



NORTH TEXAS MUNICIPAL WATER DISTRICT

**501 E. Brown Street
Wylie, Texas 75098
(972) 442-5405**

Board of Directors Agenda

Thursday, March 28, 2024

2:30 PM

**REGULAR MEETING (IN PERSON
AND BY VIDEOCONFERENCE)**

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, March 28, 2024, 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.

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, recognitions, conduct of meeting, posted agenda items, committee assignments, and related matters

- B. Executive Director's Status Report concerning legislation and regulatory matters, strategic plan, 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

A. March Board Memorandum

[24B-3](#)

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. NTMWD Strategic Plan Annual Update

IX. EXECUTIVE SESSION

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. At the conclusion of the executive session, the public meeting will resume.

- A. Consultation with Attorney (Tex. Gov't Code Section 551.071)

1. ARK Contracting Services, LLC v. North Texas Municipal Water District; Lockwood Andrews & Newnam, Inc.; Freese and Nichols, Inc.; and Garver, LLC - 471st District, Collin County
2. City of Heath v. North Texas Municipal Water District, City of Forney and the City of Rockwall - 5th Court of Appeals, Dallas, Texas; Case No. 05-23-00558-CV; From the 439th Judicial District Court, Rockwall County, Texas, Trial Court Cause No. 1-22-0704
3. Alan Thomas Decker v. NTMWD, Phillips and Jordan, Inc., Archer Western Construction, LLC, and Hammett Excavation in the 336th District Court of Fannin County, Texas
4. North Texas Municipal Water District vs. Encore Wire Corporation, Case No. 001-00768-2022, Collin County, Texas
5. Legal briefing on March 14, 2024, Sanitary Sewer Overflow at Lower White Rock Creek Lift Station

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. February 2024 Regular Board Meeting Minutes [24C-9](#)

The Executive Director and NTMWD staff recommend the Board of Directors approve the minutes of the regular Board meeting held on Thursday, February 22, 2024, as presented.

B. February 2024 Board Work Session Meeting Minutes [24C-10](#)

The Executive Director and NTMWD staff recommend the Board of Directors approve the minutes of the Board Work Session meeting held on Thursday, February 29, 2024, as presented.

C. Modification of Capital Projects Request [24C-11](#)

Recommend the Board of Directors approve the March 2024, Modification of Capital Projects Request as presented.

D. Wylie Water Treatment Plant Backup Power Improvements - Authorization for Alternate Project Delivery Method; Project No. 101-0564-20; Resolution No. 24-12 [24C-12](#)

Authorize the use of Construction Manager At-Risk (CMAR) project delivery method for the Wylie Water Treatment Plant (WTP) Backup Power Improvements project.

E. Multiple Systems Maintenance Facilities Central Region, Phase II; Engineering Services Agreement, Additional Services No. 6; Project No. 101-0445-16 [24C-13](#)

Authorize additional construction phase support services to Stantec Architecture, Inc. (Stantec) for the Multiple System Maintenance Facilities Central Region, Phase II.

- F. Gateway Drive Transfer Station, Environmental Site Assessment** [24C-14](#)
Project No. 401-0644-24; Engineering Services Agreement

Authorization of an engineering services agreement to conduct a Phase I Environmental Site Assessment and records research for the future site of the Gateway Drive Transfer Station.

- G. Memorandum of Understanding between the North Texas Municipal Water District and the City of Plano for Providing Electricity to the 121 RDF Landfill Odor Management System** [24C-15](#)

Approve Memorandum of Understanding between the North Texas Municipal Water District (NTMWD) and the City of Plano (Plano) for providing electricity to the 121 Regional Disposal Facility (121 RDF) Odor Management System.

XII. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION

WATER AGENDA ITEMS

- A. Per- and Polyfluoroalkyl Substances (PFAS) Management Roadmap** [24-5999](#)
Project No. 101-0645-24; Engineering Services Agreement

Authorize an engineering services agreement for the development of the Per- and Polyfluoroalkyl Substances (PFAS) Management Roadmap.

- B. Leonard Water Treatment Plant Phase II; Project Number 101-0600-21** [24-6000](#)
Tabulation of Bids and Award of Contract

Authorize award of a construction contract for the Leonard Water Treatment Plant Phase II Expansion Project.

- C. Leonard Water Treatment Plant Phase II; Project No. [24-6001](#)
101-0600-21
Leonard WTP Terminal Storage Reservoir Phase II;
Project No. 101-0601-21
Bois d’Arc Lake Raw Water Pump Station Phase II;
Project No. 101-0602-21
Leonard WTP High Service Pump Station Phase II;
Project No. 101-0603-22**

**Additional Services for Construction Management and
Inspection - Construction Phase**

Recommend Board authorization for additional construction management and inspection services, and Internal Inspection Services for the construction of four projects that comprise the Bois d’Arc Lake System Phase II Program.

- D. Development Agreement between the North Texas [24-6002](#)
Municipal Water District and the Kansas City Southern
Railway Company regarding a future Rail Spur project in
Wylie Texas; Project No. 101-0646-24; Resolution No.
24-10**

Authorize the execution of a Development Agreement between the North Texas Municipal Water District (NTMWD) and the Kansas City Southern Railway Company, d/b/a CPKC.

- E. Contract for reservation, diversion, and use of raw water [24-6003](#)
by and between the City of Garland and the North Texas
Municipal Water District**

Authorize execution a Contract between the North Texas Municipal Water District (NTMWD) and the City of Garland (Garland) for reservation, diversion, and use of raw water for industrial use from Lavon Lake.

[WASTEWATER AGENDA ITEMS](#)

- F. North McKinney Parallel Interceptor Mitigation Projects; [24-6004](#)
Project No. 501-0504-18;
Tabulation of Bids and Award of Contract, and
Inspection Services**

Authorize award of a construction contract and internal inspection services

LAND ACQUISITION / RIGHT OF WAY AGENDA ITEMS

- G. **Future Opening and Operation of Public Recreational Areas and Associated Facilities on Bois d'Arc Lake; Resolution No. 24-11** [24-6005](#)

Adopt a resolution authorizing the future opening and operation of public recreational areas and associated facilities on Bois d'Arc Lake to the public and authorize the Executive Director or their designee to take certain actions associated with the initial and subsequent openings and closures of the lake.

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

501 E. Brown Street
Wylie, Texas 75098
(972) 442-5405

3/28/2024

Board Memorandum No. 24B-3



MEMO

TO: Board of Directors
FROM: Jenna Covington, Executive Director
DATE: March 22, 2024
SUBJECT: March 28, 2024, Board Meeting

This month's agenda is quite busy for the Board as we continue to drive projects forward. Additionally, we will be spending time reviewing and discussing the status of our third year in the 2022-2027 Strategic Plan.

As a quick reminder, we have sent out letters to the Member Cities regarding re-appointments. If you have any questions or concerns, feel free to reach out to Brian Brooks bbrooks@ntmwd.com.

Strategic Plan Initiative Highlights

At the Board meeting, we will be providing our annual update on the progress of implementing our 2022-2027 Strategic Plan. It has been a productive and exciting year of work on the big challenges and projects that the District is faced with. Our teams of managers and leaders who oversee the completion of initiatives have done an outstanding job of continuing progress and bringing many initiatives over the goal line.

In the past year, we have completed one-third of the initiatives from the five-year plan. Of the seventeen completed initiatives, eleven are transitioning into the next phases. While we want to highlight and celebrate all these accomplishments, there will not be enough time during the Board meeting to adequately cover these. Below are three initiatives that we will not be able to cover in the meeting but are worth highlighting in this Board Memo.

Initiative 1.4.2: Comply with Regulations for Emergency Preparedness, PFAS, Emergency Preparedness, and Lead and Copper - This initiative covered three very specific and unique regulatory issues. Following Winter Storm Uri and the subsequent passage of SB3 in 2021, our Emergency Preparedness staff moved quickly to plan and implement the requirements put in place by the bill. We have completed and submitted our emergency preparedness plan to TCEQ, which has been accepted. That plan requires the District to implement power supply strategies that will ensure operations for at least 24 hours following a major disaster. Moreover, activities that support our cities' efforts to comply with lead and copper rules are now part of routine water and environmental system operations.

As the Board is fully aware, the regulations surrounding PFAS substances have emerged as a significant and complicated issue that will require high levels of effort from District staff in multiple departments to address. As such, PFAS is transitioning into its own initiative.

Initiative 1.4.1: Complete Long-Range Water Supply Planning Process - Over the last three years, the District has undertaken an extensive examination of long-range water supply planning strategies to meet the substantial demand growth in our region. In February 2021, the Board authorized a Long-Range Water Supply Plan study. Throughout the progression of the study, the Board provided valuable engagement and feedback. We recently completed all tasks of the study and are incorporating the final comments to finalize the study report.

This initiative will now transition into the next phase based on the recommended water supply strategies. The new initiative will be titled "Implement Water Supply Strategies to Accommodate Regional Growth." Because of the time and complexity associated with developing new water supplies, multiple strategies will be simultaneously pursued/studied. Two strategies currently active include the Aquifer Storage and Recovery Feasibility Study and Wylie Raw Water Pump Station No. 4.

Initiative 2.2.3: Protect Endangered Species in the Trinity River - The District has been working over the last two years with multiple regional partners to develop a Candidate Conservation Agreement with Assurances (CCAA) for four species of mussels and two species of turtle found in the Trinity River Basin. Candidate species are those that the U.S. Fish and Wildlife Service (USFWS) is considering proposing as threatened or endangered under the Endangered Species Act (ESA).

A CCAA provides incentives for non-federal property owners to engage in voluntary conservation activities that provide a net conservation benefit to the species. For the 25-year agreement, participants agree to undertake specific activities that address the identified threats to the target species. In return for the participant's voluntary conservation actions, USFWS issues an Enhancement of Survival Permit under the ESA. The permit provides assurances that, if the species is subsequently listed and no other changes have occurred, they will not require the permittee to conduct any additional conservation measures without consent. Additionally, the permit authorizes a specific level of incidental take of the covered species, should listing occur.

After much diligent work and hours of coordination with all parties, USFWS signed the CCAA on January 31, 2024. This represents the conclusion of the strategic portion of this initiative with future activities in this area becoming part of regular operations.



3/28/2024

Consent Agenda Item No. 24C-9

February 2024 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, February 22, 2024, as presented.

Note: See the attached document for detailed information.



NORTH TEXAS MUNICIPAL WATER DISTRICT
501 E. Brown Street • Wylie, Texas 75098 (972)
442-5405 – Phone
(972) 295-6440 – Fax

**MINUTES OF REGULAR MEETING
OF THE BOARD OF DIRECTORS
FEBRUARY 22, 2024**

The North Texas Municipal Water District (NTMWD) Board of Directors met in a regular meeting on Thursday, February 22, 2024, 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 Richard Peasley called the meeting to order at approximately 2:30 p.m.

President Peasley 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 John Sweeden offered the invocation.

III. PLEDGE OF ALLEGIANCE

President Peasley led the Pledge of Allegiance.

IV. PLEDGE OF ALLEGIANCE TO THE TEXAS FLAG

President Peasley 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:

DIRECTOR	IN PERSON	REMOTE
Terry Sam ANDERSON	√	
Kalen BOREN		√
John CARR	√	
Rick CROWLEY	√	
George CRUMP	√	
Lori Barnett DODSON	√	
Phil DYER	√	
Joe FARMER	√	
Marvin FULLER		√
David HOLLIFIELD	√	
Chip IMRIE	√	
Blair JOHNSON		√
Ronald KELLEY		√
James KERR	√	
Geralyn KEVER	Absent	
Rick MANN	√	
Jack MAY	√	
Don PASCHAL	√	
Richard PEASLEY	√	
Randy ROLAND	√	
Lynn SHUYLER	Absent	
Keith STEPHENS	√	
Jody SUTHERLAND		√
John SWEEDEN	√	
Larry THOMPSON	√	

The following NTMWD legal and professional consultants attended the meeting:

- Lauren Kalisek, Sara Thornton – Lloyd Gosselink Rochelle & Townsend
- Kevin Smith – Crowe, LLP
- Nick Bulaich – Hilltop Securities
- Molly Carson – McCall Parkhurst & Horton

VI. OPENING REMARKS

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

President Peasley reminded Directors that there is a Work Session scheduled for February 29, 2024 from 1:00 p.m. to 4:00 p.m. Lunch will be available at 12:00 p.m.

He reviewed the tentative meeting schedule for March 2024 as follows:

- Wednesday, March 13: Executive Committee
- Wednesday, March 27: Water and Real Estate Committees
- Thursday, March 28: Board Meeting

President Peasley advised that today Director Phil Dyer will recuse himself from discussion and voting on Agenda Item XII. I.

- 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 announced the recipient of the Carl W. Riehn Employee of The Year Award. She advised this award was created 29 years ago. This year, 36 employees were nominated and there were four finalists: Sedrick Daniels, Jeremy Thompson, Stephanie Steelman and Sheju Vargese. Sheju Vargese, Water Operator II at the Wylie Water Treatment Plant, is this year's recipient.

Executive Director Covington also announced the Team of The Year Award. There were three teams that were finalists: the 121 RDF Heavy Equipment Operators and Supervisors-Landfill Compaction Improvement; Filter Surveillance Team; and the IT Response Team. Executive Director Covington announced that this year's Team of The Year Award goes to the IT Response Team for their response to a recent cyber incident. Team members are: Taylor Prentice, Jerry Cashdollar, Robert Munoz, Walter White, David Collins, Landon Cheatham, Erik Mendez, Layne Parrish, Dana Smith, Joe Lynes, Dylan Booth, Tommy Lindquist, and Reba Aarnos.

Executive Director Covington advised that the work session scheduled for February 29th will include discussion of the Customer Premium and of Customer Board representation.

Executive Director Covington stated that the annual Strategic Plan update will be presented at the March Board meeting and the final document will be presented for consideration at the April Board meeting.

Executive Director Covington reviewed the following completed projects:

- 1) Transmission System Water Quality Analyzers Project
- 2) Buffalo Creek Parallel Interceptor Phase I Project
- 3) Final reconciliation of the Fannin County Electric Coop project for Bois d'Arc Lake

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. **DISCUSSION ITEMS**

- A. Update on Environmental Protection Agency (EPA) proposed regulation and rulemaking process for Per – and Polyfluoroalkyl Substances (PFAS) and NTMWD's planned actions related to anticipated PFAS regulations.

Deputy Director Billy George provided opening comments for this item, reviewing that the Board has discussed PFAS regulations on several occasions previously. He advised that the Environmental Protection Agency (EPA) is proposing regulations that will impact the District's water systems. All systems are "passive receivers", meaning that the systems do not generate PFAS. Following staff's presentation today, the Board will go into Executive Session to further discuss this matter. He noted that in the short term the District should take two actions. The first is a project at Lake Tawakoni where PFAS levels require action. The second is a project to develop a NTMWD roadmap in response to PFAS. Mr. George added that the EPA requirements will not be in effect for several years.

Assistant Deputy Galen Roberts explained that PFAS is a class of chemicals that have been used since the 1940's in household processes, industrial uses and commercial uses. There are two types of PFAS, Perfluorooctanoic acid (PFOA) and Perfluorooctanesulfonic acid (PFOS). Mr. Roberts advised that the process of how PFAS enters the District's water systems is complex, and affects water, wastewater and solid waste.

Mr. Roberts advised that EPA regulations for drinking water systems will be implemented first. He advised that in 2021, the EPA released a 3-year strategic roadmap for addressing PFAS. Draft drinking water regulations have been proposed and will likely be finalized in 2024. Additional regulations may also be forthcoming related to industrial discharges, wastewater effluent permits, water residuals, wastewater biosolids, and more. The NTMWD relies on the EPA and the Texas Commission on Environmental Quality (TCEQ) to establish health-based standards for PFAS and other constituents. NTMWD will continue to meet or exceed all regulatory requirements. Mr. Roberts reviewed the District's PFAS communication efforts and coordination with Member and Customer cities

Mr. Roberts reviewed the District's efforts to determine if action is needed to address PFAS in NTMWD systems as follows:

Tawakoni Water Treatment Plant (WTP) PFAS Evaluation

- Characterize source water quality to determine if action is needed to ensure compliance with forthcoming PFAS drinking water regulations

- Identify which treatment technologies or alternate strategies for addressing PFAS could be utilized at the Tawakoni WTP
- Determine appropriate strategy or combination of strategies for the Tawakoni WTP

PFAS Management Road Map

- Holistic assessment of NTMWD systems to evaluate PFAS occurrence, transport pathways, and sources in Water, Wastewater and Solid Waste Systems
- Evaluate future potential range of PFAS concentrations in NTMWD systems
- Screening of potential strategies for addressing PFAS
- Effort will focus on areas and systems where new PFAS regulation is anticipated

Timelines for each effort may be dependent on having sufficient data and finalized regulations.

Mr. Roberts stated that future updates for each system will be provided to the appropriate Committees, and updates to the Board will be provided as appropriate. Quarterly PFAS sampling will continue. Information from regulators will be tracked and efforts to comply with drinking water regulations will be initiated. The District will continue to communicate with Member Cities and Customers.

IX. EXECUTIVE SESSION

At 3:07 p.m. President Peasley announced the need for an Executive Session of the Board of Directors to discuss items:

- A. Texas Government Code, Section 551.071 Consultation with Attorney
 - 1. Update on Environmental Protection Agency (EPA) proposed regulation and rulemaking process for Per and Polyfluoroalkyl Substances (PFAS) and NTMWD's planned actions related to anticipated PFAS regulations

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

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.

Open Session reconvened at 4:27 p.m. The public teleconference line was reconnected. No action was taken in Executive Session. No action was taken in Open Session.

A brief recess was taken.

XI. CONSENT AGENDA ITEMS

President Peasley inquired whether any Director would like to remove an item from the Consent Agenda for separate discussion. There were no requests for separate discussion.

Upon a motion by Director Chip Imrie to approve the Consent Agenda items and a second by Director Don Paschal, the Board of Directors voted unanimously to approve the Consent Agenda items.

- A. **January 2024 Regular Board Meeting Minutes**
The Executive Director and NTMWD staff recommend the Board of Directors approve the minutes of the regular Board meeting held on Thursday, January 25, 2024, as presented.
- B. **Modification of Capital Projects Request**
Recommend the Board of Directors approve the February 2024, Modification of Capital Projects Request as presented.
- C. **Sister Grove Regional Water Resource Recovery Facility (RWRRF) – Fiber Optic Connection to Bois d’Arc Treated water Pipeline; Project No. 301-0426B-16; Tabulation of Bids and Award of Contract**
Authorize award of a construction contract for the Sister Grove RWRRF fiber optic connection to the Bois d’Arc Treated Water Pipeline fiber optic line.
- D. **Lake Texoma Outfall to Wylie Water Treatment Plant Raw Water Pipeline; 101-0268-11; Resolution Number 24-04; Conveyance of Permanent Easement**
Adopt a resolution to authorize the Executive Director to execute a permanent easement with Oncor Electric Delivery Company, LLC (Oncor).
- E. **Bois d’Arc Lake Power Supply Final Contract Reconciliation; 101-0362-14**
Authorize the Final Reconciliation with Fannin County Electric Cooperative (FCEC)

XII. AGENDA ITEMS FOR INDIVIDUAL CONSIDERATION

GENERAL / ADMINISTRATIVE AGENDA ITEMS

- A. **Annual Comprehensive Financial Report**
Accept submission of the 2022-2023 Annual Comprehensive Financial Report (ACFR).

Director Phil Dyer stated that Crowe, LLP presented the audit results on February 7th to the Finance Committee meeting. The Finance Committee and staff recommend the Board authorize the acceptance of the FY23 ACFR. He noted this was a clean audit with no recommendations.

Upon a motion by Director Phil Dyer and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve.
- B. **Authorization of Execution of Financial Management Analysis Contract**
Authorize execution of a Financial Management Analysis Contract (Independent Financial Review) with Amawalk Consulting Group, LLC.

Director Phil Dyer advised that this item was discussed at the February 7th Finance Committee meeting. The Finance Committee voted to recommend the Board to authorize the execution of a Financial Management Analysis by Amawalk Consulting Group in the amount not to exceed \$174,000.

Upon a motion by Director Phil Dyer and a second by Director Larry Thompson, the Board of Directors voted unanimously to approve.

- C. Buffalo Creek Wastewater Interceptor System Contract Revenue Bonds, Series 2024**
Request authorization to issue Revenue Bonds for the Buffalo Creek Wastewater Interceptor System.

Director Phil Dyer advised that this item was discussed at the February 7th Finance Committee meeting. The Finance Committee voted to recommend the Board adopt Resolution No. 24-05 authorizing the Issuance, Sale and Delivery of North Texas Municipal Water District Buffalo Creek Wastewater Interceptor System Contract Revenue Bonds, Series 2024

This morning eight (8) bids were received. The Baker Group won the bid with an interest rate of 3.618%.

The final par amount is \$8.47 million which is slightly less than the estimated \$8.95 million included in the ad memo.

Upon a motion by Director Phil Dyer and a second by Director James Kerr, the Board of Directors voted unanimously to approve.

- D. Refunding Bonds for Extendable Commercial Paper**
Request authorization to issue Refunding Bonds for the Regional Water System Extendable Commercial Paper Bonds.

Director Phil Dyer advised that this item and the next two items (Items D - F) were discussed at the February 7, 2024 Finance Committee meeting. The Finance Committee voted to recommend the Board of Directors to adopt Resolutions Nos. 24-06, 24-07, and 24-08 authorizing the issuance, sale and delivery of NTMWD Refunding Bonds in amounts not to exceed \$700,000,000 in the Regional Water System, \$400,000,000 in the Regional Wastewater System, and \$150,000,000 in the Upper East Fork Interceptor System.

Upon a motion by Director Phil Dyer to approve Resolution No. 24-06 in the amount of \$700 million (Item D) and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve.

- E. Refunding Bonds for Extendable Commercial Paper Bonds**
Request authorization to issue Refunding Bonds for the Regional Wastewater System Extendable Commercial Paper Bonds.

Upon a motion by Director Phil Dyer to approve Resolution No. 24-07 in the amount of \$400 million (Item E) and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve.

- F. Refunding Bonds for Extendable Commercial Paper Bonds**
Request authorization to issue Refunding Bonds for the Upper East Fork Wastewater Interceptor System Extendable Commercial Paper Bonds.

Upon a motion by Director Phil Dyer to approve Resolution No. 24-08 in the amount of \$150 million (Item F) and a second by Director Larry Thompson, the Board of Directors voted unanimously to approve.

WATER AGENDA ITEMS**G. Memorandum of Understanding between the North Texas Municipal Water District, Upper Trinity Regional Water District, and the Greater Texoma Utility Authority for New Regional Water System Study**

Approve Memorandum of Understanding between the North Texas Municipal Water District (NTMWD), Upper Trinity Regional Water District (UTRWD), and the Greater Texoma Utility Authority (GTUA) regarding a proposed new GTUA Regional Water System Study.

Director John Sweeden advised that the Water Committee reviewed this item yesterday and voted to recommend the Board approve a Memorandum of Understanding between the North Texas Municipal Water District, Upper Trinity Regional Water District and the Greater Texoma Utility Authority regarding a proposed new Greater Texoma Utility Authority Regional Water System Study.

These three entities are interested in supporting a study to explore the development of a new Greater Texoma Utility Authority regional water system to provide service to parts of Grayson, Cooke, and Collin Counties including the City of Celina and the Mustang Special Utility District.

Upon a motion by Director John Sweeden and a second by Director James Kerr, the Board of Directors voted unanimously to approve.

H. McKinney Deliver Point No. 3 to McKinney Delivery Point No. 4 Pipeline; Project No. 101-0505-18; Northeast McKinney Pump Station; Project No. 101-0591-21; Construction Management and Inspection Services Agreement

Authorize construction management and inspection services during the construction phase of the new water pipeline project and the new 50 million gallon per day (MGD) pump station located in McKinney.

Director John Sweeden advised that the Water Committee reviewed this item yesterday and voted to recommend the Board authorize construction management and inspection services during the construction phase of the new water pipeline project and the new 50 million gallon per day pump station located in McKinney.

The primary purpose of the pump station and pipeline is to supply growing demands in western portions of NTMWD's North Water Conveyance System from the Leonard Water Treatment Plant.

Upon a motion by Director John Sweeden and a second by Director Don Paschal, the Board of Directors voted unanimously to approve.

I. Meter Vault Standardization, Set Point Control Implementation Phase IV (Package A); Project No. 101-0338-13, Tabulation of Bids and Award of Contract, Additional Engineering Services, and Inspection Services

Authorize award of a construction contract, additional engineering services, and internal inspection services.

Director John Sweeden advised that the Water Committee reviewed this item yesterday and voted to recommend the Board award a construction contract, additional engineering services, and internal inspection services.

The project includes improving water delivery point infrastructure at three existing locations and adding set point control capabilities to better regulate flows.

Upon a motion by Director John Sweeden and a second by Director Don Paschal, the Board of Directors voted to approve. Director Phil Dyer abstained from voting on this item.

J. Waterline Relocations Along State Highways in Dallas, Rockwall, and Kaufman Counties; Project No. 101-0607-22, Tabulation of Bids and Award of Contract, and Inspection Services

Authorize award of a construction contract and internal inspection services.

Director John Sweeden advised that the Water Committee reviewed this item yesterday and voted to recommend the Board award a construction contract and internal inspection services.

The Texas Department of Transportation is preparing to widen US State Highway 276 in Rockwall County. This TxDOT project will encroach on existing NTMWD water lines and easements, requiring the relocation or protection of infrastructure. NTMWD's costs will be partially reimbursed by TxDOT.

Upon a motion by Director John Sweeden and a second by Director Rick Crowley, the Board of Directors voted unanimously to approve.

WASTEWATER AGENDA ITEMS

K. Buffalo Creek Lift Station No. 2; Project No. 507-0639-24; Buffalo Creek Parallel Force Main; Project No. 507-0640-24; Engineering Services Agreement

Authorize an engineering services agreement for preliminary and final design of the Buffalo Creek Lift Station No. 2 and Buffalo Creek Parallel Force Main projects.

Director Keith Stephens advised that the Wastewater Committee reviewed this item yesterday and voted to recommend the Board authorize an engineering services agreement for preliminary and final design of the Buffalo Creek Lift Station No. 2 and Buffalo Creek Parallel Force Main projects.

The purpose of these projects is to increase wastewater conveyance capacity to accommodate growth in the cities of Forney, Heath, and Rockwall.

Upon a motion by Director Keith Stephens and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve.

L. Buffalo Creek Parallel Interceptor Phase II; Project No. 507-0636-24; Engineering Services Agreement - Preliminary Engineering

Authorize funding for a preliminary engineering services agreement for design of the Buffalo Creek Parallel Interceptor Phase II project.

Director Keith Stephens advised that the Wastewater Committee reviewed this item yesterday and voted to recommend the Board authorize funding for a preliminary engineering services agreement for design of the Buffalo Creek Parallel Interceptor Phase II project.

This agreement is to evaluate and select an alignment for the second phase of parallel wastewater interceptor system along Buffalo Creek to accommodate growth in the cities of Forney, Heath, and Rockwall.

Upon a motion by Director Keith Stephens and a second by Director Chip Imrie, the Board of Directors voted unanimously to approve.

M. Sister Grove Regional Water Resource Recovery Facility; Engineering Services, Program Management Services, and Inspection Services Agreement Additional Services; Project No. 301-0426-16

Authorize additional funding for engineering services, program management and inspection services through December 2024 for the Sister Grove Regional Water Resource Recovery Facility (RWRRF) project.

Director Keith Stephens advised that the Wastewater Committee reviewed this item yesterday and voted to recommend the Board authorize additional funding for engineering services, program management and inspection services through December 2024 for the Sister Grove Regional Water Resource Recovery Facility project. Construction at the Sister Grove Facility is scheduled for completion in 2025.

Upon a motion by Director Keith Stephens and a second by Director James Kerr, the Board of Directors voted unanimously to approve.

N. Sister Grove Regional Water Resource Recovery Facility; Amendment No. 9, Final GMP No. 7 and Change Order No. 5; Project No. 301-0426-16

Authorize funding for Amendment No. 9 to the Construction Manager-At-Risk (CMAR) Agreement for Sister Grove Regional Water Resource Recovery Facility (RWRRF) project.

Director Keith Stephens advised that the Wastewater Committee reviewed this item yesterday and voted to recommend the Board authorize funding for Amendment No. 9 to the Construction Manager At-Risk Agreement for Sister Grove Regional Water Resource Recovery Facility project.

The CMAR has submitted a change order and partial Guaranteed Maximum Price No. 7 for construction of a chain link fence, a potable water line, and startup and commissioning services. This is the final GMP for Sister Grove Facility.

Upon a motion by Director Keith Stephens and a second by Director Rick Crowley, the Board of Directors voted unanimously to approve.

O. South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow Management and Expansion; Amendment No. 3 and Partial GMP No. 3; Project No. 301-0525-18

Authorize funding for Amendment No. 3 to the Construction Manager-At-Risk (CMAR) Agreement for the South Mesquite Creek Regional Wastewater Treatment Plant (RWWTTP) Peak Flow and Expansion project.

Director Keith Stephens advised that the Wastewater Committee reviewed this item yesterday and voted to recommend the Board authorize funding for Amendment No. 3 to the Construction Manager At-Risk Agreement for the South Mesquite Creek Regional Wastewater Treatment Plant Peak Flow and Expansion project.

The CMAR has submitted a partial Guaranteed Maximum Price No. 3 for construction of an early electrical equipment procurement work package. Future amendments will be presented to the Board as the remaining work packages are developed, procured, and evaluated.

Upon a motion by Director Keith Stephens and a second by Director Rick Mann, the Board of Directors voted unanimously to approve.

LAND ACQUISITION / RIGHT OF WAY AGENDA ITEMS

P. Pipeline Relocation at US 380, FM 1641 and FM 741; 101-0619-22; Resolution No. 24-03; Right of Way Acquisition Program

Authorize funding and resolution to approve a Right-of-Way acquisition program for the Pipeline Relocation at US 380, FM 1641 and FM 741 project.

Director Terry Sam Anderson advised that this item was discussed at the January 24, 2024, Real Estate Committee meeting.

This item authorizes the Executive Director to execute a right-of-way acquisition program for the Pipeline Relocation at US 380, FM 1641 and FM 741 with a budget of \$18,300,000.

Approximately 56,000 linear feet of NTMWD pipelines must be relocated to facilitate TxDOT's proposed roadway expansion. Design, ROW, construction, and inspection costs are subject to TxDOT reimbursement upon completion of the project.

Upon a motion by Director Terry Sam Anderson and a second by Director Rick Mann, the Board of Directors voted unanimously to approve.

XIII. CLOSING ITEMS

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

President Peasley advised that he visited with Director Lynn Shuyler recently and learned that Mr. Shuyler has experienced technical difficulties with online access to attend the meetings.

President Peasley requested a follow up to the Board regarding Sister Grove and the required testing as it relates to opening the facility.

Director Jack May inquired what the status is of potential energy costs rebates from Ercot. Executive Director Covington advised she will follow up with the District's Energy Manager and report back. Director May also inquired about the fire that occurred at Riverby Ranch and the extent of the damage to vegetation. Deputy Director George advised that until spring growth starts it is difficult to assess the full extent of the damage. He will provide an update on this at a Water Committee meeting. Mr. George added that fire services have added more on-site abilities to respond to brush fires.

XIV. ADJOURNMENT

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

APPROVED:

RICHARD PEASLEY, President

ATTEST:

DAVID HOLLIFIELD, Secretary

DRAFT



3/28/2024

Consent Agenda Item No. 24C-10

February 2024 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 held on Thursday, February 29, 2024, as presented.

Note: See the attached document for detailed information.



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 FEBRUARY 29, 2024

The North Texas Municipal Water District (NTMWD) Board of Directors met in a work session meeting on Thursday, February 29, 2024, 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 Richard Peasley called the meeting to order at approximately 1:00 p.m.

President Peasley advised the following regarding the meeting:

The meeting today is being conducted in person and by videoconference 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.

President Peasley offered the invocation.

II. ROLL CALL/ANNOUNCEMENT OF QUORUM

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

DIRECTOR	IN PERSON	REMOTE
Terry Sam ANDERSON	√	
Kalen BOREN	Absent	
John CARR	√	
Rick CROWLEY	√	
George CRUMP	√	

Lori Barnett DODSON	√	
Phil DYER	√	
Joe FARMER	√	
Marvin FULLER		√
David HOLLIFIELD	√	
Chip IMRIE	√	
Blair JOHNSON	Absent	
Ronald KELLEY	Absent	
James KERR	Absent	
Geralyn KEVER	√	
Rick MANN		√
Jack MAY	√	
Don PASCHAL	√	
Richard PEASLEY	√	
Randy ROLAND	√	
Lynn SHUYLER	Absent	
Keith STEPHENS	Absent	
Jody SUTHERLAND	√	
John SWEEDEN	√ - arrived 3:46 pm	
Larry THOMPSON		√

The following NTMWD legal and professional consultants attended the meeting:

- Lauren Kalisek – Lloyd Gosselink Rochelle & Townsend
- Jennifer Ivy – Carollo Engineers

III. 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

Executive Director Jenna Covington provided an overview of today's agenda. She advised that the first matter is the Customer Premium (for the Regional Water System) that has been an ongoing discussion for the past several years. The most recent Board of Directors discussion was held in May, 2023. She reviewed the presenters for today's discussion.

Executive Director Covington advised that the second matter for today's discussion is regarding Customer Board Representation. She stated that staff will seek feedback from Board members on whether the current structure of the Board is sufficient to represent the interests of the Members and Customers, and, whether the Board is interested in an engagement approach to discuss this further and hear additional stakeholders' perspectives.

Executive Director Covington also advised that Brian Brooks would provide more background and input received from the Members and Customers. It was noted that some Customers have expressed a desire to have assurances that representation will be considered. Executive Director Covington added that the next Working Group meeting (includes representatives of Member and Customer cities) is scheduled for April 4th.

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. Regional Water System - Customer Premium

Deputy Director Jeanne Chipperfield reviewed the following background points related to the Customer Premium:

- Regional Water System Customer Premium of 5-cents per 1,000 gallons since 1970; Topic of discussion for many years without any changes

- Public Utilities Commission (PUC) Settlement Agreement required Independent Financial Review (IFR) to include Customer Premium as study task
- 2021 IFR consultant's report recommended further study of Customer Premium; the Board agreed, directing staff to move forward
- Carollo was selected to conduct premium study (Fall 2022)
- Several methodologies were studied and approaches presented to Board (Spring 2023)
- Board, Member Cities and Customers reviewed, provided feedback on impacts, defensibility, and appropriateness
- May 2023, Board paused its discussions to allow time for Members and Customers to meet and seek agreement on a defensible methodology

Ms. Chipperfield advised that since October 2023, several meetings have been held with representatives of the Member and Customer cities. The groups reviewed the Customer Premium rates and contract information and held discussions regarding potential alternative Customer Premium methodologies. The perspectives of each group includes the following:

Member Perspectives

- Prioritize recognition of their commitment to and investment in the District via a premium
- Viewed historical effective premium as a target rate for new methodology
- Recommend Customers transition to new contract which allows for rolling averages to determine annual minimums as an important tool to smooth annual growth

Customer Perspectives

- Prioritize representation with the NTMWD Board along with resolving premium
- Want to understand purpose and use of premium revenue
- Several customers expressed interest in backing District's debt

Ms. Chipperfield advised that an alternative methodology was developed by the District's rate consultant, Carollo, and introduced Jennifer Ivy who presented a methodology based on ideas generated during the group meetings.

Ms. Ivy provided detailed examples of a methodology that applies a 2-tiered premium which charges a 5-cent premium on current volumes plus a 5 percent growth allowance, and a percentage-based premium on growth over 5 percent. The initial model assumed a 5 percent growth premium; an additional model assumes a 10 percent growth premium as requested by the Members. She noted that this approach incentivizes conservation. Several handouts, charts and example projections were reviewed.

Several Directors offered comments on the presentation and others had questions on the data presented and growth projections provided by the entities. Alternative approaches and considerations were offered.

At 2:40 p.m. President Peasley announced the need for an Executive Session of the Board of Directors to discuss Agenda Item V.A. pursuant to Texas Government Code, Section 551.071 Consultation with Attorney.

President Peasley 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 3:08 p.m. The public teleconference line was reconnected. No action was taken in Executive Session. No action was taken in Open Session.

A brief recess was taken.

B. Customer Board Representation

Board Liaison and Assistant to the General Manager Brian Brooks reviewed the comments regarding Customer Board Representation made by Executive Director Covington earlier in the meeting. He reviewed the discussion questions for today as follows:

- 1) Is the current structure of the Board of Directors sufficient to represent the interests of the Members and Customers?
- 2) Is the Board interested in an engagement approach to discuss further and hear additional stakeholders' perspectives?

Mr. Brooks briefly reviewed that Directors are appointed by Member cities but make decisions on behalf of the entire region. He noted that the Board Policies Manual, Section 7.4 defines the Ethical Responsibilities of Officers.

Mr. Brooks reviewed that as a result of the Independent Financial Report, Customer listening sessions were implemented in the Spring of 2022. Two topics became the focus of those sessions: Changes to the Customer Premium Methodology and Customer representation and a path to membership. In the Fall of 2023, a City Manager Working Group was created. Discussions revealed a concern about commitment to consider the question of Customer representation, and a request for Board assurance that the topic will be considered.

Mr. Brooks provided further detail as to the common themes of these meetings as follows:

Customer perspective:

- Customers are expected to fulfill the same obligations as the Members without input into decisions
- Desire a defined path to Membership
- Desire to have a voice at the Board level

Member perspective:

- Focus on a simple solution
- Board is large enough
- No desire for further annexation

Consensus

- Issue of Customer Representation needs to be resolved
- Expanding the Board could create unnecessary challenges

Brainstormed concepts

- Two ex-officio members at the Board Meetings (non-voting)
- Assigning existing Directors as a point of contact for Customers
- A Customer Advisory Committee

For some additional information, Mr. Brooks reviewed that currently there are 38 Customers. Included in that number are 16 cities and 22 utility districts. The first city Customer was Fate, added in 1957. The most recent city Customer added was Bonham in 2004. The first non-city customer was Nevada Special Utility District, added in 1960, and the most recent added was Blackland WSC in 2021. The 2023 water consumption totals for Customers was provided. Mr. Brooks added that some water Customers also have wastewater services.

President Peasley opened the floor for comments from the Directors on the two questions posed. Several commented that staff has done an excellent job of treating Members and Customers the same when it comes to service or issues. Several commented that they feel the current structure of the Board does represent the interests of both Members and Customers. Several expressed that providing a written policy on how to go about submitting requests or concerns to the District might be beneficial. Possible Committee meeting opportunities to have input beyond the routine Public Comment period was discussed. Executive Director Covington stated she would discuss further a possible policy with President Peasley.

VI. ADJOURNMENT

There being no further business, the meeting adjourned at approximately 4:13 p.m.

APPROVED:

RICHARD PEASLEY, President

ATTEST:

DAVID HOLLIFIELD, Secretary



3/28/2024

Consent Agenda Item No. 24C-11

Modification of Capital Projects Request

RECOMMENDATION

Recommend the Board of Directors approve the March 2024, Modification of Capital Projects Request as presented.

Note: See the attached document for detailed information.

MODIFICATION OF CAPITAL PROJECTS REQUEST

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Modification of Capital Projects Request 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. 501-0513-18, North McKinney Transfer Lift Station, Change Order No. 6.

Description	Amount	Days
Original Contract Amount	\$50,787,000.00	850
Prior Change Order(s) Total	\$331,715.35	40
Proposed Change Order No. 6		
Utilize line stop to install plug valve on 36-inch North McKinney Force Main	\$111,965.00	60
Proposed Change Order No. 6 Increase	\$111,965.00	60
Revised Contract Amounts	\$51,230,680.35	950

Original Completion Dates Phase I: Substantial – May 31, 2023; Final – July 30, 2023
Original Completion Dates Phase II: Substantial – November 7, 2023; Final – January 6, 2024

Revised Completion Dates Phase I: Substantial – September 8, 2023; Final – November 7, 2023

Revised Completion Dates Phase II: Substantial – February 15, 2024; Final – April 15, 2024

Funding in the amount of \$111,965.00 for Change Order No. 6 to Crescent-McKee Joint Venture, is available in the Upper East Fork Interceptor Construction Funds

- b. Project No. 301-0426-16, Sister Grove Regional Water Resource Recovery Facility, Work Change Directive No. 1 and No. 2

Description	Amount	Days
Original Contract Amount	\$359,134,722.91	991
Prior Change Order(s) Total	\$9,057,528.87	157
Proposed Work Change Directive No. 1 and No. 2		
Work change directive no. 1 related to Contract Modification Request (CMR) 60 – Peak flow basin (PFB) underslab drain revisions	\$171,731.25	45
Work change directive no. 2 related to Contract Modification Request (CMR) 62 – Peak flow basin (PFB) walkway bridges	\$221,189.85	30
Proposed Work Change Directive Increase	\$392,921.10	75

The District and the Construction Manager At-Risk (CMAR) have been unable to come to an agreement on the lump sum compensation for work added due to design revisions issued by the Engineer related to the peak flow basin under slab drain and walkway bridges. The Engineer has estimated a fair and reasonable cost and time extension for the work described in the work change directives. The Engineer, CMAR, and Program Manager recommend the District execute two work change directives to allow work to proceed as the CMAR's believes this work is on the project's critical path.

Funding in the amount of \$392,921.10 for Work Change Directive No. 1 and No. 2 to Garney Companies, Inc., is available in the Regional Wastewater System Clean Water State Revolving Fund contingent upon Texas Water Development Board approval of the contract and release of funding.

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 the completion of all deficiency items is verified.

WATER SYSTEM

- a. None.

WASTEWATER SYSTEM

- a. None.

SOLID WASTE SYSTEM

- a. None.

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. Project No. 501-0439-16 Beck Branch Parallel Interceptor Phase II and Plano Spring Creek Force Main Parallel – Paving Installation, Change Order No. 1

Description	Amount	Days
Original Contract Amount	\$1,749,150.00	120
Prior Change Order(s) Total	\$0.00	0
Proposed Change Order No. 1		
Payment for overrun item No. 3 – Unclassified Removals	\$1,923.25	0
Credit for underused item No. 4 – Flexible Base	(\$4,500.50)	0
Credit for unused item No. 5 – Reinforced Concrete Pavement (8-inch, 4,000 PSI)	(\$193,120.00)	0
Payment for overrun item No. 6 – Remove and Replace Concrete Curb (18-inch from Back of Curb)	\$11,060.80	0
Credit for unused item No. 7 – Remove and Replace Concrete Curb (48-inch from Back of Curb)	(\$270.00)	0
Payment for overrun item No. 10 – Rout and Seal Transverse Joints and Cracks	\$11,529.00	0
Credit for underused item No. 13 – Block Sodding	(\$31,000.00)	0
Proposed Change Order No. 1	(\$204,377.45)	11
Final/Revised Contract Amounts	\$1,544,772.55	131

Original Completion Dates: Substantial – December 1, 2023; Final – January 30, 2024,
 Revised Completion Dates: Substantial – December 1, 2023; Final – February 10, 2024

Funding in the amount of (\$204,377.45) for Change Order No. 1 to Ed Bell Construction Company, will be credited back to the Upper East Fork Interceptor System Extendable Commercial Paper (ECP) Program.

SOLID WASTE SYSTEM

a. None.

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

WATER SYSTEM

a. Project No. 101-0558-20, Texoma Fiber Optic Improvements

DESCRIPTION	AMOUNT
Original Inspection Services Agreement (ISA)	\$276,000.00
Prior Additional Services	\$0.00
Additional Services	\$71,300.00
Additional civil and SCADA inspection hours for time extension on the project.	
Revised ISA Amount	\$347,300.00

Additional inspection services are 25.8 percent of the original authorization. The extended construction time and related inspection services are driven by the need to acquire new easements and modify the fiber alignment due to misalignment of the original pipeline within easements.

Funding in the amount of \$71,300.00 for Amendment No. 1 to Dietz Engineering, is available in the Regional Water System Capital Improvement Fund

WASTEWATER SYSTEM

a. Project No. 301-0471-17, Rowlett Creek Regional Wastewater Treatment Plant Peak Flow Management Improvements, Phase II

DESCRIPTION	AMOUNT
Original ESA	\$5,182,700.00
Prior Additional Services	\$2,641,313.00
Proposed Additional Services	\$96,540.00
Design of Membrane Bioreactor (MBR) waste activated sludge (WAS) pumps to operate with Phase II solids treatment train	\$96,540.00
Revised ESA Amount	\$7,920,553.00

The cumulative amount requested exceeds 25% of the original contract value. Design is near completion. NTMWD staff recommend approval of the additional engineering services on this report in lieu of an individual Administrative Memorandum.

Funding in the amount of \$96,540.00 for Amendment No. 12 to Hazen and Sawyer is available in the Regional Wastewater System 2019 Construction Fund.

SOLID WASTE SYSTEM

- a. None



3/28/2024

Consent Agenda Item No. 24C-12

Regional Water System

Wylie Water Treatment Plant Backup Power Improvements - Authorization for Alternate Project Delivery Method; Project No. 101-0564-20; Resolution No. 24-12

SUBJECT

Authorize the use of Construction Manager At-Risk (CMAR) project delivery method for the Wylie Water Treatment Plant (WTP) Backup Power Improvements project.

PURPOSE

CMAR project delivery approach provides a distinct advantage for early identification and procurement of major equipment and systems that have traditional long lead times for configuration approvals, fabrication and delivery to the project site. Such equipment specific to this project includes large diesel generators, transformers and electrical switch gear. The CMAR delivery approach allows the procurement process to progress concurrent with the detailed design, which helps compress project schedule.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors adopt Resolution No. 24-12, *A Resolution authorizing the use of this alternative delivery approach in accordance with Texas Administrative Code Chapter 2269, Contracting and Delivery Procedures for Construction Projects.*

Project: No. 101-0564-20, Wylie Water Treatment Plant Backup Power Improvements

Amount: N/A

Strategic Objective: 1.1 High Quality Services
1.4 Reliable and Resilient System Capacity

Committee: This will be an item on the March 27, 2024, Water Committee meeting agenda

DRIVER(S) FOR THIS PROJECT

<input checked="" type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input checked="" type="checkbox"/> Capacity	<input checked="" 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

BACKGROUND

PROJECT PURPOSE

- This project will enable the NTMWD to continuously monitor Oncor’s 138 kilovolt electrical service to the Wylie WTP and to transfer loads to the emergency backup generator system in the event of an Oncor power outage.
- In October 2023, the Board approved Administrative Memorandum No. TMP-23-31 authorizing final design of the Wylie WTP Backup Power Improvements. These improvements are based on the recommendations developed during the preliminary engineering phase as the most viable path forward for a dependable emergency backup power system.
- This action seeks the Board’s authorization for use of the alternative delivery approach.
- Future actions dealing with selection of a CMAR and Authorization of CMAR Preconstruction and Procurement Services will be brought at a later time. Other subsequent recommendations dealing with construction Work Packages will also be brought at a later time.

PROJECT COMPONENTS

- Centralized generator yard located just west of the north electrical substation;
- Generators will be sized to support 460 million gallons per day (MGD) of WTP treatment capacity;
- Design will meet requirements of Texas Senate Bill No. 3; and
- Supervisory Control and Data Acquisition (SCADA) system interface to assist control room operators.

FUNDING

None required at this time.

NORTH TEXAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 24-12

**A RESOLUTION AUTHORIZING USE OF THE CONSTRUCTION
MANAGER AT-RISK DELIVERY METHOD UNDER TEXAS
GOVERNMENT CODE CHAPTER 2269 FOR THE WYLIE WATER
TREATMENT PLANT BACKUP POWER IMPROVEMENTS
PROJECT**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF NORTH
TEXAS MUNICIPAL WATER DISTRICT:**

SECTION 1

That the North Texas Municipal Water District (NTMWD) authorizes the use of the Construction Manager At-Risk Delivery Method under Chapter 2269 of the Texas Government Code for the Wylie Water Treatment Plant (WTP) Backup Power Improvements, Project No. 101-0564-20. The NTMWD, through this resolution, specifically elects to be governed by Chapter 2269 of the Texas Government Code solely for the procurement of the Wylie WTP Backup Power Improvements project referenced above, superseding any other applicable law, rule, or regulation governing competitive bidding by the NTMWD for this project.

SECTION 2

That this resolution shall take effect and be in full force and effect from and after the date of its adoption, and it is so resolved that all resolutions of the Board of Directors of the NTMWD in conflict herewith are hereby amended or repealed to the extent of such conflict.

**THIS RESOLUTION ADOPTED BY THE NTMWD BOARD OF
DIRECTORS IN A REGULAR MEETING ON MARCH 28, 2024, IN THE
ADMINISTRATIVE OFFICES OF THE NTMWD, WYLIE, TEXAS.**

DAVID HOLLIFIELD, Secretary

RICHARD PEASLEY, President

(SEAL)



Phase 1 and 2 Generator Yard Locations
(Connected to North and South Substations)

HSPS 3-1

North Substation

NOPS

SOPS

South Substation

HSPS 2-1

HSPS 2-3

HSPS 2-2

HSPS 1-1

US-78



Wylie Water Treatment Plant Backup Power Improvements
Project No. 101-0564-20





3/28/2024

Consent Agenda Item No. 24C-13

Regional Water System, Regional Wastewater System, and Upper East Fork Interceptor System

Multiple Systems Maintenance Facilities Central Region, Phase II; Engineering Services Agreement, Additional Services No. 6; Project No. 101-0445-16

SUBJECT

Authorize additional construction phase support services to Stantec Architecture, Inc. (Stantec) for the Multiple System Maintenance Facilities Central Region, Phase II.

PURPOSE

Construction phase support services have been at a high utilization rate this past year due to the Contractor’s (Tegrity’s) performance challenges and inconsistent ability to interpret and apply the Contract provisions without close oversight. The consultant and NTMWD staff have expended considerable effort with Tegrity on interpretation of the Contract documents, submission of proper material submittals, efficient use of requests for information (RFI) documentation, and reviews of proposed change orders.

Stantec’s original Engineering Services Agreement included construction phase services that assumed 390 days for construction, including 18 construction administration meetings with the contractor. As of February 1, 2024, this project has been under construction for 706 days and has thus far required 22 construction administration meetings with the contractor. To date, Tegrity has only completed 34 percent of the work.

In December 2023, Stantec submitted a request and justification for additional construction administration services, which has been reviewed and verified by the District Inspection and Engineering staffs. This request is summarized as follows:

Services beyond initial scope, March 2023 through December 2023	\$71,034
Services beyond initial scope, January 2024 through June 2024	\$55,080
Total	\$126,114

RECOMMENDATION

The Executive Director and NTMWD staff recommend these additional Engineering Services as necessary for continued support by the Engineer-of-Record in order to effectively urge the Contractor to completion of the project without default:

Consultant: Stantec Architecture, Inc. (Stantec)

Scope: Additional Services for Construction Phase Services

Project: Maintenance Facilities Central Region, Phase II

Amount: \$126,114

Strategic Objective: Goal 1: Service; Objective 1.3: Proactive Maintenance Management of the 2019-2024 NTMWD Strategic Plan.

Committee: This item will be a Champion Update at the March 27, 2024, Water Committee

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 _____

BACKGROUND

PROJECT PURPOSE

- In early 2017, Phase I of this project was initiated to complete master planning of the total Facility Services Department space needs, and to design and construct a 6,000 square foot (sf) warehouse, sand and gravel storage and a 3,200-sf boat storage facility. Construction of the Phase I facilities have been completed.
- In May 2020 the space utilization plan for Facility Services was updated to include current employee levels and to add a second-floor office area for future growth. Design and construction of the office space and additional equipment storage facilities were initiated as Phase II of the project.

PROJECT COMPONENTS

- Development of 6-acre site including water, sewer, overhead and underground electrical and communication utilities, service roads, parking, equipment yard and site landscaping.
- Construction of a 40,000 sf Maintenance Building to include offices, cubicles, conference rooms, dual purpose break/training room, restrooms with shower and locker facilities and attached maintenance shop with two work bays, overhead cranes and tool crib.
- Seven enclosed heavy equipment storage bays; and
- Six light equipment canopies.

SUMMARY OF PRIOR AUTHORIZATIONS AND ADDITIONAL SERVICES NO. 6

Description	Amount
Original ESA	\$1,070,826.00
Prior Additional Services	\$256,902.95
Proposed Additional Services No. 6	
Additional Construction Phase Services	\$126,114.00
Proposed Additional Services No. 6 (Increase)	\$126,114.00
Revised ESA Amount	\$1,453,842.95

FUNDING

FUND(S): This facility will support both Water and Wastewater facilities and equipment. There, it is proposed to split funding 80% from the Regional Water System, 15% from the Regional Wastewater System and 5% from the Upper East Fork Interceptor System.

Funding in the amount of \$100,891.00 is from the Regional Water System Construction Funds, funding in the amount of \$18,917.00 is from the Regional Wastewater System Construction Funds, and funding in the amount of \$6,306.00 is from the Upper East Fork Interceptor System Construction Funds.



Multiple Systems Maintenance Facilities Central Region Phase II
Project No. 101-0445-16





3/28/2024

Consent Agenda Item No. 24C-14

Regional Solid Waste System

**Gateway Drive Transfer Station, Environmental Site Assessment
Project No. 401-0644-24; Engineering Services Agreement**

SUBJECT

Authorization of an engineering services agreement to conduct a Phase I Environmental Site Assessment and records research for the future site of the Gateway Drive Transfer Station.

PURPOSE

NTMWD intends to purchase a property located in Frisco, Texas in order to design and construct the Gateway Drive Transfer Station. The results of the environmental site assessment and chain of title review will support the property acquisition recommendation that will be brought to the NTMWD Board of Directors in a future board action.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director to execute an engineering services agreement (ESA) as follows:

- Consultant: SCS Engineers
- Scope: Phase I Environmental Site Assessment and Records Research
- Project: No. 401-0644-24, Gateway Drive Transfer Station Environmental Site Assessment
- Amount: \$10,400
- Strategic Objective: 1.1 High Quality Services, 1.4 Reliable and Resilient System
- Committee: This was a discussion item at the November 16, 2022, Solid Waste Committee meeting

DRIVER(S) FOR THIS PROJECT

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

BACKGROUND

- The Custer Road Transfer Station, located in the City of Plano, currently processes the most solid waste tonnage from the member cities. The amount of waste brought to the Custer Road Transfer Station, on average, can create long wait times and queues that extend out into the roadway, creating a frequent traffic nuisance and safety issue.
- The site permit at Custer Road limits the daily tonnage to 1,900 tons/day, and once this daily limit is met the facility must close the gate and cease receiving for the day.
- Projections for the growth of solid waste service demands indicate that the situation at Custer Road will move from the current nuisance conditions to a level of regular operational impact within five to ten years. This time frame is within the planning horizon required for site planning, permitting, design, and construction of a new solid waste transfer station.
- The Solid Waste System member cities have requested that NTMWD begin the site planning and permitting activities necessary to construct a fourth system transfer station, which will primarily serve the central and western portions of the City of Frisco.
- The City of Frisco has proposed the property located at Part of Sheet 1, Tract 18, Collin County School Land #10 Survey, Abstract Number 148 as the site of this transfer station.

PROJECT PURPOSE

- Conduct an environmental site assessment of the proposed property as due diligence prior to real estate negotiations and acquisition of said property.

PROJECT COMPONENTS

- Phase I environmental site assessment
- Chain of title review back to 1940

BASIC SERVICES

- Site reconnaissance
- Interviews with past and/or present site owners or managers
- Review of historical site information and records
- Review of federal and state regulatory databases
- Review of prior assessment and survey reports
- Interviews of local regulatory agencies as appropriate

SPECIAL SERVICES

- None

CONSULTANT SELECTION PROCESS

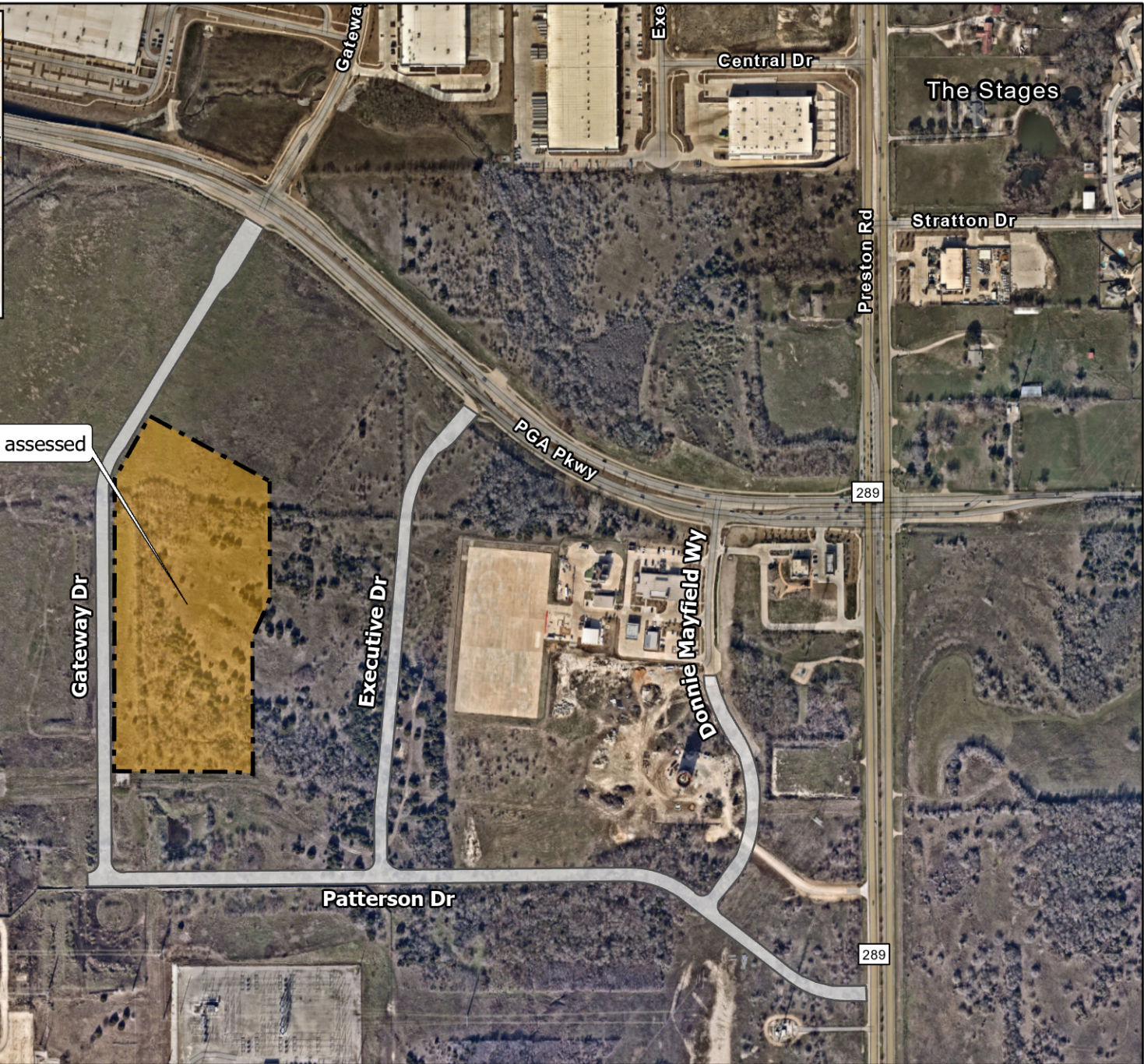
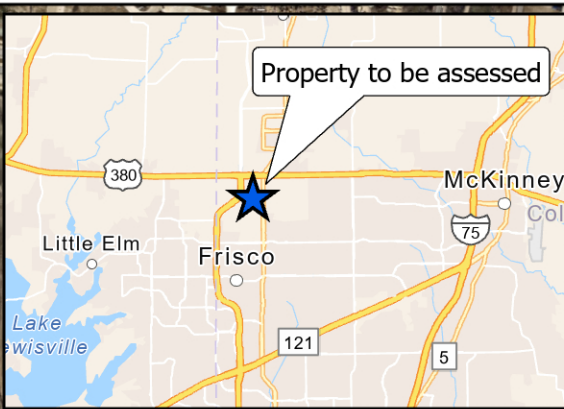
- Three engineering firms, Parkhill, Smith & Cooper, Inc., Biggs and Mathews Environmental, Inc., and SCS Engineers received and responded to a Request for Qualifications issued by NTMWD for this effort. SCS Engineers was deemed as the most highly qualified firm for this project due primarily to their expertise, applicable experience, and staffing availability to respond immediately.

ENGINEERING SERVICES FEE



Description	Amount
Basic Services	\$10,400
Special Services	\$0.00
Requested Amount	\$10,400

FUNDING

FUND(S): Funding in the amount of \$10,400.00 to SCS Engineers is to be made available in the Regional Solid Waste System Construction Funds.



Legend

-  Property to be assessed
-  Future Road



**Gateway Drive Transfer Station
Project No. 401-0644-24**





3/28/2024

Consent Agenda Item No. 24C-15

Solid Waste System

Memorandum of Understanding between the North Texas Municipal Water District and the City of Plano for Providing Electricity to the 121 RDF Landfill Odor Management System

SUBJECT

Approve Memorandum of Understanding between the North Texas Municipal Water District (NTMWD) and the City of Plano (Plano) for providing electricity to the 121 Regional Disposal Facility (121 RDF) Odor Management System.

PURPOSE

NTMWD will design and operate an odor control management system around the perimeter of the landfill, which includes five stationary odor control units. The City of Plano operates a composting facility at the 121 RDF which is within the permit boundary, in which one (common odor control unit) benefits both the City and the NTMWD. NTMWD will fully fund the installation and connection to the power line while Plano will be responsible for funding the electricity used by the common odor control unit.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director to execute a Memorandum of Understanding with the City of Plano.

Consultant: N/A

Scope: Execution of a Memorandum of Understanding

Project: Providing Electricity to the 121 RDF Landfill Odor Management System

Amount: N/A

Strategic Objective: 2.1 Efficient Business Practices 3.3 Durable Strategic Partnerships

Committee: N/A

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 checked="" type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other _____

BACKGROUND

- Plano receives electricity to the compost facility via a power line on NTMWD property located near one of the five stationary odor control units and pays the provider for electrical usage.
- The estimate for NTMWD to have a separate electrical power line installed for this stationary odor unit is approximately \$40,000 - \$45,000.
- One (common odor control unit) of the five stationary odor control units benefits both the NTMWD and the City of Plano by neutralizing odors from the compost operation.
- NTMWD agrees to install connections to power the common odor control unit and the City agrees to fund the electricity used by the unit.

FUNDING

No funding is requested.

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE NORTH TEXAS MUNICIPAL WATER DISTRICT
AND THE CITY OF PLANO**

FOR

**PROVIDING ELECTRICITY TO THE 121 RDF LANDFILL ODOR MANAGEMENT
SYSTEM**

This Memorandum of Understanding (“MOU”) is made by and between the North Texas Municipal Water District (“NTMWD” or the “District”) and the City of Plano (“Plano” or the “City”), pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code, to be effective on the date of the last signatory of this MOU (“Effective Date”). NTMWD and Plano are each referred to as a “Party” or together as the “Parties” herein.

1. Background and Objectives

- A. The District owns and operates the 121 Regional Disposal Facility, a Municipal Solid Waste Landfill, located at 3820 Sam Rayburn Highway, Melissa, Texas (the “Landfill”).
- B. The District proposes to design and operate an Odor Control System around the permitter of the Landfill, which includes five stationary odor control units.
- C. Plano operates a composting facility at 3820 Sam Rayburn Highway, Melissa, Texas (the “Composting Facility”), which is within the permit boundary of the Landfill.
- D. Plano has a power line on District property in the Composting Facility located at Sector 11 in the Landfill (“Plano Power Line”).
- E. One of the five stationary odor control units (the “Common Odor Unit”) is proposed to be located near the Composting Facility, in turn benefiting both the Landfill and the Composting Facility.
- F. The purpose of this MOU is to outline the agreement for financial contributions of the District and Plano in installing and operating the Common Odor Unit.

2. Agreement Regarding Power to the Stationary Odor Control Unit

- A. District will install a meter, and all necessary appurtenances, to calculate costs of electricity services to the Common Odor Unit. The District will fully fund the installation and connection of all necessary appurtenances to provide electricity to the Common Odor Unit. The funding of such activities is to be made from current revenues available to the District.
- B. Plano will allow the District to access the Plano Power Line for the provision of electricity to the Common Odor Unit.

- C. Plano will be solely responsible for providing electricity to the Common Odor Unit and will cover all costs associated with providing electricity to the Common Odor Unit, including full payment of the electricity services. Plano's funding for costs for providing electricity to the Common Odor Unit is to be made from current revenues available to the City.

3. **Miscellaneous**

- A. Term. The term of this MOU shall begin on the Effective Date and shall continue, unless terminated by either party in accordance with Section 3.M, for the duration of the compost operation program with Plano's participation onsite, and, notwithstanding the foregoing, for as long as the District operates the Common Odor Unit (allowing for repair and maintenance) and while Plano is on the premises.
- B. Severability. If any provision of this MOU is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this MOU shall not be affected thereby, and this MOU shall be construed as if such invalid provision had never been contained herein, and the remaining enforceable provisions of this MOU are expressly deemed severable for this purpose.
- C. Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this MOU.
- D. Entire Agreement. This MOU contains the entire agreement of the Parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter hereof.
- E. Amendments. Any amendment to this MOU must be in writing and shall be effective only if signed by the authorized representatives of each Party to this MOU.
- F. Effect of Force Majeure. If any Party is unable to perform, in whole or in part, its obligations under this MOU by reason of "force majeure," then performance of such obligations shall be suspended to the extent and during the period directly affected by the force majeure; provided, however, all due diligence must be exercised to eliminate the force majeure and to resume full performance at the earliest practicable time. As soon as reasonably possible after the occurrence of the force majeure relied upon to suspend performance, the Party whose performance is suspended shall give notice and full particulars of the force majeure to the other Party. The term "force majeure" includes: (i) acts of God; strikes; lockouts or other industrial disturbances; criminal conduct or sabotage; acts of the public enemy; orders of the government of the United States or the State of Texas or any civil or military authority; insurrections or riots; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; epidemics; pandemics; arrests; restraints of government; civil disturbances; explosions; or any other events,

whether similar to those enumerated or otherwise, (ii) that are not within the reasonable control of the Party claiming the right to suspend performance, and (iii) that could not have been avoided by the exercise of due diligence.

- G. Effect of Legislative Changes. If any Party to this MOU is unable to perform, in whole or in part, its obligations under this MOU by reason of legislative or regulatory changes beyond its control, then performance shall be suspended only to the extent and during the period affected by the change.
- H. No Third-Party Beneficiaries. This MOU shall inure only to the benefit of the Parties and their successors and assigns as permitted by this MOU. No person or entity that is not a Party to this MOU shall be considered a third-party beneficiary of this MOU.
- I. Applicable Law. This MOU shall be construed in accordance with Texas law.
- J. Venue. Venue for any action arising hereunder shall be in Collin County, Texas.
- K. Notices. Any notice required or contemplated by this MOU shall be deemed given (i) if mailed via Certified Mail Return Receipt Requested, on the earlier of the date actually received or five business days after mailed, and (ii) if deposited with a private delivery service (such as U.P.S. or FedEx), when delivered, as evidenced by a receipt signed by a person at the delivery address, when received at the delivery address. All notices shall be addressed as follows:

If to NTMWD: Executive Director
 PO Box 2408
 North Texas Municipal Water District
 Wylie, Texas 75098

If to Plano: City of Plano
 Director of Public Works
 4120 W. Plano Parkway
 Plano, TX 75093

- L. Counterparts. This MOU may be executed in multiple counterparts, each of which will be deemed an original, and all of which will constitute one and the same instrument. Each Party represents and warrants that they have the full right, power and authority to execute this MOU.
- M. Termination. Any Party may terminate its participation in this MOU by providing the other Parties with (30) thirty days written notice that it will no longer be a party under the MOU.

NORTH TEXAS MUNICIPAL WATER DISTRICT:

Jennafer P. Covington, Executive Director

Date

CITY OF PLANO:

Mark D. Israelson, City Manager

Date

APPROVED AS TO FORM:

Paige Mims, City Attorney
City of Plano, Texas



3/28/2024

Administrative Memorandum No. 24-5999

**Per- and Polyfluoroalkyl Substances (PFAS) Management Roadmap
Project No. 101-0645-24; Engineering Services Agreement**

SUBJECT

Authorize an engineering services agreement for the development of the Per- and Polyfluoroalkyl Substances (PFAS) Management Roadmap.

PURPOSE

This Roadmap is designed to be a holistic approach for assessment of North Texas Municipal Water District's water, wastewater, and solid waste systems in relation to management of PFAS within these systems. The outcome of the Roadmap is a process collaborated across all NTMWD systems that the District can use to guide its decisions and investments related to PFAS management and compliance with currently proposed regulations within the next 5-10 years.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director to execute an engineering services agreement (ESA) as follows:

Consultant: Plummer Associates, Inc.

Scope: Roadmap

Project: No. 101-0645-24, PFAS Management Roadmap

Amount: \$488,880

Strategic Objective: 1.1 High Quality Services, 1.4 Reliable and Resilient System

Committee: This item was discussed at the February 22, 2024, Board of Directors meeting and is an item on the March 27, 2024, Water Committee meeting

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 checked="" type="checkbox"/> Operational Efficiency
<input type="checkbox"/> Safety	<input type="checkbox"/> Administrative
<input type="checkbox"/> Policy	<input type="checkbox"/> Other _____

BACKGROUND

- The Environmental Protection Agency (EPA) classifies PFAS as an public health and environmental issue facing communities across the United States. PFAS have been manufactured and used in a variety of industries in the United States and around the globe since the 1940’s, and they are still being used today. PFAS can be found in surface water, groundwater, soil, and air - from remote rural areas to densely-populated urban centers. A growing body of scientific evidence shows that exposure at certain levels to specific PFAS can adversely impact human health and other living things.
- NTMWD requires tools, validated methods, and an overall approach in the management of PFAS to demonstrate facility compliance to changing federal requirements. Limiting exposure and addressing PFAS hazards is a priority at District treatment and disposal facilities.
- This Roadmap would assess NTMWD water, wastewater, and solid waste facilities for efficiency of PFAS treatments, and provide recommendations to increase efficiency and continue to meet federal requirements. All departments of NTMWD would utilize the resulting process to appropriately invest and prioritize construction efforts in the future.

PROJECT COMPONENTS

- Review existing state of PFAS regulations and occurrence, transport pathways, and management at NTMWD. Obtain, review and analyze relevant information, data, reports, master plans, studies from NTMWD related to PFAS management including sampling data collected from water, wastewater and/or solid waste systems, industrial pre-treatment surveys, sources evaluations, treatment evaluations, or other relevant studies or reports.
- Identify and summarize the potential sources and transport pathways of PFAS within the NTMWD systems, including point and non-point sources, and transport pathways between the water, wastewater and solid waste systems.
- Screening evaluation of treatment and management options. The screening evaluation will be used to eliminate “fatal flaw” or otherwise undesirable or impractical treatment or management options within each system. The evaluation will provide high-level, qualitative assessment of key issues and, where applicable, high-level, relative costs.
- Prepare PFAS management roadmap. Based on information developed and input received from previous tasks, develop a plan for management of PFAS for NTMWD water, wastewater and solid waste facilities.

BASIC SERVICES

- Project management and coordination with other agencies
- Coordination with stakeholders
- Site visits to related facilities
- Workshops
- Draft and final road map report

SPECIAL SERVICES

- Owner may direct services for additional meetings, presentations, testing, assessment, analyses, etc.

CONSULTANT SELECTION PROCESS

- Plummer Associates, Inc has been deemed the most highly qualified firm for this project.

ENGINEERING SERVICES FEE

Description	Amount
Basic Services	\$488,880
Special Services	\$0.00
Requested ESA Amount	\$488,880

FUNDING

FUND(S): This project will support Water, Wastewater and Solid Waste Facilities. Therefore, it is proposed to split funding 80% from the Regional Water System, 15% from the Regional Wastewater System and 5% from the Regional Solid Waste System.

Funding to Plummer Associates, Inc in the amount of \$391,104 is to be made available from the Regional Water System Capital Improvement Fund, \$73,332 from the Regional Wastewater System Capital Improvement Fund, and \$24,444 from the Regional Solid Waste System Capital Improvement Fund.



3/28/2024

Administrative Memorandum No. 24-6000

Regional Water System

Leonard Water Treatment Plant Phase II; Project Number 101-0600-21

Tabulation of Bids and Award of Contract

SUBJECT

Authorize award of a construction contract for the Leonard Water Treatment Plant Phase II Expansion Project.

PURPOSE

Award a construction contract for an additional 70 Million Gallons per Day (MGD) water treatment capacity at Leonard Water Treatment Plant (Leonard WTP) making additional use of the Bois d’Arc Lake water supply. Additional capacity from the Bois d’Arc Lake system is consistent with NTMWD’s plans and efforts to continuously supply safe potable water to its growing service area.

RECOMMENDATION

The Executive Director, NTMWD staff and Jacobs Engineering Group, Inc. recommend the Board of Directors authorize the award of a contract as follows:

- Consultant: Thalle Construction Co., Inc.
- Scope: Construction
- Project: No. 101-0600-21, Leonard Water Treatment Plant Phase II
- Amount: Construction Contract Amount: \$290,955,000
- Strategic Objective: 1.2 Successfully Deliver Capital Program 1.4 Reliable and Resilient System Capacity
- Committee: This will be an item on the March 27, 2024, Water Committee meeting agenda.

DRIVER(S) FOR THIS PROJECT

<input type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input checked="" type="checkbox"/> Capacity	<input checked="" 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 _____

BACKGROUND

PROJECT PURPOSE

- Construct Phase II of the Leonard WTP
- This second phase of the Leonard WTP will include facilities and equipment to treat an additional 70 million gallons per day for a total treatment capacity of 140 MGD.
- Construction is estimated to take four years with Start-up and Commissioning expected by December of 2027.
- Planning level construction cost for Phase II is \$267,000,000.00.
- Master Planning for future expansions of the Leonard WTP includes an ultimate capacity of 280 MGD.

PROJECT COMPONENTS

- New treatment facilities included in Phase II to increase the capacity:
 - Pre-Treatment (flocculation and sedimentation) basin
 - Filter complex
 - Liquid oxygen unloading facilities
 - East and West Chemical Buildings
 - Chlorine Contact basin and Clearwell
- Improvements and additional equipment to existing facilities:
 - Influent Pump Station - additional pumps
 - Additional ozone generators and process equipment
- Electrical equipment
- Supervisory Control and Data Acquisition (SCADA) instrumentation and controls programming
- Site and yard piping

TABULATION OF BIDS

Sealed bids for construction of Leonard WTP Phase II were received at 2:00 p.m. on Wednesday, February 14, 2024, as tabulated below:

Bidder	Total Bid	Recommendation
Archer Western Construction, LLC	\$294,074,000	
Thalle Construction Co., Inc.	\$290,955,000	Lowest Responsible Bidder
ENGINEER'S OPINION OF PROBABLE COST	\$267,000,000	

LOWEST RESPONSIBLE BIDDER HISTORY

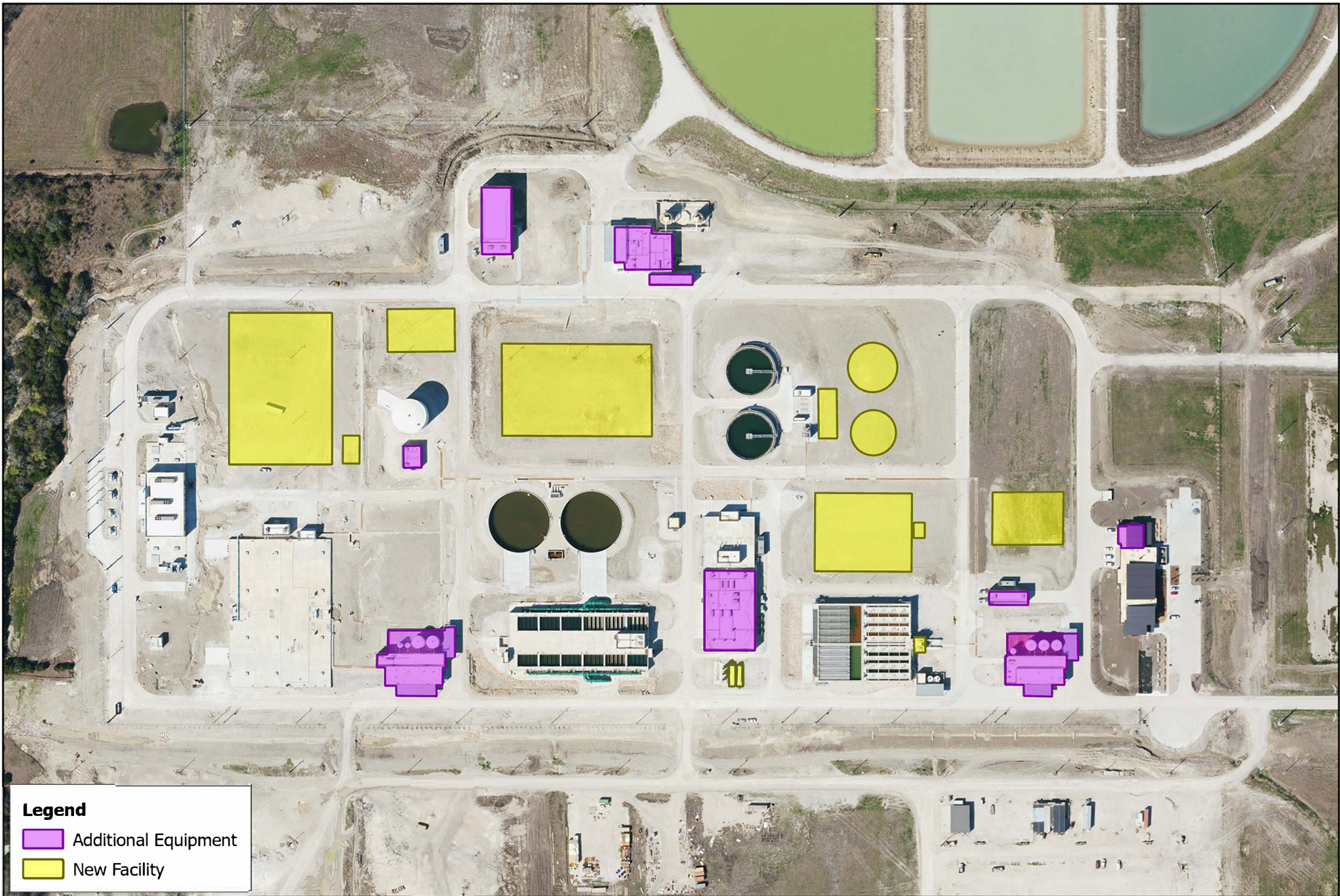
Thalle Construction Co., Inc. has successfully completed or is currently in construction on several similar projects for the NTMWD and for other entities:

- NTMWD Project No. 101-0344-13 TSR under CMAR No. 1, Leonard WTP Terminal Water Storage Reservoir (Completed 2021); subcontractor to Archer Western Construction
- Brushy Creek Wastewater Treatment Plant, Round Rock, TX
- Sam's Branch Water Reclamation Facility, Clayton, NC
- Trinity River Authority Regional Wastewater, Phase IIIB, Grand Prairie, TX
- Trinity River Authority Red Oak Peak Flow Storage & Flood, Red Oak, TX
- Paris Wastewater Treatment Plant Improvements, Phase I, Paris, TX
- NACA Wastewater Treatment Plant, Bentonville, AR



Based on their standing as lowest responsible bidder, the information provided, and reports by the supplied references, the NTMWD staff and Jacobs Engineering Group, Inc. recommend award of the contract to Thalle Construction Co., Inc.

FUNDING

Funding in the amount of \$290,955,000 to Thalle Construction Company Inc is to be made available in the Regional Water System SWIFT Construction Funds contingent upon Texas Water Development Board approval of the contract and release of funding.



Legend

-  Additional Equipment
-  New Facility

**Leonard Water Treatment Plant Phase II Expansion
Project No. 101-0600-21**





3/28/2024

Administrative Memorandum No. 24-6001

Regional Water System

Leonard Water Treatment Plant Phase II; Project No. 101-0600-21
Leonard WTP Terminal Storage Reservoir Phase II; Project No. 101-0601-21
Bois d’Arc Lake Raw Water Pump Station Phase II; Project No. 101-0602-21
Leonard WTP High Service Pump Station Phase II; Project No. 101-0603-22

Additional Services for Construction Management and Inspection - Construction Phase

SUBJECT

Recommend Board authorization for additional construction management and inspection services, and Internal Inspection Services for the construction of four projects that comprise the Bois d’Arc Lake System Phase II Program.

PURPOSE

This agreement will provide outsourced technical and administrative resources for the daily activities related with the oversight, construction management, and quality assurance, and supplemental inspection support of the NTMWD internal Inspectors during the construction across the four projects of the Bois d’Arc Lake System Phase II Program. This is a subsequent phase of the Construction Management Services Agreement to Black & Veatch, which was previously authorized by Administrative Memorandum No. 5923 in July 2023.

RECOMMENDATION

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

Consultant: Black and Veatch Corporation (Black & Veatch)

Scope: Construction Management and Inspection Services for Bois d’Arc Lake System Phase II Program

Project: Leonard Water Treatment Plant Phase II (Leonard WTP), Project No. 101-0600-21 Leonard WTP Terminal Storage Reservoir (TSR) Phase II, Project No. 101-0601-21 Bois d’Arc Lake Raw Water Pump Station (BDL RWPS) Phase II, Project No. 101-0602-21 Leonard WTP High Service Pump Station (HSPS) Phase II, Project No. 101-0603-22

Amount: Construction Management and Inspection Amount: \$15,956,446 Internal Inspection Services Amount: \$1,962,000

Strategic Objective: 1.4 - Reliable and Resilient System capacity 1.2 - Successfully deliver capital program

Committee: This will be an item on the March 27, 2024, Water Committee meeting agenda

DRIVER(S) FOR THIS PROJECT

<input type="checkbox"/> Regulatory Compliance	<input type="checkbox"/> Asset Condition
<input checked="" type="checkbox"/> Capacity	<input checked="" 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 _____

BACKGROUND

PROJECT PURPOSE

- Provide outsourced construction management services prior to the construction contract bid to represent the District’s interest in coordinating the bid documents and in providing review and comment pertaining to potential risks associated with the scheduling or sequencing of the separate projects.
- Once construction has commenced, maintain documentation and reporting to the District staff of issues and status relating to the construction progress
- Provide inspection support, in coordination with assigned District Inspection personnel, of the multiple construction projects for quality assurance and adherence to the contract documents.

CONSTRUCTION MANAGEMENT SERVICES

- Administer and manage the day-to-day requirements of the Projects in regular coordination with the District Program Manager (PM) and In-house Inspectors.
- Serve as primary contact with the General Contractor with primary responsibility for construction contract administration.
- Provide direction and manage the efforts of inspectors.
- Coordinate with the District PM on issues that impact ongoing operations.
- Monitor construction activities for conformance with contract, schedule, and quality assurance.

SUPPLEMENTAL INSPECTION SERVICES

- Provide third-party inspectors to supplement NTMWD Inspectors.
- Work alongside and in coordination with NTMWD Inspectors to enforce the Contract documents during construction activity.
- Provide daily status of schedule and field issues by preparing Daily Field Reports and photos and participate in ongoing communications with the Contractor.
- Coordinate with project team in processing requests for information, submittals, clarification of the plans, and processing of claims.

The initial term of these services is two years. At that point the services and ongoing needs of the District will be reassessed for possible extension. Attached is the table summarizing the third-party additional construction management and inspection services fee.

INTERNAL INSPECTION SERVICES

NTMWD's North System Construction Inspection Staff (one Senior Inspector and two Construction Inspectors) will be assigned to provide inspection services for this project.

Attached is the table summarizing the additional construction management and inspection services fee.

FUNDING

Funding in the amount \$15,956,446 to Black & Veatch, and \$1,962,000 for NTMWD Internal Inspection Services is to be made available in the Regional Water System SWIFT Construction Funds contingent upon Texas Water Development Board approval of the contract and release of funding.

Leonard Water Treatment Plant Phase II; Project No. 101-0600-21
Leonard WTP Terminal Storage Reservoir Phase II; Project No. 101-0601-21
Bois d’Arc Lake Raw Water Pump Station Phase II; Project No. 101-0602-21
Leonard WTP High Service Pump Station Phase II; Project No. 101-0603-22

Additional Services for Construction Management and Inspection – Construction Phase

Attachment

ADDITIONAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FEE

DESCRIPTION	AMOUNT
Additional Services – Construction Phase	
Project No. 101-0600-21, Leonard WTP Phase II	\$7,103,267
Project No. 101-0601-21, Leonard WTP TSR Phase II	\$2,018,840
Project No. 101-0602-21, BDL RWPS Phase II	\$3,867,698
Project No. 101-0603-22, Leonard WTP HSPS Phase II	\$2,946,641
Additional Special Services, Project No. 101-0600-21	\$20,000
Current Request	\$15,956,446

SUMMARY OF TOTAL CONTRACT AUTHORIZATION

Previous Authorization – Administrative Memorandum No. 5923	
Project No. 101-0600-21, Leonard WTP Phase II	\$95,000
Project No. 101-0601-21, Leonard WTP TSR Phase II	\$5,000
Project No. 101-0602-21, BDL RWPS Phase II	\$90,000
Project No. 101-0603-22, Leonard WTP HSPS Phase II	\$90,000
Current Contract Amount	\$280,000
Total Authorization upon approval of current request	
Project No. 101-0600-21, Leonard WTP Phase II (includes Special Services)	\$7,218,267
Project No. 101-0601-21, Leonard WTP TSR Phase II	\$2,023,840
Project No. 101-0602-21, BDL RWPS Phase II	\$3,957,698
Project No. 101-0603-22, Leonard WTP HSPS Phase II	\$3,036,641
Total Revised Contract Amount	\$16,236,446



3/28/2024

Administrative Memorandum No. 24-6002

Regional Water System

Development Agreement between the North Texas Municipal Water District and the Kansas City Southern Railway Company regarding a future Rail Spur project in Wylie Texas; Project No. 101-0646-24; Resolution No. 24-10

SUBJECT

Authorize the execution of a Development Agreement between the North Texas Municipal Water District (NTMWD) and the Kansas City Southern Railway Company, d/b/a CPKC.

PURPOSE

CPKC plans to construct a future spur track that will cross NTMWD’s Lake Texoma Outfall to Wylie Water Treatment Plant 96-inch raw waterline and NTMWD’s Wylie to Rockwall 48-inch waterline, east of Spring Creek Parkway in Wylie, Texas. The CPKC project will require steel casing to be installed around NTMWD’s waterlines at the railroad crossing to protect the pipelines from heavy railroad loads.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize the Executive Director, NTMWD staff, and Saunders, Walsh and Beard recommend the Board of Directors authorize the Executive Director to execute a Development Agreement as follows:

1. Authorize the Executive Director to execute a Development Agreement with the Kansas City Southern Railway Company, d/b/a CPKC.
2. Adopt Resolution No. 24-10, *“A Resolution Authorizing the Executive Director to execute a Development Agreement between the North Texas Municipal Water District and the Kansas City Southern Railway Company, d/b/a CPKC regarding a future CPKC Rail Spur Project in Wylie, Texas”*

Contracting Party: Kansas City Southern Railway Company

Scope: Construction of CPKC Rail Spur and Parking Lot

Project: No. 101-0646-24 Development Agreement between the NTMWD and the CPKC regarding future CPKC Rail Spur project in Wylie Texas

Amount: \$7,177,272.40

Strategic Objective: 1.4 Reliable and Resilient Systems 3.3 Durable Strategic Partnerships

Committee: This will be an item on the March 27, 2024, Water Committee meeting 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 checked="" 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 _____

BACKGROUND

- In September 2023, CPKC contacted NTMWD staff regarding CPKC’s planned rail spur and parking lot project at the Wylie Intermodal Terminal Facility north of State Highway 78, between Spring Creek Parkway and Skyview Court. The planned rail spur will cross NTMWD’s Lake Texoma Outfall to Wylie Water Treatment Plant 96-inch raw waterline and NTMWD’s Wylie to Rockwall 48-inch waterline.
- As part of their project, a planned parking lot will conflict with an air valve and blow-off valve on NTMWD’s Wylie to Rockwall 48-inch waterline.
- NTMWD’s waterline easements granted by CPKC require the NTMWD to install steel casing around the waterlines within the right-of-way of future railroad crossings and potentially relocate portions or aspects of the waterlines in order to protect the waterlines from heavy railroad loads.
- To complete this work expeditiously and allow CPKC to proceed with its spur track project, NTMWD staff recommends CPKC include NTMWD’s pipeline improvements with its spur track project. The NTMWD will reimburse CPKC for all costs associated with the design, construction and inspection of the steel casing installations.
- CPKC will pay for all costs associated with the design, construction and inspection of NTMWD’s air valve and blow-off valve modifications.
- CPKC will employ the services of a large diameter pipe contractor that has successfully completed NTMWD pipeline projects and is currently in good standing with the NTMWD.
- CPKC will separate the work associated with NTMWD’s pipeline improvements from non-NTMWD work in its construction contract so that all reimbursable costs are clearly indicated.

DEVELOPMENT AGREEMENT:

The Development Agreement is attached. The general notable terms are as follows:

- CPKC will employ a professional engineering firm licensed in the State of Texas to design the casing installation to conform with the American Railway Engineering and Maintenance-of-Way Association E-80 train load requirements.
- CPKC will employ a professional engineering firm licensed in the State of Texas to design the valve improvements to conform with the American Association of State Highway and Transportation Officials H20 load requirements.
- NTMWD will reimburse CPKC for all costs associated with the casing installation.
- CPKC will be responsible for all costs associated with the valve improvements.
- NTMWD shall have the sole right to approve the design plans prior to CPKC selecting through its bid process a third-party to perform the casing installation and valve improvements work.
- Prior to the award, CPKC shall notify NTMWD of the proposed contractor and winning bid amount for NTMWD staff review and approval.

FUNDING

Funding in the amount of \$7,177,272.40 to Kansas City Southern Railway Company is to be made available from the Regional Water System Capital Improvement Fund.

NORTH TEXAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 24-10

A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN THE NORTH TEXAS MUNICIPAL WATER DISTRICT AND THE KANSAS CITY SOUTHERN RAILWAY COMPANY, D/B/A CPKC REGARDING A FUTURE CPKC RAIL SPUR IN WYLIE, TEXAS

WHEREAS, CPKC's future spur track project ("CPKC Spur Track Project"), incorporated herein by reference, will cross NTMWD's Lake Texoma Outfall to Wylie Water Treatment Plant 96-inch raw water transmission line and NTMWD's Wylie to Rockwall 48-inch water transmission line east of Spring Creek Parkway, Wylie Texas (collectively "**Affected Waterlines**"); and

WHEREAS, CPKC's Spur Track Project will conflict with an air valve and blow-off valve on NTMWD's Wylie to Rockwall Relocation, Phase I 48-inch water transmission line east of Spring Creek Parkway, Wylie Texas (collectively "**Affected Valves**"); and

WHEREAS, NTMWD's Affected Waterline easements granted by CPKC require the NTMWD to install steel casing around the Affected Waterlines within the right-of-way of future railroad crossings and potentially relocate portions or aspects of the Affected Waterlines in order to protect the Affected Waterlines from heavy railroad loads (collectively "**Casing Installation**"); and

WHEREAS, CPKC will make certain adjustments to NTMWD's Affected Valves to resolve conflicts between valve appurtenances and proposed parking lot (collectively "**Valve Modifications**"); and

WHEREAS, NTMWD wishes to include CPKC's performance of the Casing Installation and Valve Modifications in the CPKC Spur Track Project; and

WHEREAS, NTMWD will reimburse CPKC for all costs associated with the Casing Installation work; and

WHEREAS, CPKC will pay for all costs as associated with the Valve Modifications work.

NOW, THEREFORE, THE BOARD OF DIRECTORS IN A REGULAR MEETING RESOLVES THAT:

1. The NTMWD will reimburse CPKC for all costs associated with the Casing Installation work.
2. The Executive Director is authorized to execute a Development Agreement with CPKC for the above-named project.

**THIS RESOLUTION ADOPTED BY THE NTMWD BOARD OF DIRECTORS IN
A REGULAR MEETING ON MARCH 28, 2024, IN THE ADMINISTRATIVE
OFFICES OF THE NTMWD, WYLIE, TEXAS.**

DAVID HOLLIFIELD, Secretary

RICHARD PEASLEY, President

(SEAL)

**DEVELOPMENT AGREEMENT
BETWEEN THE KANSAS CITY SOUTHERN RAILWAY COMPANY AND
NORTH TEXAS MUNICIPAL WATER DISTRICT**

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made between **THE KANSAS CITY SOUTHERN RAILWAY COMPANY, d/b/a CPKC** (“CPKC”) and the **NORTH TEXAS MUNICIPAL WATER DISTRICT** (“NTMWD”), acting by and through their duly authorized representatives. (CPKC and NTMWD collectively hereafter being called “Parties” and individually as the “Party”).

WHEREAS, CPKC’s future spur track project as depicted on **Exhibit A** (“CPKC Spur Track Project”), incorporated herein by reference, will cross NTMWD’s Lake Texoma Outfall to Wylie Water Treatment Plant 96-inch raw water transmission line, Fiber Optic Cable and NTMWD’s Wylie to Rockwall 48-inch water transmission line east of Spring Creek Parkway, Wylie Texas (collectively “**Affected Waterlines**”); and

WHEREAS, CPKC’s Spur Track Project as further depicted on **Exhibit B**, will conflict with an air valve and blow-off valve on NTMWD’s Wylie to Rockwall Relocation, Phase I 48-inch water transmission line east of Spring Creek Parkway, Wylie Texas (collectively “**Affected Valves**”); and

WHEREAS, NTMWD’s Affected Waterline easements granted by CPKC require NTMWD to install steel casing around the Affected Waterlines within the right-of-way of future railroad crossings and potentially relocate portions or aspects of the Affected Waterlines in order to protect the Affected Waterlines from heavy railroad loads (“**Casing Installation**”); and

WHEREAS, CPKC will make certain adjustments to NTMWD’s Affected Valves to resolve expected conflicts between appurtenances and the proposed parking lot(s) as described in Article One (collectively “**Valve Improvements**”); and

WHEREAS, NTMWD wishes to include CPKC’s performance of the Casing Installation and Valve Improvements (collectively “**Pipeline Improvements**”) in the CPKC Spur Track Project; and

WHEREAS, NTMWD will reimburse CPKC for all costs associated with the Casing Installation work; and

WHEREAS, CPKC will pay for all costs as associated with the Valve Improvements work; and

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

**ARTICLE ONE
PIPELINE IMPROVEMENTS**

1.01 Pipeline Improvements. The Parties agree that:

(a) CPKC will employ a professional engineering firm licensed in the State of Texas to design the Casing Installation to conform with the American Railway Engineering and Maintenance-of-Way Association (AREMA) E-80 train load requirements;

(b) The extent of the Casing Installation will be as follows:

- Wylie to Rockwall 48-inch waterline
 - i. Install 200 linear feet of 60-inch steel split casing around waterline from NTMWD station no. 108+45 to station no. 110+45.
 - ii. Split casing will be welded longitudinally and transverse.
 - iii. Grout annular space between casing and carrier pipe.
- Lake Texoma Outfall to Wylie 96-inch waterline
 - i. Install 280 linear feet of 108-inch steel split casing around waterline from NTMWD station no. 4388+18 to station no. 4390+98.
 - ii. Split casing will be welded longitudinally and transverse.
 - iii. Grout annular space between casing and carrier pipe.
 - iv. Install safety precautions to protect NTMWD Fiber Optic Cable during installation of casing.

(c) CPKC will employ a professional engineering firm licensed in the State of Texas to design the Valve Improvements to conform with the American Association of State Highway and Transportation Officials (ASSHTO) H20 load requirements.

(d) The extent of the Valve Improvements will be as follows:

- Air Valve Improvements:
 - i. Rim elevation of existing manhole at NTMWD pipeline station no. 29+62.61 will be lowered to match top of pavement elevation.
 - ii. Install new manhole approximately 18-feet away and relocate existing vent stack to new manhole, to clear proposed access road.
- Blow-off Valve Improvements:
 - i. Rim elevation of existing manhole at NTMWD pipeline station no. 33+78.03 will be lowered to match top of pavement elevation.

- ii. Extend blow-off valve discharge pipe approximately 60.5-feet to proposed drainage channel.

(e) NTMWD shall have the sole right to approve the Pipeline Improvements design plans, subject to the conditions and limitations set forth herein, prior to CPKC selecting through its bid process a third party to perform the Pipeline Improvements work (the “Contractor(s)”);

(f) Any NTMWD objection(s) to the Pipeline Improvements design plans must be provided in writing to CPKC no later than fourteen (14) calendar days after NTMWD’s receipt of the same from CPKC, otherwise the Pipeline Improvements design plans will be regarded as approved by NTMWD;

(g) If NTMWD provides any objection(s) as set forth in (c) above, the Parties shall confer for no more than thirty (30) calendar days in an effort to reach a mutually-agreeable modification of the Pipeline Improvements design plans to resolve NTMWD’s stated objection(s);

(h) If the Parties cannot reach a mutually-agreeable resolution as set forth in (g) above, then this Agreement shall be terminated—without any responsibility by either Party for any associated costs, expenses, losses, or damages suffered by the other Party—and NTMWD shall be responsible for completing, either on its own or through its own contractor(s), the Casing Installation work within the estimated timeframe for the CPKC Project that will otherwise move forward with CPKC’s selected contractor on the non-Pipeline Improvements work;

(i) Subject to NTMWD being the Party responsible to perform the work in the event of termination of this Agreement as set forth in (h) above or (n) below, the Pipeline Improvements work will be done by a CPKC-selected Contractor following the bid process and pursuant to a construction contract to be entered into by and between CPKC and Contractor specifically covering the Pipeline Improvements work (the “Construction Contract”);

(j) The Pipeline Improvements work will be included in CPKC’s bid package as a separate bid item to clearly indicate the Contractor’s (or Contractors’) estimated specific cost of that work;

(k) Prior to CPKC’s selection of the winning Contractor bid(s), and following NTMWD’s explicit or implicit approval of the Pipeline Improvements design plans as set forth in (e)-(g) above, CPKC shall advise NTMWD both which Contractor(s) CPKC is prepared to select as the winning bid and what that Contractor’s/Contractors’ estimated budget is for the Pipeline Improvements work;

(l) Any NTMWD objection(s) to CPKC's intended Contractor selection must be provided in writing to CPKC, along with the reason(s) for such objection, no later than fourteen (14) calendar days after CPKC's notification of the same to NTMWD, otherwise that Contractor will be regarded as approved by NTMWD;

(m) If NTMWD provides any objection(s) as set forth in (l) above, the Parties shall confer for no more than thirty (30) calendar days in an effort to decide upon an acceptable alternative Contractor to perform the Pipeline Improvements work;

(n) If the Parties cannot reach an agreement as set forth in (m) above, then this Agreement shall be terminated—without any responsibility by either Party for any associated costs, expenses, losses, or damages suffered by the other Party—and NTMWD shall be responsible for completing, either on its own or through its own contractor(s), the Casing Installation work within the estimated timeframe for the CPKC Project;

(o) Installation of the Pipeline Improvements by a CPKC-selected Contractor, as contemplated above, cannot begin until CPKC receives approval from NTMWD to begin the work, which approval shall not be unreasonably withheld or delayed;

(p) The Pipeline Improvements shall in any case be completed by the responsible Party by May 1, 2024; and

(q) NTMWD will pay CPKC for all Casing Installation costs and expenses as set forth herein, except in the event of termination of this Agreement pursuant to (h) and/or (n) above, in which case NTMWD will itself be responsible for the Casing Installation work and all associated costs and expenses.

(r) NTMWD's Fiber Optic Cable and Wylie to Lavon 48-inch waterline must remain in service throughout the Casing Installation work. All Casing Installation work must be completed by May 1, 2024.

(s) NTMWD's Lake Texoma Outfall to Wylie Water Treatment Plant 96-inch raw water transmission line may be removed from service for up to 10 calendar days. CPKC's Contractor must submit a shutdown schedule for NTMWD's review a minimum of 14 calendar days prior to the proposed transmission line shutdown. The shutdown schedule must be approved by NTMWD prior to performing work. All Casing Installation work for the 96-inch transmission line must be completed by June 1, 2024.

(t) NTMWD shall have access to its Fiber Optic Cable, Affected Waterlines and Affected Valves throughout the Pipeline Improvements work.

1.02 Payment for Casing Installation. All costs and expenses, of any kind and nature, related to the Casing Installation on the Affected Waterlines shall be paid entirely by NTMWD. It is anticipated that NTMWD shall pay for the Casing Installation in the following two phases:

(a) The first phase covers CPKC's procurement of design services including plans, construction administration services and material testing services needed for the Casing Installation and associated work. The current estimated cost of design services is \$417,737. As set forth above in 1.01(h), NTMWD shall have the right to terminate this Agreement if the Parties cannot agree on the Pipeline Improvements design plans, in which case NTMWD will have no responsibility to reimburse CPKC for its cost in securing the Casing Installation design plans, although NTMWD will then itself be responsible for all associated Casing Installation costs, including the cost of securing alternative design plans, as set forth above in Section 1.01(h) and (q). Except in the event of such termination, the design work payment shall be made by NTMWD prior to any phase-two construction work commencing.

(b) The second phase covers the construction work needed for the Casing Installation. CPKC shall not enter into any Construction Contract for the Casing Installation until after CPKC's selected Contractor, and its associated estimated budget for the Casing Installation, has been approved by NTMWD as set forth in Section 1. The current estimated cost of the Casing Installation is \$7,177,272.40. As set forth above in 1.01(n), NTMWD shall have the right to terminate this Agreement if the Parties cannot agree on the CPKC-selected Contractor and its associated budget for the Casing Installation, although NTMWD will then itself be responsible for all Casing Installation work and costs, as set forth above in 1.01(h) and (q). The construction work payment shall be made by NTMWD to CPKC upon its award of the Construction Contract to the Contractor and full execution of the Construction Contract by Contractor and CPKC, a copy of which shall be delivered to NTMWD upon full execution. The construction work payment shall be used by CPKC solely for the purpose of making payments to the Contractor under the Construction Contract.

1.04 Reimbursement of CPKC Fees. NTMWD agrees to reimburse ("Reimbursement Payment") CPKC to perform the tasks necessary and related to CPKC's oversight of the Casing Installation. CPKC will use the Reimbursement Payments by NTMWD for costs CPKC incurs in providing the following services:

(a) Design Fees: CPKC's engineering firm shall design the Casing Installation to meet the requirements of AREMA E-80 railway loads. CPKC shall provide NTMWD with an itemized invoice of design plan fees pertaining to the Casing Installation. NTMWD shall have 45 calendar days after mailing of the invoice to submit payment to CPKC.

(b) Construction Fees: Upon KCS's award of the Construction Contract to the Contractor and full execution of the same, CPKC shall provide NTMWD with an itemized invoice of construction fees pertaining to the Casing Installation on a monthly basis. NTMWD shall have 45 calendar days after mailing of the invoice to submit payment to CPKC.

1.05 Third-Party Beneficiary and Additional Insured. CPKC shall have CPKC's engineering firm and Contractor list NTMWD as an additional insured on all required insurance policies related to the Pipeline Improvements work and design. Additionally, CPKC shall include a third-party beneficiary provision for the benefit of NTMWD in all contracts with CPKC's engineering firm and Contractor relating to the Pipeline Improvements work whereby CPKC's engineering firm and Contractor owe the same contractual obligations, duties, and warranties to NTMWD as are owed to CPKC.

ARTICLE TWO

Term

2.01 This Agreement shall be effective upon approval by the NTMWD Board of Directors and subsequent execution by CPKC and NTMWD's Executive Director. The effective date will be the latter of the dates this Agreement is executed by the Parties' authorized representatives.

ARTICLE THREE

Immunity

3.01 It is expressly understood and agreed that, in the execution of this Agreement, neither Party waives, nor shall be deemed hereby to have waived any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, expressed or implied, other than those set forth herein, and this Agreement shall not create any rights in parties not signatories hereto. The provisions of this paragraph are solely for the benefit of the Parties and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

ARTICLE FOUR

Notices

4.01 All notices required under the provisions of this Agreement must be in writing, hand-delivered or sent by registered or certified mail to the addresses below:

The Kanas City Southern Railway Company, d/b/a CPKC
Attention: Justin Meyer, SVP Engineering & Mechanical
427 W 12th St.
Kansas City, MO 64105

North Texas Municipal Water District
Jennafer P. Covington
Executive Director
P.O. Box 2408
Wylie, TX 75098

The name and address for notification to either Party may be changed by notice to the other Party.

ARTICLE FIVE Severability

5.01 The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

ARTICLE SIX Successors and Assigns

6.01 This Agreement shall be binding upon the Parties hereto, their successors and assigns. Neither Party will assign or transfer an interest in this Agreement without the written consent of the other Party.

ARTICLE SEVEN Venue

7.01 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. The Parties agree that this Agreement is performable in Collin County, Texas, and that exclusive venue shall lie in a state court in Collin County, Texas.

ARTICLE EIGHT
Interpretation

8.01 This is a negotiated document and should any part of this Agreement be in dispute, the Parties agree that the Agreement shall not be construed more favorably for either Party.

ARTICLE NINE
Remedies, Non-Waiver

9.01 No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy granted by law or equity, but each shall be cumulative of every right or remedy given hereunder. No covenant or condition of this Agreement may be waived without the express written consent of the Parties. It is further agreed that one or more instances of forbearance by either Party in the exercise of its respective rights under this Agreement shall in no way constitute a waiver thereof.

ARTICLE TEN
Entire Agreement

10.01 This Agreement embodies the entire agreement between the Parties and may only be modified in writing executed by both Parties.

[SIGNATURE PAGE FOLLOWS]

ATTEST:

**THE KANSAS CITY SOUTHERN RAILWAY
COMPANY, D/B/A CPKC**

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: Justin Meyer
Title: SVP Engineering & Mechanical
Date: _____

APPROVED AS TO FORM:

By: _____
Name: _____
Title: _____
Date: _____

ATTEST:

**NORTH TEXAS MUNICIPAL WATER
DISTRICT**

By: _____
Name: _____
Date: _____

By: _____
Name: Jennafer P. Covington
Title: Executive Director
Date: _____

ACKNOWLEDGMENTS

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2024, by Justin Meyer, SVP Engineering & Mechanical of the **THE KANSAS CITY SOUTHERN RAILWAY COMPANY, D/B/A CPKC**, on behalf of said Corporation.

Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF COLLIN §

This instrument was acknowledged before me on the _____ day of _____, 2024, by **JENNAFER P. COVINGTON**, Executive Director of **NORTH TEXAS MUNICIPAL WATER DISTRICT**.

Notary Public, State of Texas

EXHIBIT B



BOV PIPE TO BE EXTENDED TO PROPOSED CHANNEL

EXISTING BOV MANHOLE
(TO REMAIN IN PLACE)

EXISTING NTMWD CARRIER

EXISTING NTMWD CARRIER

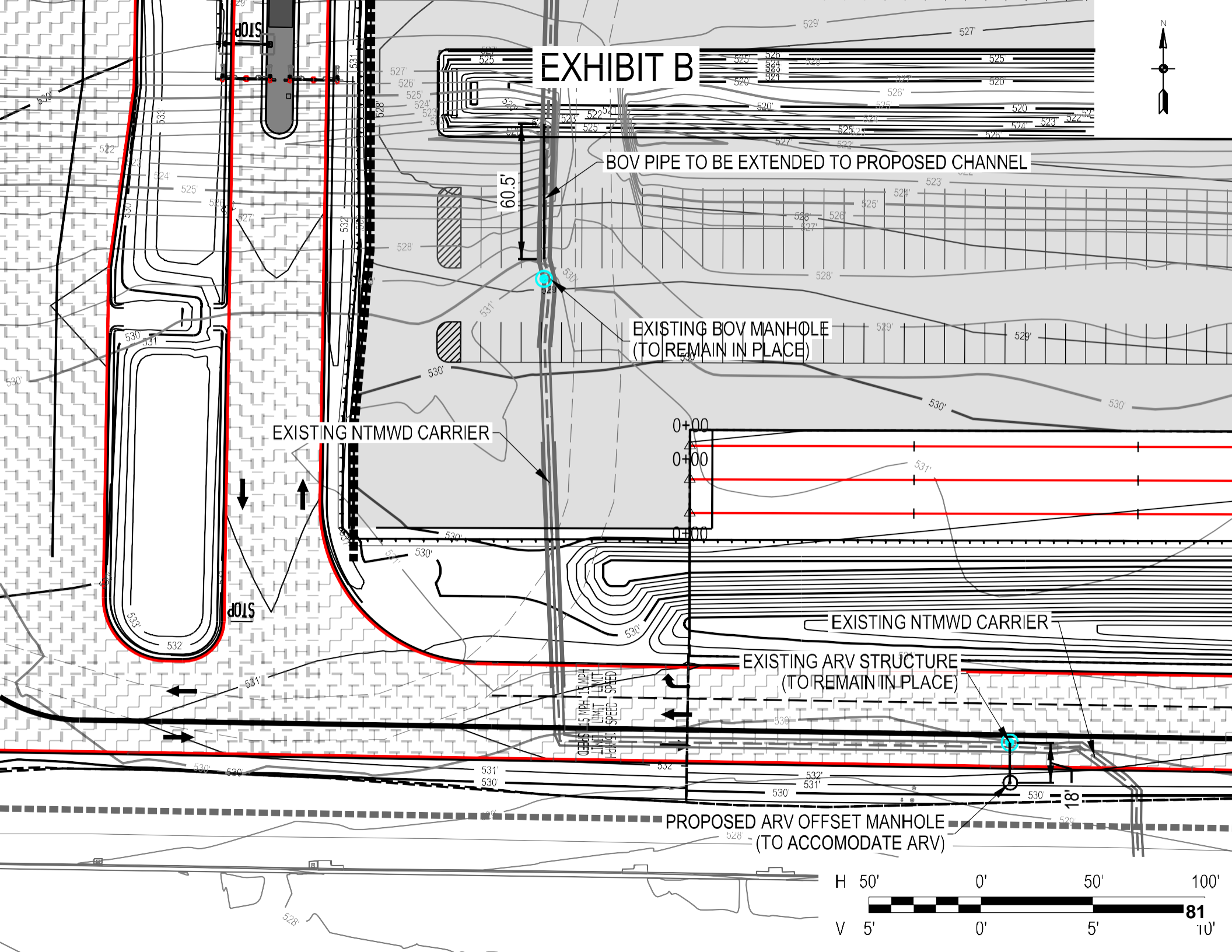
EXISTING ARV STRUCTURE
(TO REMAIN IN PLACE)

PROPOSED ARV OFFSET MANHOLE
(TO ACCOMMODATE ARV)

60.5'

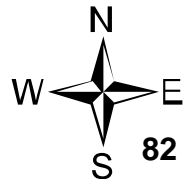
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CELOS 45 MPH
LIMIT
HEIGHT
LIMIT
SPEED-SPED





**Future Kansas City Southern Railway Company (d/b/a CPKC)
Rail Spur Project in Wylie, Texas
Project No. 101-0646-24**





3/28/2024

Administrative Memorandum No. 24-6003

Contract for reservation, diversion, and use of raw water by and between the City of Garland and the North Texas Municipal Water District

SUBJECT

Authorize execution a Contract between the North Texas Municipal Water District (NTMWD) and the City of Garland (Garland) for reservation, diversion, and use of raw water for industrial use from Lavon Lake.

PURPOSE

Renew long-standing agreement to allow the City of Garland continued access to raw water for industrial use at its electric power generation facility adjacent to Lavon Lake.

RECOMMENDATION

The Executive Director and NTMWD staff recommend the Board of Directors authorize execution of a contract as follows:

Contracting Parties: City of Garland and NTMWD

Scope: Execution of a Contract for Reservation, Diversion and Use of Raw Water for Industrial Use from Lavon Lake

Duration: 25 years, with a renewal term of an additional 25 years with mutual written agreement

Water Quantity: Up to 1,500 acre-feet/year

Strategic Objective: 3.3 Durable Strategic Partnerships

Committee: This will be an item on the March 27, 2024, Water Committee meeting 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 checked="" 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 _____

BACKGROUND

- NTMWD is authorized to divert and use water from Lavon Lake for industrial purposes pursuant to Certificate of Adjudication No. 08-2410, as amended.
- NTMWD has ongoing agreements with the United States Army Corps of Engineers to utilize water storage space in Lavon Lake.
- The City of Garland provides electric service to its citizens through Garland Power and Light (GP&L), a municipal non-profit electric power utility.
- GP&L has owned and operated Ray Olinger Power Plant (Plant) and distribution system on the perimeter of Lavon Lake since 1967.
- Raw water from Lavon Lake is necessary to operate the Plant and NTMWD has contractually authorized the use of raw water by the City of Garland for industrial purposes at the Plant since 1964.
- In 1988, NTMWD and the City of Garland entered into an Industrial Raw Water Supply Contract, which was amended in February 2008, and included an initial term that extended through August 1, 2023 (1988 Industrial Raw Water Contract). The 1988 Industrial Raw Water Contract authorized the diversion and use of raw water for industrial operations at the Plant, including power generation and cooling purposes.
- The 1988 Industrial Raw Water Contract allows the City of Garland to divert and use up to 4,000 acre-feet per calendar year of raw water from Lavon Lake for industrial use.
- The City of Garland desires to continue purchasing raw water for industrial purposes from NTMWD for use at the Plant but no longer requires access to the full volume authorized in the 1988 Industrial Raw Water Contract.
- The City of Garland has indicated that a contract quantity of up to 1,500 acre-feet per year is sufficient to meet their long-term operational needs at the Plant. Reducing the contract quantity to 1,500 acre-feet per year will provide NTMWD additional certainty regarding the volume of raw water available in Lavon Lake for municipal drinking water use during periods of extended drought.
- The City of Garland and NTMWD have a long history of cooperation on raw water supply matters. In addition to the 1988 Raw Water Industrial Contract, the NTMWD and City of Garland have a separate agreement through which NTMWD purchases wastewater effluent volumes discharged from the City’s Duck Creek and Rowlett Creek Wastewater Treatment Plants for reuse supply at the East Fork Wetlands (2007 Reuse Contract).

- In 2023, the City of Garland requested to renew the 1988 Raw Water Industrial Contract to allow for continued operation of the Plant. NTMWD and the City of Garland subsequently entered into letter agreements to extend the 1988 Raw Water Industrial Contract through April 30, 2024, to allow time for development of a new contract, a draft copy of which is attached.

KEY CONTRACT TERMS

- The new contract (2024 Industrial Raw Water Contract) will replace and supersede the 1988 Industrial Raw Water Contract and provide the City of Garland with continued access to industrial raw water from Lavon Lake.
- The 2024 Industrial Raw Water Contract will allow the City of Garland to use up to 1,500 acre-feet per year of raw water from Lavon Lake for industrial purposes at the Plant.
- The initial term of the 2024 Industrial Raw Water Contract is a period of twenty-five years, and upon mutual written agreement, the Parties may extend for one additional term of twenty-five years.
- The reservation and diversion fees paid by the City of Garland will be assessed at the same rate and adjust in the same manner as those in the 2007 Reuse Contract. The current rate at which reservation and use fees are assessed in the 2007 Reuse Contract, and included in the 2024 Raw Water Industrial Contract, is \$0.0569 per 1,000 gallons. That rate applies individually to both the reservation and use fees in the 2024 Raw Water Industrial Contract and will adjust annually based on the Consumer Price Index, which is consistent with the 2007 Reuse Contract.
- The 2024 Industrial Raw Water Contract will substantially conform to the attached draft.

FUNDING

No funding is requested.

**CONTRACT FOR RESERVATION, DIVERSION, AND USE OF RAW WATER
BY AND BETWEEN THE CITY OF GARLAND AND
THE NORTH TEXAS MUNICIPAL WATER DISTRICT**

This Contract for Reservation, Diversion and Use of Raw Water (the “*Agreement*”) is made and entered into as of the ____ day of March, 2024 (the “*Effective Date*”), by and between North Texas Municipal Water District, a conservation and reclamation district established pursuant to the Constitution and laws of the State of Texas (hereafter called “*District*”), and the City of Garland, a home rule city in the State of Texas operating pursuant to its home rule charter and the laws of the State of Texas (hereafter called “*Garland*”). In this Agreement, *District* and *Garland* are individually called a “*Party*,” and collectively called the “*Parties*.”

RECITALS:

Whereas, *District* is a conservation and reclamation district and political subdivision of the State of Texas, created and functioning under Article 16, Section 59 of the Texas Constitution and its enabling legislation, Article 8280-141, as amended (the “*District Act*”);

Whereas, *District* and *Garland* are authorized to enter into this Agreement pursuant to the *District Act*, and Chapter 791 of the Texas Government Code, and other applicable laws;

Whereas, *Garland* owns and operates a municipal electric generating plant and distribution system, has constructed an electric generating plant (the “*Plant*”) on the perimeter of Lavon Lake, and water in said reservoir is used, in part, for condenser circulating water at the *Plant*;

Whereas, *District* is authorized to divert and use water from Lavon Lake for industrial purposes pursuant to Certificate of Adjudication No. 08-2410, as amended;

Whereas, *District* has ongoing agreements with the United States of America (Contract No. DA-41-443-eng-3413 and Contract No. DACW63-67-C-0116) to utilize water storage space in Lavon Lake, said agreements include provisions for *District* to participate in cost-sharing with the United States of America for operation and maintenance activities associated with Lavon Lake;

Whereas, the *Parties* entered into that certain North Texas Municipal Water District Regional Water Supply Facilities Amendatory Contract dated August 1, 1988, as amended, under which *Garland* is being supplied treated water for municipal purposes;

Whereas, the *Parties* entered into that certain Industrial Raw Water Supply Contract dated August 1, 1988, amended as of February 28, 2008 (the “*1988 Contract*”) that expires on August 1, 2023, under which *Garland* purchases raw water for industrial purposes from the *District* to operate the *Plant*;

Whereas, the *1988 Contract* requires *Garland* to compensate *District* for raw water diverted and used as required by *Garland* in an amount not to exceed 4,000 acre-feet per calendar year, said compensation based costs for raw water and for use of conservation storage space in Lavon Lake;

Whereas, *Garland* desires to continue purchasing raw water for industrial purposes from *District* for use at the *Plant*, but desires less than the amount authorized for diversion and use in the *1988 Contract* due, in part, to future improvements at the *Plant* that involve the use of more water efficient power generation equipment;

Whereas, *Garland* desires to have the right, but not the obligation, to divert and use at the *Plant* up to one-thousand five-hundred (1,500) acre-feet of raw water per calendar year from Lavon Lake for industrial purposes;

Whereas, *Garland* and *District* entered into letter agreements to extend the *1988 Contract* through April 30, 2024 on August 23, 2023 and December 20, 2023 and *Garland* and *District* now desire to enter into this Agreement to completely replace and supersede the 1988 Contract in its entirety; and

Whereas, the *Parties* recognize that this Agreement has some terms and conditions consistent with terms and conditions of the Contract for Reservation, Diversion, and Use of Effluent dated July 5, 2007 as may be amended (the “*Reuse Contract*”) regarding the *District’s* purchase of effluent water, and the Parties further recognize that such consistency shall be maintained in any amendment to, or replacement of, the *Reuse Contract*;

For and in consideration of this Agreement, the consideration stated below, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged and confessed, the *Parties* agree as follows:

I. TERM

- 1.01. **Primary Term.** The initial term of this Agreement (the “*Primary Term*”) is a period of twenty-five (25) years, commencing on the Effective Date, subject, however, to the right of *Garland* to unilaterally terminate this Agreement as provided in Section 1.03 below.
- 1.02. **Renewal Term.** Upon the mutual written agreement of the *Parties*, the *Primary Term* may be extended for one (1) additional term of twenty-five years (the “*Renewal Term*”), commencing immediately following the termination date of the *Primary Term*, subject, however, to the right of *Garland* to unilaterally terminate this Agreement as provided in Section 1.03 below. Unless expressly waived by the *Parties*, their mutual written agreement to extend the *Primary Term* shall be executed at least five (5) years prior to the termination of the *Primary Term*.
- 1.03. **Garland’s Right of Unilateral Termination.** At any time within the *Primary Term* or the *Renewal Term*, *Garland* reserves the unilateral right and option, but not the obligation, to terminate this Agreement at the time that: (a) *Garland* determines in its sole discretion that raw water from Lavon Lake is no longer desired at the *Plant*, or (b) the *Plant* ceases to be operated by *Garland*. Such right or option to terminate shall become effective on the 365th day following the date that *Garland* deposits written notice of its election to exercise such right or option to *District* by certified mail, return receipt requested, together with *Garland’s* pre-payment of a *Reserved Water Fee* (described in Section 4.01 below), calculated at the minimum flow rate specified in Section 2.01 below and for the following twelve (12) month period.
- 1.04. **District’s Right to Terminate.** At any time within the *Primary Term* or the *Renewal Term* the *District* reserves the right and option, but not the obligation, to terminate this Agreement at the time that:
 - a. (i) *Garland* is in breach of a material term of this Agreement; (ii) *District* has provided *Garland* with written notice of such breach; and, (iii) following a period of ninety (90) days, *Garland* has failed to cure such breach; or

- b. *Garland*, except in the event of a force majeure, has abandoned the *Plant* or has substantially discontinued the use of *Diverted Water* (as defined in Section 3.01 below) for purposes of the *Plant* for a period of five (5) or more years.

II.

QUANTITY, QUALITY AND DELIVERY OF RESERVED WATER

- 2.01 **Reserved Water Quantity.** For and in consideration of the *Reserved Water Fee* described in Section 4.01 below, and except as provided in Section 2.02 below, *District* shall tender and make available to *Garland*, for its own diversion and use and at the delivery point hereinafter specified, one-thousand five-hundred (1,500) acre-feet of raw water per calendar year. Any such raw water made available by the *District* shall be referred to as “*Reserved Water.*” The *District* hereby agrees to maintain during the *Primary Term*, and during the *Renewal Term* if this Agreement is extended pursuant to the provisions of Section 1.02 above, availability of *Reserved Water* for *Garland*’s diversion and use. *Garland* hereby agrees to pay the *District* for all *Reserved Water*, whether diverted or not, in accordance with the provisions of Part IV hereof, captioned “Consideration.”
- 2.02 **Water Quality.**
 - a. THE WATER THAT *DISTRICT* OFFERS TO SELL TO *GARLAND* UNDER THIS AGREEMENT IS NON-POTABLE, RAW, AND UNTREATED. *GARLAND* HAS SATISFIED ITSELF THAT SUCH RAW WATER IS SUITABLE FOR ITS NEEDS AND ACKNOWLEDGES AND AGREES THAT *DISTRICT* SHALL NOT BE OBLIGATED TO TREAT IN ANY MANNER ANY RAW WATER MADE AVAILABLE BY *DISTRICT* AND RECEIVED BY THE DISTRICT UNDER THIS AGREEMENT. *DISTRICT* EXPRESSLY DISCLAIMS ANY WARRANTY AS TO THE QUALITY OF THE RAW WATER OR SUITABILITY OF THE RAW WATER FOR ITS INTENDED PURPOSE. *DISTRICT* EXPRESSLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY AND FITNESS. *GARLAND* ACKNOWLEDGES THAT NO WARRANTIES, EXPRESS OR IMPLIED, EXIST REGARDING THE RAW WATER TO BE PURCHASED FROM *DISTRICT*, AND AGREES THAT ANY VARIATION IN THE QUALITY OR CHARACTERISTICS OF THE RAW WATER OFFERED FOR SALE AS PROVIDED BY THIS AGREEMENT SHALL NOT ENTITLE *GARLAND* TO AVOID OR LIMIT ITS OBLIGATION TO MAKE PAYMENTS AS PROVIDED BY THIS AGREEMENT. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS AGREEMENT. *GARLAND* ASSUMES FULL RESPONSIBILITY WITH RESPECT TO THE TREATMENT OF THE WATER PRIOR TO ITS DISTRIBUTION FOR HUMAN CONSUMPTION OR ANY OTHER USES.
 - b. It is mutually agreed that no detrimental effects are anticipated from the discharge or uses of said raw water to Lavon Lake or *District*, but *Garland* does agree:
 - (i) to maintain water quality standards and temperatures of discharge within limits as established by the Environmental Protection Agency, the Texas Commission on Environmental Quality (“*TCEQ*”), and any agency having applicable jurisdiction;
 - (ii) that should a study of the effects of the *Plant* on the treatability of water in Lavon Lake be deemed necessary by *District*, *Garland* shall pay 50% of the cost of such study; and

- (iii) that said payments to **District** under this Agreement do not provide for any changes to the water quality of Lavon Lake or detrimental effects that increase the cost for processing potable drinking water by **District**.

- 2.03 **Point of Delivery.** The point of delivery of raw industrial water shall be at the raw water intake structure constructed by **Garland** as stated in Section 4.06 hereof, captioned “Special Conditions.” The diversion point is located at a point S 84° W, 4,055 feet from the NW corner of Maria Ignacio Giminez Survey, A-338, Collin County, Texas.
- 2.04 **Subordination of Water.** **Garland** hereby recognizes that as of the Effective Date, the **District** has infrastructure in place at Lavon Lake for the diversion of raw water pursuant to Certificate of Adjudication No. 08-2410, as amended. **Garland** agrees that **Garland’s** rights under this Agreement are subordinate to the **District’s** rights to raw water. Any new agreement to supply water for industrial use from Lavon Lake entered into by **District** after the Effective Date shall be subordinate to the rights of **Garland** under this Agreement.

III.

GARLAND’S RIGHT TO DIVERT AND USE WATER

- 3.01 **Right to Divert.** In consideration of **Garland’s** payment to **District** of the **Diverted Water Fee** referenced in Section 4.02 below, **Garland** shall have the right, but not the obligation, to divert for its use or for use in the **Plant** all or any portion of the **Reserved Water**. Any **Reserved Water** so diverted by **Garland** shall be referred to as “**Diverted Water**.”
- 3.02 **No Duty to Divert Water.** No provision of this Agreement shall require **Garland** to divert any **Reserved Water**, or to pay **District** the **Diverted Water Fee**, unless **Garland** actually diverts water from Lavon Lake. In addition, no provision in this Agreement shall be construed to limit the right of **Garland** to divert water hereunder or deliver water for its use or for use in the **Plant** from other sources available to it, even if it means that, from time to time, **Garland** may divert water for its own use or for use in the **Plant** from sources other than the **Reserved Water**.
- 3.03 **Low Lake Level Requirements.** By their execution of this Agreement, the **Parties** acknowledge that **Garland’s** rights to divert historical and future raw water volumes from Lavon Lake are limited to times when the mean sea level elevation of Lavon Lake is within limits pursuant to the **District’s** latest storage space agreements with the United States of America. The **District** does not guarantee lake levels will be sufficient for **Garland** to access water nor is it responsible for siltation or other factors that may impact **Garland’s** ability to physically access or use water from Lavon Lake.
- 3.04 **Title to Water and Reuse.**
- a. Title to all **Reserved Water** shall remain with the **District** until its actual diversion by **Garland** from Lavon Lake.
 - b. To the extent authorized by law, **Garland** and **District** shall save and hold each other harmless from all claims, demands, and causes of action which may be asserted by anyone on account of the transportation and delivery of said water while title remains in such **Party**.
 - c. To the extent that any **Diverted Water** is subsequently reused, as between the **Parties**, title to such water shall remain with **Garland** until such time as such water is discharged to Lavon Lake.

The *District* shall have the first right to appropriate and reuse any water discharged from the *Plant* or otherwise returned into Lavon Lake.

- 3.05 **Limitation on Service.** *Garland* agrees that it shall not provide *Diverted Water* directly from the *Plant* to any water customer of *Garland* as of the Effective Date, without the express written consent of the *District* nor shall *Garland* provide any portion of *Reserved Water* or *Diverted Water* to any third party without the express written consent from the *District*.
- 3.06 **Industrial Use.** *Garland* may only use water reserved and/or diverted pursuant to this Agreement for purposes of industrial use, and *Garland* acknowledges and agrees that water reserved and/or diverted under this Agreement may not be used for any other purposes.

IV. CONSIDERATION

For and in consideration of this Agreement, the options herein set forth, and the duties of the *Parties* for the reservation, diversion and use of raw water, the *Parties* agree to the following rates and payments:

- 4.01 **Payment for Reserved Water.** Following the Effective Date, *Garland* shall pay monthly to the *District* the sum of \$0.0569 per thousand gallons of *Reserved Water* (the “*Reserved Water Fee*”). Thereafter, the *Reserved Water Fee* shall be adjusted pursuant to the provisions of Section 4.03, below.
- 4.02 **Payment for Diverted Water.** Following the Effective Date, *Garland* shall pay to *District* on a monthly basis, as applicable, the sum of \$0.0569 per thousand gallons (“*Diverted Water Fee*”) for *Diverted Water* from time to time actually diverted by *Garland* for the *Plant*. Thereafter, the *Diverted Water Fee* shall be adjusted pursuant to the provisions of Section 4.03, below. In calculating the volume of water diverted by *Garland* that shall be subject to the *Diverted Water Fee* and therefore subject to *Garland’s* obligation to pay hereunder, the *Parties* agree that such volume shall be computed on a monthly basis pursuant to Section 5.01 herein.
- 4.03 **Fee Adjustments.** The *Reserved Water Fee* and the *Diverted Water Fee* shall be adjusted annually following the Effective Date on the first day of August in each year during the *Primary Term* and during the *Renewal Term* if this Agreement is extended pursuant to the provisions of Section 1.03 above, based upon the then most recently published change in the Consumer Price Index as provided below. Adjustments in fees shall be effective for the ensuing annual period beginning the first day of August. For purposes hereof, the “*Consumer Price Index*” shall be the “Consumer Price Index - All Urban Consumers (Dallas-Fort Worth-Arlington, TX for All Items, 1982-1984=100)” as published by the U.S. Department of Labor, Bureau of Labor Statistics. Adjustments to the amount charged and payable for the *Reserved Water Fee* and the *Diverted Water Fee* shall be made effective on the first day of August in the years scheduled for adjustment. On the adjustment dates the amount of the *Reserved Water Fee* and *Diverted Water Fee* shall be recalculated to an amount equal to the product of (a) \$0.0569, and (b) a fraction, the numerator of which is the *Consumer Price Index* in the most recently published change in the *Consumer Price Index* in March of the previous adjustment year, and the denominator of which is 187.8 (being consistent with the adjustment methodology in the *Reuse Contract*, as may be amended or superseded). In the event that the Consumer Price Index for

All Urban Consumers in Dallas-Fort Worth-Arlington, TX ceases to be published, then the *Parties* shall cooperate in selecting a substituted index that is derived by using the same or substantially similar data and methodologies or an index serving a similar purpose.

In any and all events, if the *Reuse Contract* rates are lower or higher than the rates charged to *Garland* under this provision, then *Garland's* price shall be adjusted to conform to that of the *Reuse Contract*.

- 4.04 **Billings and Payments.** *District* shall bill *Garland* monthly for: (a) the volume of *Reserved Water* specified in Section 2.01, at the *Reserved Water Fee* rate set forth in Section 4.01 or 4.03 above, as applicable, and (b) the volume of *Diverted Water*, if any, that is actually diverted by *Garland* at the point of delivery specified in Section 2.04 during the billing period, at the *Diverted Water Fee* rate set forth in Section 4.02 or 4.03 above, as applicable. The volume of *Reserved Water* and *Diverted Water* billed shall be based on measurement described in Sections 5.01 and 5.02 below. *Garland* shall remit payment of billed amounts to *District* within thirty (30) days following the date of invoice. The first such billing shall be delivered to *Garland* by *District* within thirty (30) days following the Effective Date.
- 4.05 **Unit of Measurement.** The unit of measurement for raw water made available by *District* and diverted by *Garland* under this Agreement shall be 1,000 gallons of water, U.S. Standard Liquid Measure.
- 4.06 **Special Conditions.** *Garland* shall construct, maintain and operate the required intake and discharge facilities at Lavon Lake at its sole expense, said intake and discharge facilities to be of such design and at such location as *Garland's* engineer shall determine, subject, however, to the prior approval of TCEQ and the *District's* engineer as to sound engineering practice and further subject to the approval of the Contracting Office of the United States. Approval of said Contracting Office is required by Article I of the *District's* contract with the United States, dated March 16, 1954. The present intake and discharge facilities now in use have been approved by all necessary parties. If any change is proposed to be made to said facilities by *Garland*, then upon notice by *Garland* to the *District*, accompanied by plans and specifications showing location and design of the proposed raw water intake structure changes, the *District* shall, within 90 days, initiate appropriate applications to TCEQ seeking approval thereof and any necessary amendments to Certificate of Adjudication No. 08-2410, as amended, occasioned thereby, and to the Contracting Officer of the United States Government for their approval, and thereupon the *District* will diligently pursue the matter of obtaining the sought for action by said governmental agencies.

V. MEASUREMENT

- 5.01 **Measurement of Diverted Water by Garland.** *Garland* shall measure and account to *District*, on a monthly billing cycle, for the volume of *Diverted Water* (1) actually diverted by *Garland* for its use at the *Plant* at meters installed by *Garland* at the diversion facilities at Lavon Lake, and (2) actually consumed by use in the *Plant* condenser circulating processes, calculated according to the following, or as determined in the future pursuant to Section 5.03 herein:

$$0.331 \times (\text{KWH gross generated}) = \text{gallons consumed.}$$

Such accounting shall set forth the total volume of **Diverted Water** by **Garland** for its use or for use at the **Plant**. All raw industrial water taken from Lavon Lake under this Agreement which is used for purposes other than condenser circulating water shall be measured by meters. To that end, **Garland** shall furnish, install, operate, and maintain at its own expense the necessary equipment and devices of standard type for measuring properly the quantity of **Diverted Water** diverted under this Agreement. Such meter or meters and other equipment so installed shall remain the property of **Garland**. **District** shall have access to such metering equipment at all reasonable times, but the reading, calibration, and adjustment thereof shall be performed only by the employees or agents of **Garland**. For the purpose of this Agreement, the original record or reading of **Garland's** meter or meters shall be located at **Garland's** office in which the records of the employees or agents of **Garland** who take the reading are or may be transcribed. Upon written request of **District**, **Garland** will send a copy of such original record or reading or permit the **District** to have access to the same in the office of **Garland** during reasonable business hours. **Garland** will provide the **District** with flow diagrams of the **Plant's** water use process and will provide notice to the **District** of any revisions to such diagrams.

- 5.02 **Meter Calibration**. Not more than once in each calendar year, on a date as near the end of such calendar year as practical, **Garland** shall calibrate its meter(s) if requested in writing by **District** to do so, in the presence of a representative of **District**, upon at least seventy-two (72) hours prior written notice to the **District**. **District** shall be afforded the opportunity to observe any adjustments which are made to the meter(s) in case any adjustment shall be necessary, and if check meters hereinafter provided for have been installed, the same shall also be calibrated by **Garland** in the presence of a representative of **District** and the **Parties** shall jointly observe any adjustments to the meter in case any adjustment is necessary. If **District** requests **Garland** to calibrate meters and despite written notice of the time and date when any such calibration is to be made, **District** is not present at the time and date set, the calibration may proceed and adjustment may be made in the absence of any representative of **District**.

If at any time, **Garland** observes a variation between the primary meter or meters and any of the check meters, **Garland** will promptly notify **District**. The **Parties** shall cooperate to procure an immediate calibration test and joint observation of any adjustment of the meters to a state of accuracy. **Garland** shall give **District** at least seventy-two (72) hours written notice of the time of all tests of meters so that **District** may conveniently have a representative present.

If upon any test, the percentage of inaccuracy of any metering equipment is found to be in excess of two percent (2%) registration thereof shall be corrected for a period extending back to the time when such inaccuracy began, if such time is ascertainable, and if such time is not ascertainable, then for a period extending back one-half (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 meters are out of repair so that the amount of water discharged or diverted cannot be ascertained or computed from the reading thereof, the water so discharged or diverted through the period such meters are out of service or out of repair shall be estimated and agreed upon by the **Parties**. 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) that are accurately registering. Otherwise, the amount of water discharged or diverted 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 water discharged or diverted during the preceding periods under similar conditions when the meter or meters were registering accurately. In no event shall a *Party* be entitled to adjust the computation of metered readings for a period exceeding six (6) months.

- 5.03 **Changes to Measurement of Water Consumed in Condenser Circulating Processes.** The formula for calculation of water actually consumed in Section 5.01 is based on existing equipment installed at the *Plant* at the time of the *Agreement*. Any future changes to equipment or processes, whether implemented all at one time or in phases, that impact unit rates of water consumed in condenser circulating processes shall be evaluated by *Garland* and *Garland's Plant* contractor for any necessary resulting changes to the consumed water calculation formula in Section 5.01. Changes to the consumed water calculation formula shall be in accordance with manufacturer recommendations or with a mutually accepted arrangement by *Parties*. *Garland* shall provide written notice to *District* of any changes to the consumed water calculation formula.

VI.

GENERAL CONDITIONS

- 6.01 **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 Agreement, other than the obligation of *Garland* to make the payments required by it under this Agreement, then if such *Party* shall give notice and full particulars of such event of *Force Majeure* in writing to the *Party* within a reasonable time after occurrence of the event or cause relied on, the obligation of the *Party* to provide 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, including governmental agencies and courts, or any Civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, acts of terrorism, 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, unless such causes or failures are attributable to the gross negligence of the *Party* seeking excuse for lack of performance.
- 6.02 **Compliance with Regulatory Bodies, Law, and Permit/Contract Requirements.** 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, 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. In addition, this Agreement is expressly subject to the terms and conditions in Certificate of Adjudication No. 08-2410 as amended and the *District's* contracts with the United States, Contract No. DA-41-443-eng-3413 and Contract No. DACW63-67-C-0116.
- 6.03 **Other TCEQ Requirements.** Pursuant to 30 Tex. Admin. Code § 295.101(b)(5), the effectiveness of this Agreement is dependent upon *District's* compliance with 30 Tex. Admin. Code Chapters 295 and 297, including the continued effectiveness of Certificate of Adjudication No. 08-2410 as amended

and as same may be amended in the future. Promptly following the Effective Date, **District** will file a copy of this Agreement with **TCEQ**, in accordance with 30 Tex. Admin. Code § 297.101.

- 6.04 **Notice.** Any notice to be given hereunder by either **Party** to the other shall be in writing and shall be effected by certified mail, return-receipt requested.

Notice to the **District** shall be addressed to:

Executive Director
North Texas Municipal Water District
505 East Brown Street
P.O. Box 2408
Wylie, Texas 75098

Notice to **Garland** shall be addressed to:

City Manager
City of Garland
200 N. Fifth Street
P.O. Box 469002
Garland, Texas 75046-9002

Each **Party** may change the address for notice to it by giving written notice of such change at the last address designated in accordance with this paragraph.

- 6.05 **Venue.** Venue for any action arising hereunder at the request of **Garland** shall be in Collin County, Texas. Venue for any action arising hereunder at the request of the **District** shall be in Dallas County, Texas.
- 6.06 **Amendment.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the **Parties** to this Agreement.
- 6.07 **Severability.** Unless expressly provided herein, in the event one or more provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 6.08 **Assignment.** This Agreement shall not be assignable, in whole or in part, by either **Party** without first obtaining the written consent of the other, which consent may not unreasonably be withheld, conditioned, or delayed.
- 6.09 **Integration.** This Agreement constitutes the entire agreement between **Garland** and **District** related to matter hereto. This Agreement supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may be amended only as stipulated herein.

- 6.10 **Remedies.** To the extent authorized by law, each **Party** shall have all rights and remedies available in law and in equity without limitation, including, but not limited to, specific performance.
- 6.11 **Authority to Execute.** The **Parties** acknowledge by their execution of this Agreement that such execution is evidenced and has been authorized by their governing bodies' adoption of appropriate resolutions or ordinances or other written action. Each **Party** represents and warrants to the other **Party** that the person signing this Agreement on its behalf has full and complete authority to enter into this Agreement as an act binding upon his or her principal.
- 6.12 **Parties Bound.** This Agreement shall be binding upon and inure to the benefit of the **Parties** hereto, legal representatives, successors, and assigns, unless otherwise prohibited by this Agreement.
- 6.13 **Headings.** Headings of the several sections this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any term or provision of this Agreement.
- 6.14 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute one and the same agreement.
- 6.15 **Maintenance.** **Garland** will maintain the facilities and landscape the area which it acquires for its **Plant** purposes at Lavon Lake so as to enhance. **Garland** shall further ensure that no activities at the site of the **Plant** have any negative effect on the water quality of Lavon Lake, such as through stormwater runoff, and that its activities at the **Plant** comply with the Lavon Lake Watershed Protection Plan.
- 6.16 **Water Conservation and Rationing.** For water purchased under this Agreement, **Garland** 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 TCEQ and/or as may be adopted by the Board of Directors of the **District** related to industrial use. The **District's** obligations pursuant to this Agreement shall be subject to **Garland** preparing and implementing a water conservation plan or water conservation measures for industrial water purchased and/or diverted pursuant to this Agreement. This provision applies exclusively to water obtained under this Agreement and should not be construed to apply to water obtained under other agreements between the Parties. The Parties further acknowledge and agree that any water rationing or curtailment implemented by the **District** and affecting the water delivered pursuant to this Agreement shall be done in accordance with Texas Water Code Section 11.039.

[Signature pages to follow.]

IN WITNESS WHEREOF, the *Parties* hereto, 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.

DISTRICT:

NORTH TEXAS MUNICIPAL WATER DISTRICT

By: _____

Richard Peasley, President

Date: _____

ATTEST:

David Hollifield
Secretary

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

This instrument was acknowledged before me on this ____ day of _____, 2024 by Richard Peasley, President of the Board of Directors of North Texas Municipal Water District, on behalf of said District.

Notary Public, State of Texas

GARLAND:

CITY OF GARLAND

By: _____

Scott LeMay, Mayor

Date: _____

ATTEST:

René Dowl, City Secretary

STATE OF TEXAS §

§

COUNTY OF COLLIN §

This instrument was acknowledged before me on this ____ day of _____, 2024 by Scott LeMay, Mayor of the City of Garland, on behalf of said City.

Notary Public, State of Texas



3/28/2024

Administrative Memorandum No. 24-6004

Upper East Fork Interceptor System

**North McKinney Parallel Interceptor Mitigation Projects;
Project No. 501-0504-18;
Tabulation of Bids and Award of Contract, and Inspection Services**

SUBJECT

Authorize award of a construction contract and internal inspection services

PURPOSE

Complete mitigation as required by the United States Army Corps of Engineers easement agreement for the North McKinney Parallel Interceptor.

RECOMMENDATION

The Executive Director, NTMWD staff and Teague Nall and Perkins, Inc. recommend the Board of Directors authorize the award of a contract as follows:

- Consultant: HGS, LLC dba RES Environmental Operating Company, LLC
- Scope: Construction Contract and Internal Inspection Services
- Project: No. 501-0504-18 North McKinney Parallel Interceptor Mitigation Projects
- Amount: \$886,922.73 for construction contract and \$110,400 for NTMWD inspection services
- Strategic Objective: Objective 1.2 Successfully Deliver Capital Program
- Committee: This item was discussed at the February 21, 2024, Wastewater Committee meeting.

DRIVER(S) FOR THIS PROJECT

<input checked="" 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 _____

BACKGROUND

PROJECT PURPOSE

- The United States Army Corps of Engineers (USACE) granted NTMWD a nationwide permit and mandated mitigation for an easement and construction of NTMWD Project No. 501-0504-18, the North McKinney Parallel Interceptor and a fiber optic line. The first part of the required mitigation was performed with the pipeline construction contract. This project will complete and satisfy the balance of USACE mitigation requirements.
- The mitigation value to satisfy is approximately \$948,500. The cost of mitigation is to be based on actual contractor bid and construction costs. Approximately \$110,300 was expended under Project No. 501-0504-18 for new fencing. The balance of obligation remaining is approximately \$838,200.

PROJECT COMPONENTS

- Plant native trees within the temporary construction easement and ensure 85% survivability (estimated to be a minimum 379 1-inch trees) after 3 years.
- Clear and remove a portion of USACE Lavon Lake property of invasive/undesirable Chinese Privet, Chin Berry, and Eastern Red Cedar trees and re-seed with a mix of native prairie grasses and water to create a perennial seed bank on USACE Lavon Lake property.
- The Engineer’s OPCC of \$689,331 was based on an amount of acreage to be cleared of invasive/undesirable tree species that would be closest to the remaining obligation value with alternative bid items specified to fulfil the remaining obligation.

TABULATION OF BIDS

Sealed bids for construction were received at 2:00 p.m. on Thursday, February 15th, 2024, as tabulated below. Only 1 responsible bidder submitted a bid.

Bidder	Total Base Bid	Recommendation
HGS, LLC dba RES Environmental Operating Company, LLC	\$1,765,813.49	Lowest responsible bid Recommended for Award
ENGINEER’S OPINION OF PROBABLE COST FOR BASE BID	\$689,331	

The original base bid price received was greater than the amount that NTMWD is required to compensate for the total mitigation cost. From the prioritization criteria set by the USACE, NTMWD staff negotiated with the bidder and reached an agreement to reduce the quantity and scope of work to align with the remaining obligation.

NTMWD staff, Teague Nall and Perkins, Inc., and HGS, LLC dba RES Environmental Operating Company, LLC, negotiated a reduced quantity and scope of work for the revised amount of \$886,922.73.

LOWEST RESPONSIBLE BIDDER HISTORY

RES Environmental Operating Company, LLC, is currently working on a similar project for the NTMWD:

- 101-0366-14 Bois d'Arc Lake Mitigation Property

RES Environmental Operating Company, LLC, has successfully completed several similar projects outside of NTMWD:

- Lake Ralph Hall clearing for Upper Trinity Regional Water District
- Native Prairie Restoration for the University of Houston Coastal Center

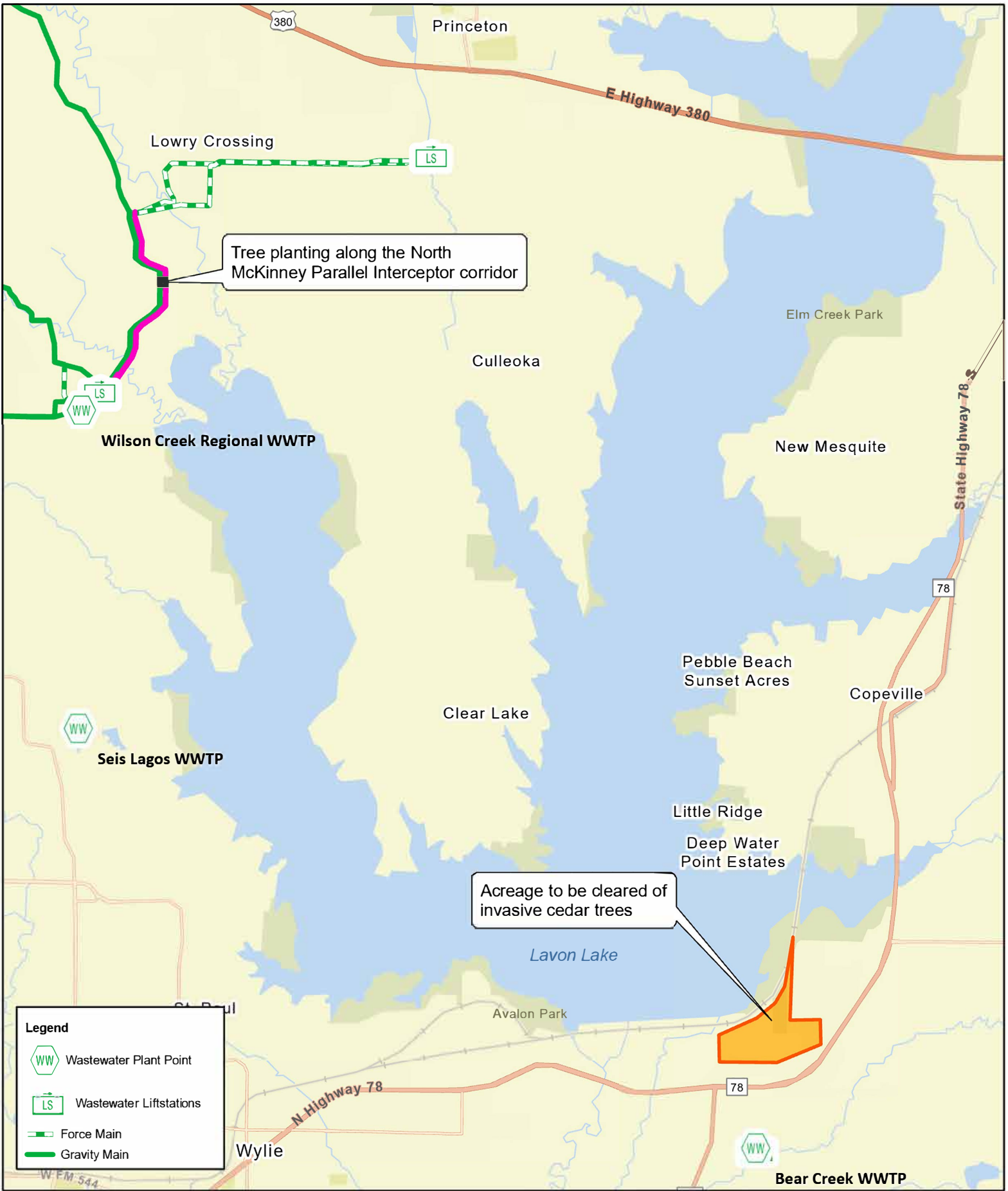
Based on their standing as lowest responsible bidder, the information provided, and reports by the supplied references, the NTMWD staff and Teague Nall and Perkins, Inc. recommend award of the contract to HGS, LLC dba RES Environmental Operating Company, LLC.

INTERNAL INSPECTION SERVICES

NTMWD will use internal inspection staff to cover all inspection disciplines. The costs to the NTMWD related to this internal inspection coverage are approximately \$110,400.

FUNDING

Funding in the amount of \$886,922.73 to HGS, LLC dba RES Environmental Operating Company, LLC, and \$110,400 for NTMWD Internal Inspection Services is to be made available utilizing the Upper East Fork Interceptor System Extendable Commercial Paper (ECP) Program as the appropriation source; actual issuance of ECP notes will occur as cash needs arise.



Legend

- Wastewater Plant Point
- Wastewater Liftstations
- Force Main
- Gravity Main

North McKinney Parallel Interceptor Mitigation Projects
Project No. 501-0504-18





3/28/2024

Administrative Memorandum No. 24-6005

Future Opening and Operation of Public Recreational Areas and Associated Facilities on Bois d’Arc Lake; Resolution No. 24-11

SUBJECT

Adopt a resolution authorizing the future opening and operation of public recreational areas and associated facilities on Bois d’Arc Lake to the public and authorize the Executive Director or their designee to take certain actions associated with the initial and subsequent openings and closures of the lake.

PURPOSE

As part of its commitment to and partnership with Fannin County for the development of Bois d’Arc Lake, NTMWD has agreed to construct, operate and maintain the three public recreational areas and associated facilities to provide recreational and economic benefits to the public and to Fannin County.

RECOMMENDATION

The Executive Director, NTMWD staff recommend the Board of Directors adopt Resolution No. 24-11, “A Resolution of the Board of Directors of North Texas Municipal Water District Authorizing the Future Opening and Operation of Public Recreational Areas and Associated Facilities on Bois d’Arc Lake.”

Consultant: None

Scope: Authorize Future Opening and Operation of Public Recreational Areas and Associated Facilities on Bois d’Arc Lake

Project: N/A

Amount: \$0

Strategic Objective: 3.3 Durable Strategic Partnerships

Committee: This will be an item on the March 27, 2024, Real Estate Committee meeting 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

- In order to meet the needs of its Member Cities and Customers and for additional water supplies, the District has pursued the permitting and development of Bois d’Arc Lake (the Lake).
- As part of the planning and development of Bois d’Arc Lake and in partnership with Fannin County stakeholders, NTMWD made a number of commitments to support recreational opportunities and economic benefits associated with the Lake.
- The U.S. Army Corps of Engineers issued the District a Clean Water Act Section 404 Permit to construct the Lake, located near the City of Bonham in Fannin County, Texas, and the District began construction in May 2018
- The District began deliberate impoundment of water in April of 2021 and substantial completion of the Bois d’Arc Lake dam occurred in August 2022.
- The District has approved the Bois d’Arc Lake Shoreline Management Plan to protect, manage, and maintain the Lake shoreline as well as water quality and promote the safe use of the shoreline and waters by the general public.
- The District has memorialized its partnership with Fannin County through the Agreement Between North Texas Municipal Water District and Fannin County, Texas Concerning Water Supply and Development of the Bois d’Arc Creek Reservoir Project, entered into on June 22, 2017 (the “Development Agreement”).
- Through the Development Agreement, NTMWD has committed to provide public recreational opportunities, as well as economic benefits, by constructing three public recreational areas and associated facilities on the Lake.
- The District through its partnership with Fannin County and other local entities is providing multiple economic benefits through the construction of the lake including; increase in the local job market, increase of tax revenues for the county and local school districts, and to improve local infrastructure.
- The District has partnered with the Fannin County Sheriff’s Office (FCSO) and Texas Parks and Wildlife Department (TPWD) to provide public safety resources, enforcement of state wildlife regulations, and the maintenance of current wildlife conservation programs.
- The District has constructed three public recreational areas and associated facilities: one on the northeast side of the lake at the end of Old 1396 North one on the southeast of the lake also at the end of Old 1396 South and one on the southeast of the lake adjacent to the FM 897 bridge. The day use amenities include: parking area, pavilion area, public restrooms, garbage dumpsters, boat ramps and courtesy docks.

- The North Boat Ramp located at 1510 Old 1396 N has a minimum operational range of 532 feet MSL and maximum operational range of 538 feet MSL; the South Boat Ramp located at 1191 Old 1396 S and the FM 897 Boat Ramp located at 740 County Road 2945 both have a minimum operational range of 525 feet MSL and maximum operational range of 538 feet MSL.
- The Bois d'Arc Lake Operations Plan provides detailed instructions related to operations of the Lake, including but not limited to information on operating and public access to the public boat ramps, to provide guidelines to maintain a safe and healthy environment for the public
- Resolution No. 24-11 is intended to authorize the Executive Director or their designee to:
 - Initially open the boat ramps once the lake is safely accessible as determined by NTMWD, FCSO and TPWD.
 - Operate and maintain the boat ramps after initial opening, including total or partial closing of day-use areas or the ramps as conditions warrant.
 - Update and modify the NTMWD Bois d'Arc Lake Operations Plan as needed.

FUNDING

No funding is requested.

NORTH TEXAS MUNICIPAL WATER DISTRICT

RESOLUTION NO. 24-11

A RESOLUTION AUTHORIZING THE FUTURE OPENING AND OPERATION OF PUBLIC RECREATIONAL AREAS AND ASSOCIATED FACILITIES ON BOIS D'ARC LAKE

WHEREAS, the North Texas Municipal Water District (District) provides wholesale treated water to member cities and customers in its service area covering all or parts of Collin, Dallas, Denton, Fannin, Grayson, Hopkins, Hunt, Kaufman, Rains, Rockwall, and Van Zandt Counties in North Central Texas; and

WHEREAS, the District has a statutory obligation to plan and secure adequate water supplies for existing and future member cities; and

WHEREAS, due to sustained growth by the existing and future member cities and customers of the District development of additional water supplies is necessary; and

WHEREAS, in order to address the need for additional water supplies the District has pursued the permitting and development of Bois d'Arc Lake (Lake); and

WHEREAS, the U.S. Army Corps of Engineers issued the District a Clean Water Act Section 404 Permit to construct the Lake, located near the City of Bonham in Fannin County, Texas, and the District began construction on the Lake in May 2018; and

WHEREAS, the District, in its operation of the Lake, began deliberate impoundment of water in April 2021, and the dam was substantially complete in August 2022; and

WHEREAS, the District, in its operation of the Lake, recognizes its responsibility to be a good steward of the state and its natural resources and protect the health, safety, and general welfare of the public; and

WHEREAS, pursuant to Article 16, Section 59 of the Texas Constitution, the District's enabling legislation (Article 8280-141, Vernon's Texas Civil Statutes) and other applicable laws, the District is authorized to adopt such policies and regulations necessary to preserve and conserve District water resources; and

WHEREAS, the District has approved the Bois d'Arc Lake Shoreline Management Plan to protect, manage, and maintain the Lake shoreline as well as water quality and promote the safe use of the Lake shoreline and Lake waters by the general public; and

WHEREAS, the District and Fannin County have agreed to cooperate in the development of the Lake through the AGREEMENT BETWEEN NORTH TEXAS MUNICIPAL WATER DISTRICT AND FANNIN COUNTY, TEXAS, CONCERNING WATER SUPPLY AND DEVELOPMENT OF THE BOIS D'ARC CREEK RESERVOIR PROJECT, entered into on June 22, 2017 (Development Agreement); and

WHEREAS, through the Development Agreement the District agreed to, among other things, facilitate recreational opportunities on the Lake and local economic benefits by constructing, operating, and maintaining three public boat ramps with day use facilities; and

WHEREAS, through the Development Agreement the District is providing public access to recreational benefits such as hunting, fishing, water sports, and public day use areas; and

WHEREAS, through its partnership with Fannin County and other local entities the District is facilitating multiple economic benefits through the construction and operation of the Lake, including benefits to the local job market, Fannin County and local school district tax base, and local infrastructure improvements; and

WHEREAS, the District has partnered with the Fannin County Sheriff's Office (FCSO) and Texas Parks and Wildlife Department (TPWD) to provide public safety, enforcement of state wildlife regulations, and administration of wildlife management and conservation programs on the Lake; and

WHEREAS, the AGREEMENT BETWEEN THE NORTH TEXAS MUNICIPAL WATER DISTRICT AND TEXAS PARKS AND WILDLIFE DEPARTMENT CONCERNING A PUBLIC HUNTING LANDS AGREEMENT FOR BOIS D'ARC LAKE, entered into on September 27, 2021 (Public Hunting Lands Agreement) establishes the right for TPWD to enforce state hunting laws and manage approximately 5,305 water surface acres for hunting activities; and

WHEREAS, the AGREEMENT BETWEEN THE NORTH TEXAS MUNICIPAL WATER DISTRICT AND FANNIN COUNTY, TEXAS, CONCERNING POLICING OF THE BOIS D'ARC LAKE RESERVOIR PROJECT AREA, entered into on February 14, 2019 (Policing Agreement) establishes the respective responsibilities of the District and FCSO concerning policing of the Lake and the surrounding area; and

WHEREAS, the District has provided funding to support FCSO policing of the Lake and its surrounding area through the Policing Agreement; and

WHEREAS, the District has made space available in the Bois d'Arc Lake Operations Center for use by FCSO and TPWD to facilitate their activities on and around the lake; and

WHEREAS, the District has constructed three public boat ramps with day use facilities: one on the northern shore of the Lake adjacent to FM 1396 (North Boat Ramp); one on the southern shore of the Lake adjacent to FM 1396 (South Boat Ramp); and one on the southern shore of the Lake adjacent to FM 897 (FM 897 Boat Ramp).

WHEREAS, shoreline topography was a key driver in the design and construction of each public boat ramp and each location has a defined range of water surface elevations at which the ramp can safely be used and operated; and

WHEREAS, the North Boat Ramp has a minimum operational range of 532 feet above mean sea level (MSL) and maximum operational range of 538 feet MSL; and the South Boat Ramp and the FM 897 Boat Ramp both have a minimum operational range of 525 feet MSL and maximum operational range of 538 feet MSL; and

WHEREAS, the initial opening of the public boat ramps will occur after the ramps and the Lake are safely accessible as determined by NTMWD, FCSO and TPWD; and

WHEREAS, the Bois d'Arc Lake Operations Plan provides detailed instructions related to operations of the Lake, including but not limited to information on operating and public access to the public boat ramps, to provide guidelines to maintain a safe and healthy environment for the public; and

WHEREAS, when open and in operation, the public boat ramps will be available to the public for the launching and trailering of boats on a continual basis; and

WHEREAS, Lake day-use amenities, including pavilion areas, picnic tables, and public restrooms, will be available for public use during select hours as defined in the Bois d'Arc Lake Operations Plan; and

WHEREAS, public use of Lake day-use amenities is expressly prohibited outside of the hours defined in the Bois d'Arc Lake Operations Plan; and

WHEREAS, habitation of public boat ramps and Lake day-use amenities is expressly prohibited at all times; and

WHEREAS, subsequent openings and closures of the public boat ramps and day-use amenities will be necessary due to fluctuating water surface elevation, maintenance, emergency response and other situations with such openings and closures of each public boat ramp and day-use amenities after initial opening being conducted in accordance with the Bois d’Arc Lake Operations Plan.

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

1. The Board of Directors hereby authorizes the Executive Director or her/his designee to initially open the boat ramps after the lake is safely accessible as determined by NTMWD, FCSO, and TPWD.
2. The Board of Directors hereby authorizes the Executive Director or her/his designee to operate the boat ramps after initial opening, including total or partial closing of day-use areas and/or the ramps as determined necessary by the Executive Director.
3. The Board of Directors hereby authorizes the Executive Director or her/his designee to update and modify the NTMWD Bois d’Arc Lake Operations Plan as needed.

THIS RESOLUTION ADOPTED BY THE NTMWD BOARD OF DIRECTORS IN A REGULAR MEETING ON MARCH 28, 2024, IN THE ADMINISTRATIVE OFFICES OF THE NTMWD, WYLIE, TEXAS.

DAVID HOLLIFIELD, Secretary

RICHARD PEASLEY, President

(SEAL)