreement for settling any outstanding financial obligations. It is further understood that termination of this Agreement terminates the MPA between NTMWD and the City.

- h. *Severability.* The provisions of this Agreement are severable and if, for any reason, any one or more of the provisions contained in the Agreement shall be held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.
- i. *Waiver.* No waiver by either Party of any term or condition of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.
- j. *Remedies.* Upon the violation or breach by any Party of any of the terms, provisions, covenants, representations, or warranties of this Agreement, the other Parties may pursue any available remedy, at law or in equity, including, but not limited to, specific performance.
- k. *Regulatory Bodies and Laws.* This Agreement is subject to all applicable Federal and State Laws and any applicable permits, ordinances, rules, orders, and regulations of any local, state or federal governmental authority having or asserting jurisdiction in the service area which is the subject matter of this Agreement. Nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule, or regulation in any forum, having jurisdiction.
- l. *Force Majeure.* If by reason of force majeure any Party shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then if such Party shall give notice and full particulars of such force majeure in writing to the other Party within a reasonable time after occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such Party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kind of the Government of the United States or the State of Texas, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, pandemics, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, or on account of any other causes not reasonably within the control of the party claiming such inability.
- m. *Governing Law; Venue.* This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state. No presumption will apply in favor of either Party in the interpretation of this Agreement or in the

resolution of any ambiguity of any provisions thereof. Venue for any dispute between the Parties arising from or relating to this Agreement shall be in a state court in Collin County, Texas.

- n. *No Third Party Beneficiaries.* It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and NTMWD, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. It is the express intention of the City and NTMWD that any person other than the City or NTMWD receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- o. *Assignment.* Neither Party may assign any interest herein to any person or entity without the consent of the other Party expressed in writing. Nothing herein contained, however, shall be construed as preventing the reorganization of any Party hereto nor as preventing any other body corporate and politic succeeding to the rights, privileges, powers, immunities, liabilities, disabilities, and duties of either Party, as may be authorized by law, in the absence of any prejudicial impairment of any obligation of contract hereby imposed.
- p. *Entire Agreement.* This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendment or other agreement executed by the parties. This Agreement and any amendments shall be binding upon the parties, their successors, and assigns.
- q. *Recitals Incorporated.* All of the above recitals are incorporated and made a part of this Agreement.
- r. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
- s. *Interlocal Agreement; Current Funds.* This Agreement constitutes an interlocal cooperation agreement entered into by the Parties pursuant to Chapter 791 of the Texas Government Code, as amended, relating to the provision of governmental functions or services. Each Party acknowledges that in paying for the performance of the government functions or provision of services pursuant to this Agreement, such payments shall be from current revenues available to the paying Party.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Pretreatment Budget Agreement to be duly executed in several counterparts, each of which shall constitute an original, the day and year as set forth below.

Signatures on Following Pages

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: _____
JACK MAY, PRESIDENT
BOARD OF DIRECTORS

DATE: _____

ATTEST:

GEORGE CRUMP, SECRETARY
BOARD OF DIRECTORS

CITY OF RICHARDSON, TEXAS

By: _____
DON MAGNER, CITY MANAGER

DATE: _____

ATTEST:

Aimee Nemer; City Secretary

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5842

UPPER EAST FORK INTERCEPTOR SYSTEM
121 FORCE MAIN IMPROVEMENTS, PHASE I
PROJECT NO. 501-0491-18

ADDITIONAL LEGAL SERVICES

ACTION (*What*)

Authorize funding for additional legal services for the 121 Force Main Improvements, Phase I project.

PURPOSE (*Why*)

Additional funding is needed to advance the case through the discovery, second mediation, motion practice, and trial phases of the litigation.

RECOMMENDATION

The Interim Executive Director and NTMWD staff recommend the Board of Directors authorize additional legal services as follows:

Consultant: Saunders, Walsh & Beard, Attorneys & Counselors (SW&B)

Scope: Legal Services, including Expert Fees and Costs

Project: No. 501-0491-18, 121 Force Main Improvements, Phase I

Amount: \$400,000

Strategic Objective: 1.4 Reliable and Resilient Systems

DRIVER(S) FOR THIS PROJECT

- | | |
|--|--|
| <input type="checkbox"/> Regulatory Compliance | <input type="checkbox"/> Asset Condition |
| <input type="checkbox"/> Capacity | <input type="checkbox"/> Redundancy/Resiliency |
| <input type="checkbox"/> Relocation or External Requests | <input type="checkbox"/> Operational Efficiency |
| <input type="checkbox"/> Safety | <input type="checkbox"/> Administrative |
| <input type="checkbox"/> Policy | <input checked="" type="checkbox"/> Other: Legal |

BACKGROUND

PROJECT PURPOSE

- SW&B was originally retained to provide legal advice and conduct forensic engineering investigations related to determining whether third parties may be responsible for defects associated with the 121 Force Main.
- Based on the results of the investigation, NTMWD staff and SW&B recommended pursuing legal remedies to recover damages sustained by the District related to the failure of the 121 Force Main.
- In 2019, a lawsuit was filed in Collin County against the prime contractor, its pipe supplier and two pipe manufacturers.
- Discovery efforts by the defendants have been and will continue to be exhaustive, spanning 10+ years and hundreds of thousands of documents requested, thus far, all of which have needed to be reviewed by SW&B in connection with responsive productions. Document subpoenas to third-parties have also been served and will continue adding to this discovery burden. The upcoming months will involve numerous expert depositions, motion practice, and trial preparation.
- To date, more than \$430K has been expended on expert fees and other litigation costs, and another \$430K spent on pure attorneys' fees for a total of approximately \$860K.
- NTMWD recently reached a partial settlement with North American Pipe Corporation and has received \$254,081.25 for that partial settlement. NTMWD has remaining claims against S.J. Louis Construction of Texas (prime contractor) and J-M Eagle (pipe manufacturer).
- Mediation was held on January 25, 2022, which was unsuccessful. Counsel for S.J. Louis has requested a second mediation, scheduled for July 27, 2022.
- Jury trial has been set for November 7, 2022.
- Funding is currently authorized for legal and litigation support services related to making ongoing litigation against parties responsible for failures of the 121 Force Main.

ADDITIONAL SERVICES

- An additional estimated \$400,000 will be required to advance the case through the discovery, motion practice, second mediation, and jury trial phase, including payment for expert fees.

LEGAL SERVICES FEE

DESCRIPTION	AMOUNT
Original Legal Services	\$250,000
Prior Additional Services	\$629,000
Proposed Additional Services	\$400,000
Revised Legal Services Amount	\$1,279,000

FUNDING

FUND(S): Funding in the amount of \$400,000 to Saunders, Walsh and Beard, Attorneys and Counselors is to be made available in the Upper East Fork Interceptor System 2020 Construction Fund.

NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5843

REGIONAL WASTEWATER SYSTEM
SOUTH MESQUITE CREEK REGIONAL WASTEWATER TREATMENT PLANT
PEAK FLOW MANAGEMENT AND EXPANSION
PROJECT NO. 301-0525-18

AMENDMENT NO. 1 TO CONSTRUCTION MANAGER AT-RISK AGREEMENT
PARTIAL GUARANTEED MAXIMUM PRICE NO. 1

ACTION (*What*)

Authorize funding for Amendment No. 1 to the Construction Manager At-Risk (CMAR) Agreement for South Mesquite Creek Regional Wastewater Treatment Plant (RWWTP) Peak Flow Management and Expansion project.

PURPOSE (*Why*)

The CMAR has submitted a partial Guaranteed Maximum Price (GMP) No. 1 for construction of work packages including early peak flow material procurement and influent pump station no. 3 site preparation. Future amendments will be presented to the Board as remaining work packages are developed, procured and evaluated.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director to execute Amendment No. 1 to the Construction Manager At-Risk Agreement as follows:

Consultant: Archer Western Construction, LLC (Archer Western)

Scope: Construction, Partial GMP No. 1

Project: No. 301-0525-18, South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion

Amount: \$11,944,463.24

Strategic Objective: 1.4 Reliable and Resilient Systems

This will be an item on the June 22, 2022, Wastewater Committee meeting agenda.

DRIVER(S) FOR THIS PROJECT

<input checked="" type="checkbox"/> Regulatory Compliance (Pre-emptive)	<input type="checkbox"/> Asset Condition
<input checked="" type="checkbox"/> Capacity	<input type="checkbox"/> Redundancy/Resiliency
<input type="checkbox"/> Relocation or External Requests	<input type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other _____

PROJECT PURPOSE

- Flow monitoring studies show the South Mesquite Creek RWWTP to have influent flows higher than its rated wet weather capacity of 82.5 MGD (million gallons per day). The South Mesquite Creek RWWTP Peak Flow Management preliminary design report determined that onsite storage facilities need to be provided to store peak flows in excess of the wet weather capacity with a phased approach that will provide early peak flow relief for the facility.
- The Capacity Assessment Study of the southern service area show the South Mesquite Creek RWWTP needs to expand from 33 MGD to 41 MGD average daily flow by 2026 to meet the growth projections through 2033.
- Provide condition assessment and criticality assessment to determine which critical items need to be repaired or replaced in the expansion project, and which items need to be included in a future master plan authorization.

PROJECT COMPONENTS

- Early peak flow relief upgrading the existing influent pump station no. 1, force main, and repurposing an existing basin for peak flow storage basin no. 1.
- Peak flow management new influent pump station no. 3, force mains, new headworks facility no. 2, new peak flow storage basin no. 2 and supporting facilities.
- Expansion of plant to 41 MGD which includes a primary clarifier, aeration basins, blower building, secondary sludge pump station, tertiary filters, disinfection, effluent metering, plant water pump station, solids handling, and supporting facilities.

ADDITIONAL CMAR SERVICES

- Bid Package 1 – Early Peak Flow Material Procurement
- Bid Package 2 – Influent Pump Station No. 3 Site Preparation
- Allowances for additional pipe, fittings, and connections due to unknown existing utilities; permitting fees; and lawful removal and disposal of hazardous materials

The total 90% CMAR estimate for the solicitation set included herein totaled \$12 million

To determine the Partial Guaranteed Maximum Price No. 1 associated with this Amendment No. 1, the following table details the costs of the bid work packages, allowances, general conditions, CMAR contingency, and the CMAR fee.

Major Scope of Work Description – Partial GMP No. 1	Lump Sum Amount
Bid Package 1 – Early Peak Flow Material Procurement	\$452,261.00
Bid Package 2 – Influent Pump Station No. 3 Site Preparation	\$9,233,500.00
Allowance for additional pipe, fittings, and connections due to unknown existing utilities; permitting fees; and lawful removal and disposal of hazardous material	\$507,500.00
Total Construction Cost	\$10,193,261.00
General Conditions (@8.5% of the Estimated Construction Cost)	\$866,427.19
Total Cost of Work	\$11,059,688.19
CMAR Fees (@6.5% of the Cost of Work)	\$718,879.73
CMAR Contingency (@1.5% of the Cost of Work)	\$165,895.32
Partial Guaranteed Maximum Price No. 1 (Sum of Total Cost of Work and CMAR Fees)	\$11,944,463.24

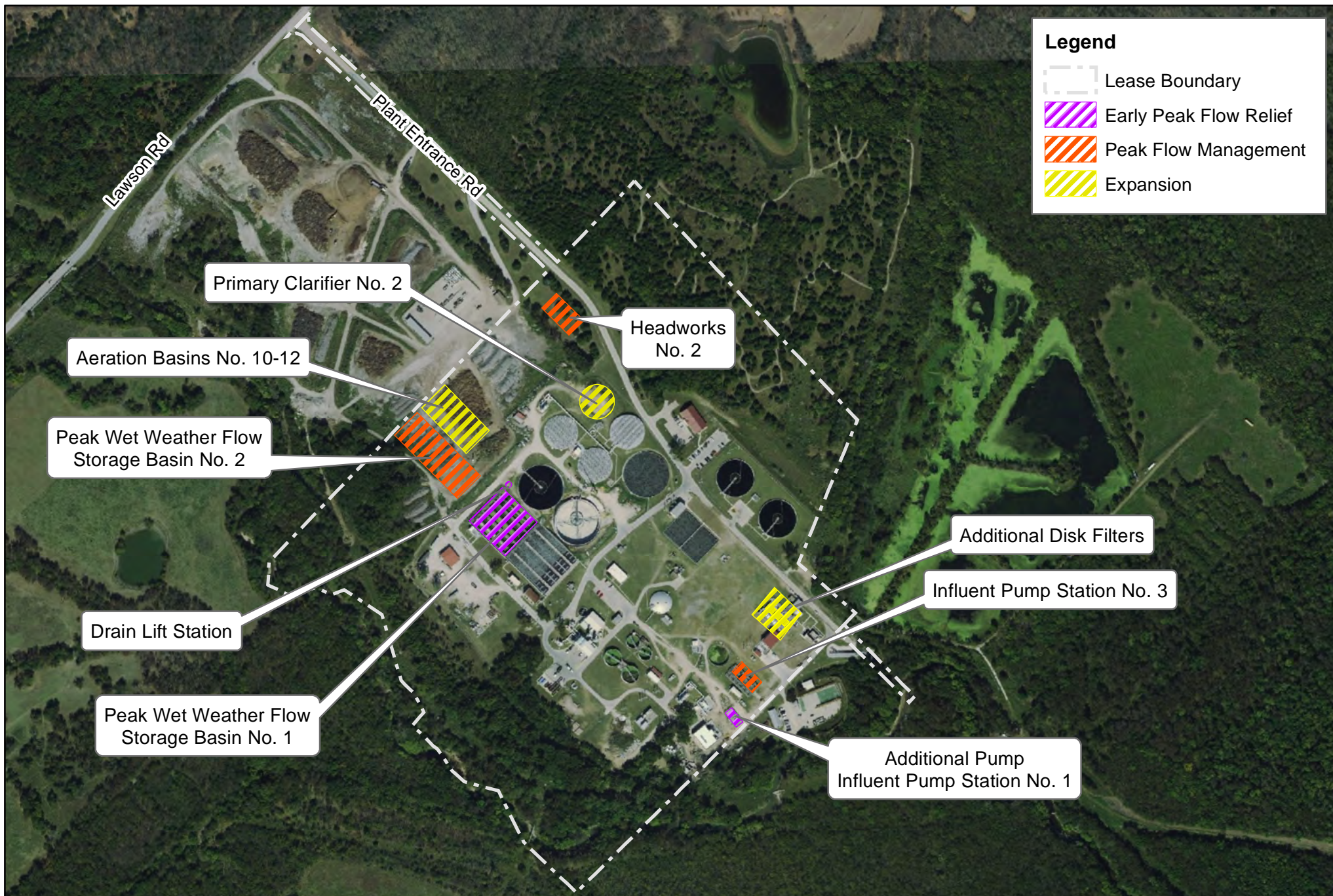
FUNDING

FUND(S): Funding in the amount of \$11,944,463.24 to Archer Western, LLC is to be made available utilizing the Regional Wastewater System Extendable Commercial Paper (ECP) Program as the appropriation source; actual issuance of ECP will occur as cash needs arise.

ATTACHMENT A

TOTAL CONTRACT PRICE SUMMARY	
The total contract price includes a summary of all construction costs, which is the sum of all construction work, pre-negotiated preconstruction and procurement services fee, general conditions, contingency, and CMAR construction services fee.	
Total Contract Price – South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion	
Preconstruction Services Fee	\$900,000.00
Procurement Services Fee	\$350,000.00
Total Estimated Construction Cost (GMP No. 1)	\$10,193,261.00
General Conditions (@ 8.5% of Construction Costs)	\$866,427.19
CMAR Construction Services Fee (@ 6.5% of Total Cost of Work)	\$718,879.73
Contingency (@ 1.5% of Total Cost of Work)	\$165,895.32
Total Contract Price – South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion	\$13,194,463.24

CONTRACT AMENDMENT SUMMARY SOUTH MESQUITE CREEK REGIONAL WASTEWATER TREATMENT PLANT PEAK FLOW MANAGEMENT AND EXPANSION		
Description	Status	Amount
Original Agreement - Partial Preconstruction and Procurement Services Fee	Board Approved	\$1,250,000.00
Amendment No. 1 – Partial GMP No. 1	Current Request	\$11,944,463.24
Total Contract Price		\$13,194,463.24



South Mesquite Creek RWWTP Peak Flow Management and Expansion
Project No. 301-0525-20
Administrative Memorandum No. 5843



NORTH TEXAS MUNICIPAL WATER DISTRICT

JUNE 2022

ADMINISTRATIVE MEMORANDUM NO. 5844

WATER AND WASTEWATER SYSTEMS
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
AGREED ORDER AND SUPPLEMENTAL ENVIRONMENTAL PROJECT
FLOYD BRANCH

RATIFICATION OF EXECUTION BY EXECUTIVE DIRECTOR
OF AGREED ORDER WITH TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY DOCKET NO. 2019-1212-MLM-E

ACTION (*What*)

Ratify the Executive Director's execution of an Agreed Order (AO) and Supplemental Environmental Project (SEP) with the Texas Commission on Environmental Quality (TCEQ) related to unauthorized releases at Wilson Creek Regional Wastewater Treatment Plant (RWWTP), Rowlett Creek RWWTP, Floyd Branch RWWTP, and the North Garland Pipeline under Crystal Mountain Drive in Richardson, Texas.

PURPOSE (*Why*)

NTMWD failed to prevent unauthorized discharges during 2018 and 2019 at three wastewater treatment facilities and one water conveyance pipeline resulting in the TCEQ assessing administrative penalties to be offset by NTMWD's timely and satisfactory completion of the SEP.

RECOMMENDATION

The Executive Director, NTMWD staff and Lloyd Gosselink Rochelle & Townsend, P.C., recommend the Board of Directors ratify the actions of the Executive Director for the execution of the Agreed Order with the Texas Commission on Environmental Quality as follows:

Regulating Entity: Texas Commission on Environmental Quality

Scope: Agreed Order and Supplemental Environmental Project

Facility Affected: Floyd Branch

Amount: \$136,350

Strategic Objective: 1.4 Reliable and Resilient Systems and
2.2 Conscientious Environmental Stewardship

This will be an item on the June 22, 2022, Wastewater Committee agenda.

DRIVER(S) FOR THIS PROJECT

<input checked="" type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input type="checkbox"/> Capacity	<input type="checkbox"/> Redundancy/Resiliency
<input type="checkbox"/> Relocation or External Requests	<input type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other _____

TCEQ FINDINGS OF FACT

- During 2018 and 2019, NTMWD experienced unauthorized discharges of domestic wastewater from the Wilson Creek RWWTP, Rowlett Creek RWWTP, and Floyd Branch RWWTP. In 2018, NTMWD experienced a release of potable water when the NTMWD North Garland 72-inch Pipeline ruptured which killed aquatic life downstream of the rupture site. The TCEQ combined the unauthorized release events into one single enforcement action at the request of staff and legal counsel. The total amount of the enforcement action is \$136,350 which is the sum of enforcement amounts for all four facilities including:
 - Wilson Creek RWWTP enforcement amount: \$ 71,400
 - Rowlett Creek RWWTP enforcement amount: \$ 27,300
 - Floyd Branch RWWTP enforcement amount: \$ 28,350
 - North Garland Pipeline enforcement amount: \$ 9,300
- NTMWD staff and legal counsel worked with TCEQ who approved a Supplemental Environmental Project (SEP) that would offset the amount of the enforcement action. The Floyd Branch RWWTP Dewatering Optimization SEP will result in optimized polymer storage and controls that will lead to improved thickening and dewatering at Floyd Branch and will make better use of funds that would otherwise have been paid to the TCEQ.
- Although the unauthorized release events were violations at Wilson Creek RWWTP, Rowlett Creek RWWTP, Floyd Branch RWWTP and the Regional Water System, the SEP provides full benefit to the Floyd Branch RWWTP operation; therefore, it is recommended that the full amount of the SEP be paid through the Floyd Branch RWWTP Operating Budget.
- Due to the short interval allowed by the TCEQ to respond to the enforcement Agreed Order, the Executive Director executed it promptly and it was returned to the TCEQ.
- The enforcement action and possible Supplemental Environmental Project were discussed at both the Water and Wastewater Committee Meetings in May 2021.
- During an investigation conducted on January 7, 2019 at the Wilson Creek RWWTP, an investigator documented that NTMWD did not prevent an unauthorized discharge of sewage wastewater into or adjacent to any water in the state, as shown in the Unauthorized Discharge Table No. 1 below (No environmental impacts were identified):

Unauthorized Discharge Table No. 1				
Date	Amount Discharged (gallons)	Description	Corrective Action	Date Corrected
November 6, 2018	13,951	Damaged 18-inch filter wash water pipe at the wastewater treatment plant ("WWTP").	Damaged pipe was repaired. The area was cleaned and disinfected. Discharge was pumped back into the head of the WWTP.	November 7, 2018
November 8, 2018	55	Leaking construction joint was discovered during construction at the WWTP.	Construction joint was repaired.	November 24, 2018

November 17, 2018	18,450	Clogged Return Activated Sludge("RAS") pump from the Clarifier	Flow to the Clarifier was shut off to install a new disc filter. Discharge was pumped back into the head of the WWTP. The area was cleaned and disinfected.	November 17, 2018
December 26, 2018 - December 27, 2018	27,900	Severe weather caused power outages and caused discharges at the Primary Distribution Box, Secondary Clarifier at Plant No. 1, and Bio Contact Basin	An electrical switch was replaced, the supervisory control and data acquisition ("SCADA") system was rebooted, and programming was reconfigured to restore full plant operations. Monitored lake and conducted remediation including removal of floating solids.	January 16, 2019
			Ongoing construction and modifications to the SCADA system are projected to be completed.	Ongoing
December 28, 2018	560	Leaking gate on the Bio Contact Basin No. 1	Repairs were made on the Bio Contact Basin No. 1 gate.	January 8, 2019
January 10, 2019	18,270	Equipment malfunction during the startup of the Bio Contact Basin	Repairs were made to the Bio Contact Basin. The area was cleaned and disinfected. Ongoing construction and modifications to the SCADA system are projected to be completed.	Ongoing
January 18, 2019	144	Leak in a 2-inch hose to pump out the primary pump station at the WWTP.	Building a crossing to prevent this from happening again, and the area was cleaned and disinfected.	January 18, 2019
February 14, 2019	25,000	Damaged RAS pipe at Plant No. 2	Flow to the damaged pipe stopped and the pipe was repaired. The area was cleaned and disinfected.	February 14, 2019
February 28, 2019	1,744	Power outage at the Basin Drain Pump Station caused discharges from two manholes at the WWTP.	A level controller was added to SCADA system. Wastewater was contained and pumped out. The area was cleaned and disinfected.	May 21, 2019

- During an investigation conducted on November 6, 2019 at the Rowlett Creek RWWTP, an investigator documented that NTMWD did not prevent an unauthorized discharge of wastewater into or adjacent to any water in the state, as shown in Unauthorized Discharge Table No. 2 below (No environmental impacts were identified):

Unauthorized Discharge Table No. 2				
Date	Amount Discharged (gallons)	Description	Corrective Action	Date Corrected
April 11, 2018	17,500	Damaged influent junction box bypass discharge hose at Rowlett Creek WWTP.	Damaged pipe was repaired. The area was cleaned and disinfected.	April 11, 2018
May 1, 2018	296	Pipe was punctured at Rowlett Creek WWTP.	Damaged pipe was repaired. The area was cleaned and disinfected.	May 1, 2018
May 23, 2018	813	Damaged feeder pipe at Rowlett Creek WWTP.	Repaired feeder pipe. The area was cleaned and disinfected.	May 24, 2018
September 25, 2018	144	Bar screen brushes failed at Rowlett Creek WWTP.	Replaced bar screen brushes. The area was cleaned and disinfected.	September 25, 2018
April 11, 2019	100	Damaged pipe at Rowlett Creek WWTP.	Damaged pipe was repaired. The area was cleaned and disinfected.	April 11, 2019
April 24, 2019 - April 25, 2019	988	Damaged pipe and manhole at Rowlett Creek WWTP.	Damaged pipe and manhole were repaired. The area was cleaned and disinfected.	April 30, 2019

- A TCEQ investigator found that on August 30, 2018, a 72-inch potable water main break occurred at the 4500 Block of Crystal Mountain Drive in Richardson, Texas causing a discharge of approximately 22.3 million gallons of potable water into three tributaries, North Star Branch, Beck Branch, and Rowlett Creek, killing approximately 490 fish.
- During an investigation conducted on June 18, 2020 at the Floyd Branch RWWTP, a TCEQ investigator documented that NTMWD did not prevent an unauthorized discharge of wastewater into or adjacent to any water in the state, as shown in Unauthorized Discharge Table No. 3 below (No environmental impacts were identified):

Unauthorized Discharge Table No. 3				
Date	Amount Discharged (gallons)	Description	Corrective Action	Date Corrected
September 22, 2018	14,085	Manhole overflow at influent pipe due to significant rain event	The area was cleaned and disinfected.	September 22, 2018
October 13, 2018	21,128	Manhole overflow at influent pipe due to significant rain event	The debris was removed and the area was cleaned and disinfected.	October 13, 2018
June 9, 2019	26,029	Manhole overflow at 3 locations within WWTP due to power outage during significant rain event	The area was cleaned and disinfected.	June 9, 2019
October 21, 2019	5,000	Manhole overflow at influent pipe due to power outage during significant rain event	The area was cleaned and disinfected.	October 21, 2019
January 12, 2020	163	Manhole overflow at influent pipe due to influent raw pumps not having power	The area was cleaned and disinfected.	January 12, 2019

FUNDING

FUND(S): Funding for the SEP in the amount of \$136,350 is to be made available from the Regional Wastewater System 2022-2023 Annual Operating Budget (Account 301-5090-533900).
