

**AGREEMENT FOR THE RESERVATION OF RAW WATER AND SALE
& DELIVERY OF TREATED WATER - WHOLESALE CUSTOMER**

STATE OF TEXAS §
 §
COUNTY OF McLENNAN §

This Agreement ("Agreement") is made and entered into by and between the City of Waco, Texas (Waco), and City of Hewitt, Texas (Purchaser), acting by and through their authorized representatives, and hereinafter referred to jointly as "Parties."

RECITALS

WHEREAS, Purchaser owns, operates and maintains a distribution system to furnish water service to the customers within its service area and desires to have a long term water supply source to provide potable water to its customers; and

WHEREAS, at the present time, Waco has available a supply of Raw Water from which it can provide Treated Water, and owns, operates, and maintains facilities for storing, treating and transmitting Treated Water, both within and without the corporate boundaries of Waco; and

WHEREAS, it is deemed to be in the best interest of both Waco and Purchaser that said Parties do enter into a mutually satisfactory agreement by means of which Purchaser may reserve stored Raw Water and obtain Treated Water from Waco; and

WHEREAS, Purchaser and Waco recognize that the Demand Rate and Volumetric Rate to be paid by Purchaser for the Treated Water provided by Waco hereunder should be based on Waco's costs of providing such Treated Water to the Delivery Point(s).

NOW, THEREFORE, pursuant to *Chapter 791, Texas Government Code*, and as otherwise authorized and permitted by the laws of the State of Texas for and in consideration of the covenants, conditions and undertakings hereinafter described, and subject to each and every term and condition of this Agreement, the Parties contract, covenant and agree as follows:

ARTICLE 1

Findings and Purpose

- 1.1 Recitals.** The recitals hereinabove set forth are incorporated herein for all purposes and are found to be true and correct.
- 1.2 Funds.** All obligations accepted by the Parties hereto will be paid from current funds available to the paying party in accordance with Chapter 791 of the Texas Government Code.
- 1.3 No Grant of Equity or Ownership.** No provision of this Agreement shall be construed to create any type of joint or equity ownership of any property or any partnership or joint venture. Neither this Agreement, nor any acts of the Parties

9.23.2019

hereunder, nor Purchaser's payments, shall be construed as granting to or otherwise vesting in Purchaser any right, title, interest, or equity in the Waco Raw Water System nor in the Waco Treated Water System or any element thereof.

ARTICLE 2

Definitions and Interpretation

- 2.1 Definitions.** The following terms and expressions used in this Agreement, unless the context indicates otherwise, shall mean:

Adjusted Maximum Day Usage means Purchaser's actual Maximum Day Usage as adjusted for purposes of Section 3.5(b) of this Agreement to account for unprecedented usage of water by Purchaser during a temporary emergency condition that otherwise meets the criteria of Section 5.1(c) of this Agreement.

Agreement means this Agreement including the Raw Water Reservation unless Purchaser has not entered a Raw Water Reservation or the Raw Water Reservation is expressly excluded.

Cost of Service Study means that study performed annually pursuant to Section 5.2 (b) of this Agreement.

Day means a 24-hour period from 12:00 a.m. to 11:59 p.m. of each calendar day.

Demand Charge means the annual charge to be paid in twelve equal monthly installments for each year, calculated based on the Demand Rate applied to the Maximum Day Demand.

Demand Rate means the dollar amount per million gallons per day (MGD) applied to the Purchasers' declared Maximum Day Demand to calculate the Demand Charge.

Delivery Facility is any facility necessary for the transmission of Treated Water from the Waco Treated Water System that is on the Purchaser's side of the point of delivery that is constructed specifically to allow Waco to serve Purchaser.

Delivery Point(s) means the point(s) at which Waco agrees to deliver, and Purchaser agrees to receive, Treated Water under this Agreement, which points are established as provided in Sections 3.3 and 3.4 of this Agreement.

Excess Demand Charge means the charge assessed against Purchaser for exceeding the Maximum Day Demand approved as provided in Section 3.5(b) of this Agreement, which charge shall be determined and paid as provided in Section 5.1(c) of this Agreement during the rate year.

Fiscal Year is the fiscal year of Waco from October 1 through September 30. The Fiscal Year shall serve as the rate year.

Initial Maximum Day Demand means the estimated daily maximum usage specified in Section 3.5(a) of this Agreement.

Initial Maximum gallons per minute (GPM) means the estimated daily maximum usage specified in Section 3.5(a) of this Agreement divided by 1,440 minutes.

Initial Rates means the rates set for the initial fiscal year as provided in Section 5.2(a) of this Agreement.

Initial Term means the period commencing on the date by which all Parties have executed this Agreement and ending at midnight on September 30, 2045.

Maximum Day Demand means the estimated daily maximum usage declared by Purchaser, or determined in the absence of a declaration by Purchaser, and to the extent approved by Waco, all as provided in Section 3.5 of this Agreement.

Maximum Day Usage means the measured daily maximum usage as determined through Meter readings, subject to Section 4.3 of this Agreement with regard to Meter inaccuracy.

Maximum GPM Usage means the measured maximum per minute usage as determined through Meter readings, subject to Section 4.3 of this Agreement with regard to Meter inaccuracy.

Meter(s) means the metering facility or devices installed or to be installed at the Delivery Point(s) to measure the amount of Treated Water delivered to Purchaser by Waco as provided in this Agreement. Installation shall include a back flow device in order to prevent back flow of water into the Waco Treated Water System and a metered by-pass for maintenance purposes.

Minimum Annual Volume means the minimum annual water volume purchaser shall be obligated to receive from City of Waco and obligated to pay at the then current volumetric rate regardless of whether the Purchaser takes minimum volume.

Minimum Annual Volume Charge means the annual charge to be paid in twelve equal monthly installments for each year, calculated based on the Volumetric Rate applied to the Minimum annual volume.

Month means a calendar month.

Pass-through Fees mean any statutory or regulatory fee or assessment that is, or may be in the future, assessed on the subject matter of this Agreement which is not otherwise attributed to the Wholesale Customer Class in the Cost of Service Study. Such fees or assessments could include, but are not limited to, fees or assessments on Raw Water reserved, on water rights that support the amount of Raw Water reserved, and on Treated Water provided pursuant to this Agreement. Payment of Pass-through Fees is due and owing to Waco at the time the assessments being passed through are due and owing to be paid by Waco.

Raw Water means that water made available in Lake Waco through increasing Waco's authorized impoundment and diversion by Water Rights Permit No. 5094A, which has priority dates of September 12, 1986 and January 21, 1988.

Raw Water Reservation or *Reserved Raw Water* means Raw Water that is reserved by Purchaser as provided in Section 3.1 of this Agreement. The amount of Raw Water used under this Agreement shall be measured based on the Fiscal Year.

Raw Water Reservation Charge means the annual charge paid in twelve equal monthly installments for each year for reserving Raw Water as provided in Section 3.1 of this Agreement.

Treated Water means Raw Water treated by Waco so that it is potable water meeting the minimum quality requirements for human consumption as prescribed by the Texas Commission on Environmental Quality or other appropriate regulatory agency.

TCEQ means the Texas Commission on Environmental Quality.

Volume Charge means the charge calculated by applying the Volumetric Rate to the number of gallons of Treated Water provided to Purchaser by Waco as measured by the Meter(s) in excess of Minimum Annual Volume and billed on a monthly basis.

Volumetric Rate means the dollar amount per 1,000 gallons applied to Purchaser's metered usage of Treated Water in order to calculate the Volume Charge. To the extent that Purchaser has not entered into a Raw Water Reservation pursuant to Section 3.1 of this Agreement in an amount that meets or exceeds Purchaser's needs, the Volumetric Rate will include a charge for Raw Water as provided in Section 5.1(a) of this Agreement.

Waco Raw Water System means all facilities, structures, improvements, property, rights, certificates of adjudication, permits, licenses, and other property of any nature whatsoever, now or hereafter owned by Waco, in connection with the storage, diversion, transportation, and delivery of Raw Water to Waco's water treatment facilities.

Waco Treated Water System means all facilities, structures, improvements, property, rights, permits, licenses, and other property of any nature whatsoever, now or hereafter owned by Waco, in connection with the diversion, storage, transportation, treatment, and delivery of Treated Water.

Water means either Raw Water or Treated Water, or both Raw and Treated Water, as indicated by the context in which the word appears.

Water Rate Study means the most recent study prepared by NewGen Strategies and Solutions LLC, which sets forth the methodology used to calculate the Initial Rates under this Agreement. Said study is subject to review and update as provided in Section 5.2. An electronic copy of the rate model and its accompanying manual will be provided to representatives of Purchaser as stated in Section 5.2. The water rates to be in effect are set out in **Exhibit B** to this Agreement and are subject to change as provided in this Agreement.

Wholesale Customer Class means the class of customers or purchasers to whom, under the terms of a specific agreement, Waco sells and provides Treated Water for re-sale.

2.2 Interpretations. The following principles shall control the interpretation of this Agreement:

- (a) Unless otherwise stated, reference to any document, other than a license, certificate of adjudication or water rights permit, means the document as amended or supplemented from time to time.
- (b) Reference to any party or governmental regulatory agency means that entity and its successors and assigns.
- (c) Misspelling of one or more words in this Agreement shall not void the Agreement. Such misspelled words shall be read so as to have the meaning apparently intended by the Parties.
- (d) Words of any gender used in this Agreement shall be held and construed to include any other gender.
- (e) Words in the singular number shall be held to include the plural, unless the context otherwise requires.
- (f) Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this contract.

ARTICLE 3

Water Provided Under Agreement

3.1 Reservation of Raw Water. Purchaser hereby reserves from Waco, and Waco agrees to reserve as Raw Water available for the supply of Treated Water to Purchaser for the Initial Term of this Agreement, 1.75 million gallons per day (MGD), or approximately 1,960 acre-feet per year of Raw Water held by Waco in Lake Waco. To the extent available, the reserved water will only come from Lake Waco under Waco's authorized impoundment and diversion by Water Rights Permit No. 5094A. Purchaser acknowledges that it has no entitlement to water from Waco beyond this amount unless expressly provided otherwise in this Agreement. This acknowledgement survives termination of the Agreement. A Raw Water Reservation entered in this Section 3.1 is entered only in conjunction with provision of Treated Water by Waco under this Agreement. This Agreement does not grant to Purchaser nor imply any right to access Raw Water in place or to use of Raw Water other than as expressly provided in this Agreement. Nor does this Agreement create any obligation of Waco to deliver Raw Water to Purchaser or for Purchaser's use. Waco is not responsible for knowing the total water supply that Purchaser must have to fulfill TCEQ requirements. It is the Purchaser's responsibility to obtain the total amount of water Purchaser needs to fulfill TCEQ requirements.

- (a) In calculating the amount of Raw Water used in a Fiscal Year, the loss factor assumed and incorporated in the rate model is 1% for raw water to treated water delivered to Purchaser's meter.

- (b) Purchaser may request that this agreement be amended to increase or decrease the Raw Water Reservation. Such a request is only effective if a written amendment to this Agreement is executed by both parties.
 - (1) Within its sole discretion, Waco shall make the decision on whether to agree to an increase based on the availability of water to meet current customer needs and the requests received for the water. If an increase occurs, then it will only be in effect for the fiscal year in which it is approved—*unless the written amendment says otherwise*—then the amount will decrease back to the original amount (listed above) at the end of the applicable fiscal year.
 - (2) Waco shall make the decision on whether to approve a request for a decrease and will not unreasonable deny a request for a decrease. If a decrease occurs, it will remain in effect into future fiscal years, unless the written amendment says otherwise.

3.2 Treated Water.

- (a) **Delivery and Acceptance.** Except as limited in this Agreement, Waco agrees to furnish and sell to Purchaser Treated Water delivered under the operating pressure prevailing in the Waco Treated Water System at the Delivery Point(s). Purchaser agrees to accept delivery under the conditions of this Agreement and to pay for the Treated Water in accordance with the terms herein.
- (b) **Source of Supply and Capacity.** Waco's agreement to make Treated Water available is limited to the extent that Raw Water, as that term is defined in this Agreement, is available and the extent to which capacity is available in the Waco Treated Water System, as determined pursuant to Section 3.5 of this Agreement.
- (c) **No Minimum Pressure Guaranteed.** Notwithstanding anything in this Agreement to the contrary or any statutory or regulatory requirement that may be applicable to Purchaser's delivery of water to Purchaser's retail customers or any approved request under 3.4(a)(1), Waco does not represent or guarantee to Purchaser that Treated Water provided to Purchaser under this Agreement will be provided at any specific minimum pressure at the Delivery Point(s), and Waco is under no obligation with respect thereto. Purchaser understands and acknowledges that maintaining a certain water pressure in Purchaser's delivery system may require the use of storage or pumps within Purchaser's system. Waco will not be providing water pressure to Purchaser's system.
- (d) **Interruption of Service for Maintenance.** Notwithstanding anything in this Agreement to the contrary or any statutory or regulatory requirement that may be applicable to Purchaser's delivery of water to Purchaser's retail customers, Waco shall be entitled at any and all times to install, repair, maintain, and replace such equipment or devices or to take any other action under emergency conditions (including, reduction or cessation of water service to Purchaser) as

necessary or appropriate to allow Waco at all times to maintain a minimum pressure as required by law at all retail service locations directly served by the Waco System. Waco may install at the metering location appropriate devices to monitor and enforce all or any of these limitations. Waco agrees, to the extent reasonable under the circumstances of the interruption of service, that Waco will provide advance notice to Purchaser of such interruption so that Purchaser may better make allowance within its storage and delivery system to accommodate the interruption and that Waco will use due diligence to restore service pursuant to this Agreement.

3.3 Treated Water Delivery Point(s) and Valves.

- (a) **Delivery Point(s).** Subject to the conditions set forth herein, Waco agrees to deliver Treated Water to Purchaser at the Delivery Point(s) specified in **Exhibit A** attached hereto and incorporated herein for all intents and purposes. The location of each Delivery Point specified in Exhibit A is mutually agreed upon by and between the Purchaser and Waco, and such Delivery Point(s) shall not be moved or relocated except as provided in Section 3.4 of this Agreement.
- (b) **Valves at Delivery Points.** All valves releasing water from the Waco Treated Water System to Purchaser shall be operated by Waco. Purchaser shall not handle, adjust, obstruct or block access to those valves.

3.4 New, Relocated or Expanded Delivery Point(s).

- (a) **Improvements for Purchaser.**
 - (1) If Purchaser desires a new or relocated Delivery Point, or if improvements to an existing Delivery Point are necessary to satisfy an approved request by Purchaser to increase the amount of Treated Water provided under this Agreement, or to increase the pressure at which Treated Water is provided, Purchaser shall submit a request in writing to Waco for approval, which approval shall not be withheld unreasonably. If Waco approves the request, Waco and Purchaser shall mutually determine where the Delivery Point will be located and whether Waco or Purchaser will be responsible for constructing the improvements. Without regard to whether Purchaser or Waco assumes responsibility for the construction of the improvements, Purchaser shall be responsible for all of the costs of the improvements, including any costs to acquire any needed easements or right-of-way.
 - (2) If Waco is to construct all necessary improvements, Waco will provide Purchaser with a description of the improvements to be constructed and an estimate of the costs for the improvements for Purchaser's written approval, which approval shall not be withheld unreasonably. During the construction, Purchaser may, but is not obligated to, inspect improvements under construction. Purchaser shall be responsible for paying for the entire cost of the improvements, including the acquisition of any easements or right-of-way prior to beginning

construction. . Purchaser may, but is not obligated to, make a final inspection and approval after construction of the improvements are completed.

- (3) If Purchaser is to construct the necessary improvements, Purchaser will submit documents to acquire rights-of-way and will submit plans for the construction of the improvements to Waco for approval prior to any construction being done, which approval shall not be withheld unreasonably. If Waco approves the documents and plans submitted, Waco will give the Purchaser notice of said approval in writing. During the construction, Waco may, but is not obligated to, inspect improvements under construction. All costs for the construction of the improvements, including the costs for any easements and/or rights-of-way, shall be borne by Purchaser. Waco shall perform a final inspection prior to completion of construction of the improvements; approval by Waco is required before construction can be deemed complete. Further approval by Waco is required before the improvements may be used.
- (4) Improvements will be constructed in accordance with Waco standard specifications.
- (b) **Improvements for Waco Treated Water System.** If Waco determines that a new, relocated or expanded Delivery Point is required for the primary benefit of the Waco Treated Water System, Waco shall acquire easements and/or rights-of-way and construct all necessary improvements. The costs of the improvements, including any costs to acquire easements or right-of-way shall not be a direct cost to Purchaser but shall be attributed in the Cost of Service Study, including to the Wholesale Customer Class, as appropriate.
- (c) If the Parties cannot reach an agreement on the approvals necessary to implement this Section 3.4, the Parties agree that they will submit the contested issue to non-binding mediation pursuant to Section 11.1 of this Agreement.
- (d) **Property of Waco.** Any acquired easements and/or rights-of-way shall name Waco as a grantee for the portion of the easement and/or right-of-way on Waco's side of the Delivery Point and metering device. Upon the completion of construction and final approval by Waco of any new, relocated or improved Delivery Point, the constructed improvements shall become the property of Waco to and through the Meter(s). *To and through the meters* is hereby defined as piping connected to the inlet of the meter, the meter itself, the meter vault and hatch, automated meter reading equipment, pipe stands or supports, and any other ancillary devices as required to operate and read the water meter.

3.5 Estimated Treated Water Requirements.

- (a) **Initial Maximum Day Demand.** Purchaser's Initial Maximum Day Demand is 2,000,000 gallons per day or a maximum GPM of 1,500. This declaration of

the Initial Maximum Day Demand and Maximum GPM shall be in effect until September 30, 2017. Notwithstanding the provisions of Section 3.2(b) of this Agreement, Waco agrees to maintain capacity in the Waco Treated Water System to make the Initial Maximum Day Demand and Maximum GPM available during the Initial Term of this Agreement.

(b) **Declaration and Approval of Maximum Day Demand and Maximum GPM.** On or before August 30th of each year, Waco will provide to Purchaser documentation showing Purchaser's Maximum Day Demand and Maximum GPM and rate structure for Treated Water calculated in gallons per day for the twelve-month period beginning on October 1st of the current year and ending September 30th of the following year. Purchaser will have 10 calendar days to respond to the documentation provided by Waco.

- (1) In no event shall the declared amount be less than the greater of Purchaser's current Maximum Day Demand and Maximum GPM (or Initial Maximum Day Demand and Maximum GPM, if that is the most current) or the Purchaser's highest Adjusted Maximum Day Usage actually experienced during the term of this Agreement.
- (2) Purchaser may declare its estimated Maximum Day Demand and Maximum GPM; said declaration must occur on or before August 1st of each year. *In no event will the (declared) Maximum Day Demand or Maximum GPM be acceptable at amounts lower than the current allowances.*
- (3) The declared Maximum Day Demand and Maximum GPM are subject to review and written approval by Waco as to reasonableness and as to the availability, after taking Waco's water needs into account, of Raw Water and capacity in the Waco Treated Water System. Approval by Waco shall not be unreasonably withheld or delayed.
- (4) If Waco does not receive declarations (of Maximum Day Demand and/or Maximum GPM) or if Waco does not approve the declared Maximum Day Demand and Maximum GPM, then Waco will determine the Maximum Day Demand and Maximum GPM by whichever of the following is greater:
 - 105% of the most current Maximum Day Demand and Maximum GPM; or
 - 105% of the highest Adjusted Maximum Day Usage and Maximum GPM actually experienced during the term of this Agreement.
- (5) Purchaser may object to the determination by giving notice to Waco of that objection within ten (10) days of receiving Waco's written notice regarding the Maximum Day Demand and Maximum GPM. If Purchaser cannot resolve its disagreement with Waco regarding the Maximum Day Demand and Maximum GPM, Purchaser may terminate this contract by written notice to Waco within thirty (30) days of

Waco's written notice regarding the determined Maximum Day Demand and Maximum GPM. This termination shall be considered a termination by mutual consent as provided for in Section 8.1.

- (6) The approved Maximum Day Demand and Maximum GPM shall be the amount used for the Fiscal Year to be in effect and Purchaser shall be responsible for Excess Demand Charges as provided in Section 5.1(c) of this Agreement. If, in the future, the City has an AMI System, said System will determine the Maximum Day Demand and Maximum GPM.
- (c) **Minimum Annual Volume Determination.** Purchaser's Initial Minimum Annual Volume is 638,750,000 gallons. This declaration of the Initial Minimum Annual Volume shall be in effect until September 30, 2020. Notwithstanding the provisions of Section 3.2(b) of this Agreement, Waco agrees to maintain capacity in the Waco Treated Water System to make the Initial Minimum Annual Volume available during the Initial Term of this Agreement.
- (a) **Adjustment to Minimum Annual Volume.** On or before August 30th of each year, Waco will provide to Purchaser documentation showing Purchaser's new Minimum Annual Volume and volumetric rate structure for Treated Water calculated per 1000 gallons for the twelve-month period beginning on October 1st of the current year and ending September 30th of the following year. Purchaser will have 10 calendar days to respond to the true-up provided by Waco.
- (1) In no event shall the Annual Minimum Volume be less than the greater of Purchaser's current Annual Minimum Volume (or Initial Minimum Annual Volume, if that is the most current) or the Purchaser's highest Annual Volume Usage actually experienced during the term of this Agreement.

ARTICLE 4

Metering and Rate of Flow Control

- 4.1 **Treated Water Measurement and Control.** Except as allowed under Section 3.4, Waco shall install a Meter and appropriate valves, back flow prevention, flow controllers, and other appropriate equipment at the Delivery Point(s) to measure and control the amount of Treated Water delivered to Purchaser under the terms of this Agreement.
 - (a) If and when an AMI System is installed in Waco, Purchaser will pay for any and all products needed to bring Purchaser's meter(s) onto Waco's AMI System, along with all installation costs thereof. Waco reserves the right to replace any existing meter with an AMI-compatible meter or device.
 - (b) All associated one-time costs in the purchase and installation of a Meter and related equipment shall be reimbursed to Waco by Purchaser within thirty (30)

days after notification in writing by Waco to Purchaser of the amount due, which notification shall not be given until after the Meter is operational. Such reimbursement shall be separate from and in addition to the all other charges for Water provided under this Agreement as set forth herein.

- (c) The Meter and other equipment shall be owned, operated, and maintained by Waco.

4.2 Control of Rate of Flow. The rate at which Treated Water is withdrawn by Purchaser from the Waco System shall be regulated by rate-of-flow controllers, pumps, or other approved methods. The rate of withdrawal shall be controlled so that the maximum rate shall not exceed the Maximum Day Demand or Maximum GPM, unless Waco receives a written request from Purchaser and Waco approves that request in writing. Notwithstanding anything in this Agreement to the contrary, approval of a request to increase the rate of flow and of the length of time the request will be met, will be at Waco's sole discretion. Waco will respond to the request within ninety-six (96) hours of receiving the request. If Waco approves the request, Waco will make the adjustments within forty-eight (48) hours of responding to the request. Agreement by Waco to adjust the rate of flow does not increase the Maximum Day Demand established for the Fiscal Year then in progress as provided in Section 3.5.

- (a) Limiting the delivery of Treated Water with a rate of flow controller so that the amount delivered does not exceed the Maximum Day Demand or Maximum GPM implies limiting the flow of Treated Water to Purchaser at a uniform rate over a twenty four hour period so that Purchaser receives its Maximum Day Demand. To deal with demands on its system, Purchaser may need to fill water storage tanks (ground or elevated) by diverting at a higher rate of flow over a shorter time period. A Purchaser may request that Waco agree to a protocol that allows for a non-uniform rate of Treated Water delivery and provides for Treated Water delivery at a higher gallons per minute rate over a shorter period of time to fill storage tanks.
 - (1) Waco agrees to work with Purchaser to determine a delivery protocol that will satisfy Purchaser's needs without negatively impacting Waco's ability to deliver Treated Water to Waco's retail customers or other wholesale customers. Any delivery protocol agreed to by the parties shall be memorialized by a written document signed by both parties.
 - (2) Purchaser can request changes to any agreed protocol, but such changes are subject to Waco's approval.
 - (3) If a protocol is agreed to by Waco, Waco has the right to revise the protocol if necessary to assure the delivery of Treated Water to Waco's retail customers or other wholesale customers. Waco shall attempt to give Purchaser at least thirty (30) days written notice of any changes. But, if a particular event requires an immediate change, Waco shall notify Purchaser by telephone (followed by written notice) of change as

soon as information regarding the need for the change is made available to the Waco Utility Director.

- (4) If Waco agrees to such a protocol, the higher rate will not allow the Purchaser to exceed their Maximum Day Demand. If Purchaser exceeds the Maximum Day Demand, then the Excess Demand Charge will be assessed.
- (5) If Purchaser exceeds the increased GPM, then Waco will take necessary measures to limit Purchaser's flow back down to the allowed GPM **and** will assess a fee against Purchaser (as provided by Waco's Budget Fee Schedule for the applicable rate year). Waco reserves the right, as necessary, to adjust or limit the flow to protect the pressure within the system.

4.3 Calibration of Meters and Flow Control Devices.

- (a) **Annual Testing.** Waco shall routinely test Meter(s) and flow control devices for accuracy. Meters and flow control devices will be serviced and calibrated as necessary, but no less frequently than once during each twelve (12) month period. Copies of the results of such calibration and all related information shall be provided to Purchaser within ten (10) business days. Purchaser shall have access to the Meter(s) and flow control devices at all reasonable times; provided, however, that any reading, calibration or adjustment to such Meter(s) and flow control devices shall be done by employees or agents of Waco, or other mutually approved third party calibration agent, in the presence of representatives of Purchaser and Waco, if so requested by Purchaser. Notification of any proposed test shall be provided to the Purchaser at least seventy-two (72) hours prior to such test being conducted and Purchaser may observe such test, if so desired.
- (b) **Inaccuracy.** Upon any calibration of a Meter, if it is determined that the accuracy of such Meter(s) is found to fail American Water Works Association water metering standards, then the registration of such Meter(s) shall be corrected according to this subsection. The registration of the flow as determined by such defective Meter(s) shall be corrected for a period extending back to the time such inaccuracy began, if such time is ascertainable. If the time such inaccuracy began is not ascertainable, then the registration of such Meter(s) shall be corrected for a period extending back one-half (1/2) of the time elapsed since the date of the last calibration, but in no event further back than a period of six (6) months. All Meter(s) will be properly sealed, and the seals shall not be broken unless representatives of both Purchaser and Waco have been notified and given a reasonable opportunity to be present.
- (c) **Meter out of Service - No Readings.** If any Meter used to determine the flow of Treated Water to Purchaser is out of service or out of repair so that the amount of Treated Water metered cannot be ascertained or computed from the

reading thereof, the Treated Water delivered during the period such Meter is out of service or out of repair shall be estimated and agreed upon by Purchaser and Waco upon the basis of the best data available. The basis for estimating such flow includes, but is not limited to, extrapolation of past patterns of flow for said Meter under similar conditions. In the event that Purchaser and Waco cannot agree on the extrapolated estimate of Treated Water volume delivered before the payment due date, Purchaser will make payment to Waco based on the same month in the previous year on or before the payment due date. Notwithstanding anything in this Agreement to the contrary, only after making such payment, may Purchaser request that a dispute under this Section be submitted to non-binding mediation as provided in Section 11.1 of this Agreement. Waco's acceptance of such payment does not waive Waco's right to request that any remaining dispute regarding the amount of payment due be submitted at any time to non-binding mediation as provided in Section 11.1 of this Agreement.

4.4 Meter Reading.

- (a) Waco will read all Meter(s) provided for herein at monthly intervals, and Purchaser and Waco shall have free access to read these respective Meter(s) daily, if either party so desires. It shall be the duty of both Purchaser and Waco to give immediate notice, each to the other, should any Meter(s) be found not functioning properly. Upon such notice; Waco shall make repairs to such Meter(s) promptly. The expense of such repairs shall be included in Waco's operating and maintenance costs and attributed generally to the Wholesale Customer Class.
- (b) Purchaser shall have access to records on the Meter(s) readings during reasonable business hours and shall be furnished a copy of readings upon request.
- (c) If Purchaser has more than one point of connection to the Waco Treated Water System, the sum of all Meter(s) readings and rates of flow shall be used for the purpose of calculating the Volume Charge and other charges as provided in Section 5.3 of this Agreement.

ARTICLE 5
Fees, Billing and Payment

5.1 Charges for Water.

- (a) **Raw Water.** A Purchaser who has entered into a Raw Water Reservation as provided in Section 3.1 of this Agreement shall pay a Raw Water Reservation Charge. To the extent that the Raw Water Reservation so entered is in an amount that meets or exceeds the amount of Treated Water Purchaser receives from Waco, no capital cost for Raw Water shall be included in the Volumetric Rate such Purchaser pays for Treated Water. A Purchaser who has not entered into a Raw Water Reservation as provided in Section 3.1 of this Agreement and a Purchaser whose Raw Water Reservation is not in an amount that meets or exceeds the amount of Treated Water Purchaser receives from Waco, shall pay capital costs for Raw Water as part of the Volumetric Rate for Treated Water.
- (b) **Treated Water.** Purchaser shall pay to Waco the applicable fees and charges for the Treated Water delivered by Waco, including, but not limited to, Late Fees, Demand Charge, and Volume Charge. To the extent Purchaser uses Treated Water in excess of the amount of Treated Water derived from the Reserved Raw Water, Purchaser shall pay for the excess Raw Water at a rate four (4) times the rate of Raw Water in the Fiscal Year Fee Schedule in effect at the time the overage occurs.
- (c) **Excess Demand Charge.** If Purchaser's actual Maximum Day Usage exceeds the Maximum Day Demand established under Section 3.5 of this Agreement by more than 10%, Purchaser shall also pay to Waco the Excess Demand Charge.
- (1) The Excess Demand Charge shall be calculated by subtracting the Purchaser's Maximum Day Demand from the Purchaser's actual Maximum Day Usage to determine the Excess Demand.
- (2) The Excess Demand, stated in MGD, shall be applied to the rate year's Demand Charge expressed in dollars per million gallons per day and then multiplied by a factor of 1.5 times. (In other words, if there were excess usage, then the 1.5 factor would be applied to the excess use only.) For example:
- The Maximum Day Demand is 1 million.
 - There is Excess Demand on Day Y of 2 million gallons. *So the Adjusted Maximum Day usage for Day Y is 3 million gallons.*
 - The TOTAL amount charged for Day Y would be:
The Maximum Day Demand multiplied by the regular rate
+
The Excess Demand amount multiplied by the regular rate multiplied by 1.5 (2 million gallons x regular rate x 1.5)

- (3) Purchaser shall be notified within thirty (30) days of Waco's determination that Purchaser has exceeded its Maximum Day Demand by a factor greater than 10%.
 - (4) Purchaser shall be provided a statement of the Excess Demand Charge billing on or before November 1st of the subsequent rate year with full payment due within thirty (30) days from delivery of such statement as provided in Section 12.4 of this Agreement.
 - (5) During a temporary emergency condition created by unforeseeable mechanical failure, including failure at an active groundwater well, or by unprecedented high rate of Treated Water usage, such as might result from a major fire or a major water main break, it may be necessary that Treated Water be withdrawn from the Waco System at a rate of usage in excess of that required for the Maximum Day Demand or Maximum GPM. It is agreed that the Excess Demand Charge that normally would be applicable shall not apply for such bona fide emergency withdrawals provided that Waco is notified in writing within 48 hours of the occurrence of an emergency condition and the emergency condition is alleviated as soon as possible.
 - A. Purchaser shall notify Waco in writing within 48 hours of an occurrence that Purchaser believes is a bona fide temporary emergency. The notice shall describe conditions that resulted in Purchaser's claim of a temporary emergency and the steps being taken to alleviate the condition. Once that condition is ended, Purchaser shall advise Waco in writing.
 - B. Waco shall review the notice from Purchaser claiming an emergency condition and may request additional information. Waco shall determine whether it agrees that the circumstances constitute a temporary emergency. Waco shall notify Purchaser of its decision in writing within ten (10) days of the end of the condition.
 - (6) In any event, the Volume Charge for all Treated Water delivered shall be due and payable as described elsewhere in this Agreement.
- (d) **Pass-through Fees.** Purchaser shall pay to Waco any Pass-through Fees that are or may become applicable.

(e) **Fee Reductions.**

- (1) **Continuous Period No Water.** If Waco is unable to deliver Treated Water to Purchaser for a period of ten (10) continuous days, Waco shall make a pro rata reduction in the monthly Demand Charge that Purchaser is required to pay for the month in which Treated Water was not delivered to Purchaser.
- (2) **Reduced Amount Delivered.** Over the period of a month, if Waco is unable to deliver an average per day of at least 25% of the 1,200,000 gallons per day as stated in Section 3.1 because of issues related to (a) Waco's maintenance or repair of facilities or (b) rationing or reduction imposed under Section 6.3, then Waco shall make a pro rata reduction in the monthly Demand Charge..

5.2 Water Rates.

- (a) **Rates for Initial Fiscal Year Under Agreement.** Upon the effective date of this Agreement, the Initial Rates in effect for Raw Water (as part of the Volumetric Rate), the Volumetric Rate, and the Demand Rate, shall be as set out in **Exhibit B**.
- (b) **Annual Cost of Service Study and Subsequent Annual Rates.** The rate for Raw Water (as part of the Volumetric Rate), the Volumetric Rate, and the Demand Rate, shall be recalculated in a Cost of Service Study and set annually prior to the beginning of a new fiscal year.
- (c) **Rate Methodology.** The Initial Rates and subsequent annual rates that Purchaser pays to Waco for Water shall be calculated in accordance with the methodology described and contained within the Water Rate Study, except as provided in Section 5.2(d) below. The rate methodology set forth in the Water Rate Study and used to set the Initial Rates is hereby specifically agreed to between Waco and Purchaser. That methodology includes the following principles:
 - (1) The "Cash Basis" methodology for rate setting;
 - (2) The "Base/Extra Capacity" cost allocations methodology, as sanctioned by the American Water Works Association;
 - (3) Except those for Raw Water and water treatment plant as described below, common-to-all capital costs based upon the embedded costs incurred by Waco at the time of rate determination;
 - (4) To the extent that Purchaser has not reserved an amount of Raw Water pursuant to Section 3.1 of this Agreement in an amount that meets or exceeds the amount of Treated Water Purchaser receives from Waco, Raw Water capital costs determined based upon the incremental cost incurred by Waco to increase the stored raw water availability in Lake Waco above 455 msl;

- (5) Water treatment plant capital costs determined based upon the incremental cost incurred by Waco to increase or replace water treatment plant capacity beyond 60 MGD; and
 - (6) Cost of Service Study based on Waco's Budget for the rate year and utilizing Waco's latest water system operating characteristics adjusted for Purchaser's Maximum Day Demand.
- (d) **Review and Update of Rate Methodology.** Every five years during the term of this Agreement, the rate methodology contained in the Water Rate Study will be reviewed and modified at the option of Waco to reflect changed circumstances and ensure that Waco is recovering the cost of providing service under this Agreement. Review of the rate methodology will be conducted in consultation with the Water System Advisory Committee. Waco shall, to the extent practicable, provide at least three months' notice of the issues under review prior to any modification pursuant to this Section. Review and update of the rate methodology under this subsection will not change the amount of the Raw Water Reservation Charge established in Section 3.1 of this Agreement.
- (1) A majority of the members of the Water System Advisory Committee may request that Waco review the rate methodology by filing a written request with Waco. Upon receipt of such a request, Waco shall call a meeting of the advisory committee before issuing a decision on whether to review the methodology.
- (e) Waco will make the user's manual for the Water Rate Study and an electronic copy of the rate model available to Purchaser at Purchaser's request.

5.3 **Billing and Payment.**

- (a) **Monthly Billing Statements.** Each month during the term of this Agreement, Waco shall read the Meter(s) measuring Treated Water being provided to Purchaser. Waco shall prepare and deliver to Purchaser a billing statement showing Purchaser's raw water reservation charge, volume charge, plant expansion charge, and peak charge.
 - (1) If and when year-to-date cumulative volume exceeds the initial declared Annual Minimum Volume, such excess will be multiplied by the Volumetric Rate to calculate the Volume Charge in excess of the Minimum Annual Volume charge.
 - (2) Waco would then prepare and deliver to Purchaser a billing statement showing the Minimum Annual Volume monthly charge, Volume Charge for all Treated Water delivered in excess of Annual Minimum Charge, if any, along with the monthly Raw Water Reservation Charge, the monthly Demand Charge, any Pass-through Fees that may be applicable and any Late Fees that may be imposed on previous charges and fees pursuant to subsection (c) of this Section.
- (b) **Payment.** Purchaser shall make payment by the twentieth (20th) day after delivery of the monthly billing statement by Waco as provided in Section 12.4

of this Agreement. Payment shall be considered late if not received by Waco by the 20th day after delivery of said bill, unless a protest or dispute is filed as provided in Section 5.4.

- (c) **Late Fees.** If Purchaser is late in the payment of any charge or fee due and payable to Waco under this Agreement, late payments shall bear per annum interest at a rate equal to the lesser of four percentage points (4%) above the Prime Interest Rate as published in the Wall Street Journal on the day said statement becomes delinquent, or the maximum allowed by law to be charged to Purchaser.
- (d) **Default by Non-payment.** If any charges or fees remain unpaid at the expiration of ninety (90) days after delivery of the statement as provided in Section 12.4 of this Agreement Purchaser shall be in default under this Agreement, and Waco may invoke the remedies specified herein.

5.4 Billing Questions and Disputes.

- (a) **Statement Dispute; Protest.** If Purchaser has a protest or dispute concerning a statement, Purchaser shall notify Waco in writing within fifteen (15) days of delivery of said statement to Purchaser as provided in Section 12.4 of this Agreement. Purchaser shall pay the portion of the statement that is not being disputed or protested. Upon written notification, the portion of the statement under dispute or protest (provided the dispute or protest is made in good faith and is not unreasonable) will be set aside until resolved and will not be subject to the penalties (such as Late Fess and Excess Demand Charge) stated herein. The written notice of the protest or dispute shall be delivered to Waco as provided in Section 12.1 within fifteen (15) days of delivery of said statement, or Purchaser's protest or dispute shall be considered waived.
 - (1) The Parties will negotiate in good faith to resolve the dispute. The Parties agree to submit any dispute that is not so resolved to non-binding mediation as provided in Section 11.1 of this Agreement.
 - (2) If the Parties cannot resolve the dispute within forty five (45) days of Purchaser notifying Waco of its dispute or protest, Purchaser shall deposit the disputed amount in an interest bearing escrow account at a nationally recognized banking institution in McLennan County, Texas, until such time as the dispute or protest is resolved.
- (b) **Inspection and Audit.** Complete records and accounts required to be maintained by each Party shall be kept for a period of five (5) years. Each Party shall at all times, upon notice, have the right at reasonable times to examine and inspect said records and accounts during normal business hours. If required by any law, rule or regulation, a Party shall make said records and accounts available to federal and/or state auditors

5.5 Rate Case and Mediation Expense. Purchaser and Waco recognize and agree that Waco may enter into other wholesale water supply agreements with other customers, including, but not limited to, other cities, water districts, and retail public utilities. To the extent that any mediation proceeding or any legal or administrative proceeding is

hereafter instituted by Waco or by Purchaser or any other wholesale water customer of Waco, which proceeding in any way relates to the terms, the rates, the methodology set forth in the Water Rate Study, or the methodology or rate model used in performing the Cost of Service Study to establish rates related to water provided by Waco under this Agreement or any agreement with similar terms and provisions for the reservation of Raw Water and/or provision of Treated Water, Purchaser and Waco agree that the reasonable expenses incurred by Waco in participating in such proceedings shall be deemed to be incurred for the benefit of, and are solely attributable to, the Wholesale Customer Class of Waco and are not incurred for the benefit of, or attributable to, Waco retail customers. Accordingly, all such reasonable expenses shall be billed to Purchaser, except to the extent that a regulatory authority finds that the rate case expenses incurred by Waco were not reasonable and necessary.

ARTICLE 6

Restrictions and Conditions

- 6.1 Resale of Treated Water.** Purchaser and Waco agree that the Treated Water supplied to Purchaser by Waco shall be used solely by Purchaser to meet the reasonable water supply needs of Purchaser's retail potable water customers within the Purchaser's boundaries and extraterritorial jurisdiction or service area defined by Purchaser's Certificate of Convenience and Necessity (CCN), whichever is more expansive.
- (a) Amendment to Certificate of Convenience and Necessity.** Purchaser agrees that it will not amend its CCN to increase its service area within the extraterritorial jurisdiction of Waco without the prior written consent of Waco.
 - (b) If an Area is in Waco's Certificate of Convenience and Necessity and Waco** has the ability to serve the Area, then Waco reserves the right to serve said Area, even if Purchaser has a Certificate of Convenience and Necessity to serve the Area.
- 6.2 No Assignment of Raw Water Reserved Without Waco Consent.** Purchaser and Waco agree that Purchaser may not assign or transfer its Raw Water Reservation, in whole or in part, or commit Raw Water under that reservation as available for use by others, without obtaining the prior written approval of Waco. Unless otherwise provided in Waco's approval, and then only to the extent so provided, such written consent by Waco shall in no way change the terms of this Agreement or impose any additional obligations on Waco to Purchaser or its assigns or transferees. In no event may Purchaser assign or transfer its Raw Water Reservation in whole or in part to a third party who has not also entered into a written Raw Water Reservation with Waco, nor shall any such assignment or transfer be for less than the remaining term of the Agreement nor for a price or under terms other than as provided in this Agreement. Upon any such transfer the amount of acre-feet specified under Section 3.1 of this Agreement shall be reduced accordingly.

6.3 Water Conservation and Demand Management.

- (a) **Water Conservation.** Purchaser shall cooperate with and assist Waco in its efforts to develop and implement plans, programs, and rules to develop water resources and to promote practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in use of water, or increase the recycling and reuse of water. This may include the development of any conservation or rationing plans by either Waco or Purchaser that may be necessary or appropriate to address operational constraints, whether or not the same are required by any state or federal regulatory agency. Purchaser agrees to develop and implement drought contingency and conservation plans or measures required by federal or state agencies or other regulatory jurisdictions, including but not limited to, 30 TAC Section 288.2(a)(2) and (3). Purchaser shall provide a copy of such plan to Waco within 90 days of execution of this agreement. Such plans shall be consistent with and as stringent as Waco's adopted plans. If Waco determines that Purchaser's plans do not meet this standard, Waco shall notify Purchaser of the deficiency in writing. Purchaser shall then amend its plans and resubmit the plans to Waco for review.
 - (1) If Waco amends its plans, programs, and rules, either at its own initiative or in response to state or federal laws or regulations, Waco shall deliver to Purchaser as provided in Section 12.1 a copy of its amendments within thirty (30) days of adoption. Purchaser shall have ninety (90) days from such delivery to review its plans, programs, and rules to determine if any amendment is needed and to forward any needed amendments to Waco for review as provided in Section 6.4(a).
- (b) **Demand Management.** If Waco shall manage demand through rationing the use of water to its retail customers, then a proportional rationing of water supplied to Purchaser by Waco shall be instituted, at Waco's option. Rationing does not relieve Purchaser from its obligation to pay the monthly Demand Charge, except as provided in Section 5.1(e). If Waco shall manage water demand by its retail customers through restrictions on water usage designed to obtain a certain percentage of reduction in water usage (such as limitations on outdoor watering), Waco may restrict treated water deliveries to Purchaser by the same percentage, unless Purchaser enforces the same restrictions as Waco on its retail customers. This rationing and/or restrictions by Waco may be enforced through the use of rate-of-flow controllers.
- (c) **Distribution of Water During Shortage.** Subject to the provisions of Section 3.2 of this Agreement, and for the sole purpose of compliance with Texas Water Code provisions for distribution of water during shortage due to drought or accident, the water supply to be divided between Waco and its wholesale customers is agreed to be that amount of Water that Waco reasonably can make available through treatment for potable purposes of any of the water that Waco is authorized to store and divert from Lake Waco as of the effective date of this Agreement.

- (d) **Minimum Amount of Water.** Notwithstanding anything in this Agreement to the contrary, Purchaser's right to reserve Raw Water, to reserve Initial Maximum Day Demand and GPM, or to receive any specific quantity of water under the Initial Term of this Agreement or renewal thereof, may be limited to the extent reasonable or necessary to make water available to Waco or to others in the Wholesale Customer Class, by the amount of water that Purchaser would have saved if Purchaser had operated its water system in compliance with applicable water conservation, drought management, or demand management plans. The extent of any such limitation will be determined by Waco in consultation with the Water System Advisory Committee and after notice to Purchaser.

6.4 Sanitary Sewer.

- (a) **Cooperation.** Inadequate and/or malfunctioning sanitary sewage facilities can create a nuisance situation that is dangerous to the health, safety and welfare of other persons in the area and can contaminate sources of surface or underground water. Purchaser agrees that it will cooperate with Waco in Waco's efforts to prevent or mitigate the impact of such facilities on area water resources.
- (b) **Connection.** Purchaser agrees that, *to the* extent allowed by law, it will require all *of* its customers, who are provided Treated Water from the Waco Treated Water System, to have adequate sanitary sewage facilities, including either a connection to a sewer system or on site sewage facilities [OSSF, i.e., septic tank system], that meet TCEQ requirements, as well as all requirements adopted by Purchaser, McLennan County and/or Waco through its Subdivision Ordinance (whichever applies).
- (c) **Disconnection.** If a customer of Purchaser has inadequate or malfunctioning sanitary sewage facilities or violates some provision of state law or local regulations regarding an OSSF, Purchaser will, to the extent allowed by law, disconnect water service to that customer (if the customer does not correct the problem after reasonable notice) until such time as adequate, properly functioning sanitary sewage facilities are provided or all violations of state law or local regulations are corrected. By adequate and/or proper functioning sanitary sewage facilities, it is meant a system handling sewage that meets all federal, state, and local standards.

- 6.5 **Federal and State Laws.** This Agreement is subject to all applicable federal and state laws and any applicable permits, amendments, orders, or regulations of any 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, order, rule or regulation in any forum having jurisdiction. Purchaser and Waco mutually agree to abide by any changes in this Agreement made necessary by any new, amended, or revised state or federal regulation.

- 6.6 Support of Waco on Permits and Governmental Agency Approvals.** Purchaser shall actively support and assist Waco in obtaining permits and approvals from governmental agencies in order to protect, repair, maintain, replace, add to, supplement and/or enlarge the Waco Raw Water System and the Waco Treated Water System. Such support and assistance shall include, but is not limited to: providing information to Waco when requested by Waco in order to facilitate any permit or approval; providing written and oral statements of support and assistance or testimony, information, and evidence if appropriate and if requested by Waco in order to obtain any permit or approval; and taking all such other action as may be appropriate to support and assist Waco in obtaining any permit or approval. Support under this Section 6.8 does not extend to direct financial contribution to such efforts. The Parties acknowledge, however, that such costs as are incurred by Waco will be attributed in the Cost of Service Study, including to the Wholesale Customer Class, as appropriate.

ARTICLE 7

Term of Agreement & Extension

- 7.1 Effective Date.** The effective date of this Agreement shall be October 1, 2019.
- 7.2 Expiration of Agreement.** Subject to renewal as provided in this Agreement and unless otherwise terminated sooner as provided in this Agreement, this Agreement shall expire without necessity of other action **at midnight on September 30, 2045**. Upon expiration of this Agreement, Purchaser shall have no right to receive water from Waco and Waco is permanently released from any and all obligations to make Water available to Purchaser.
- 7.3 Renewal of Agreement.**
- (a) **Option to Renew.** Purchaser shall have the option to renew this Agreement, specifically including the Raw Water Reservation, for one (1) additional term of not less than twenty (20) years, upon conditions and at a price and rate as may be mutually agreed in writing by the Parties.
- (1) The quantity of Raw Water available for reservation by Purchaser under a renewal of this Agreement shall be in an amount not less than the amount of the Raw Water Reservation entered under the provisions of Section 3.1 of this Agreement for the Initial Term.
- (2) The quantity of Treated Water available to Purchaser under a renewal of this Agreement shall be in an amount not less than the Initial Maximum Day Demand provided in Section 3.5(a) of this Agreement.
- (3) Purchaser specifically acknowledges that the ability of Waco to renew this Agreement in an amount greater than the amount of the Raw Water Reservation and the Initial Maximum Day Demand in effect during the Initial Term of this Agreement is subject to Waco first determining in Waco's sole discretion that Waco is projected to have, for the term of the renewal, Raw Water and Treated Water available after meeting the

demands of Waco's existing and potential retail customers, including retail customers who purchase water at wholesale rates.

- (4) To the extent that Waco determines that, for the term of the renewal, it will have Raw Water and Treated Water available in excess of meeting the demands of Waco's existing and potential retail customers, Purchaser shall have the first opportunity to increase the quantity of water subject to renewal as provided in Subsection (b) of this Section.
 - (5) In the absence of renewal, and except as specifically provided to the contrary, this Agreement and the obligations of both Waco and Purchaser under this the Agreement shall end on the expiration date specified in Section 7.2 of this Agreement.
 - (6) Renewal is further subject to all state and federal laws and regulations that may limit Waco's and/or Purchaser's legal authority or ability to renew this Agreement.
- (b) **Opportunity to Increase Amount of Water Subject to Renewal.** If Purchaser chooses to renew under the provisions of Subsection (a) of this Section, then Purchaser's renewal shall be in the proportion that Purchaser's most recent Maximum Day Demand bears to the collective most recent Maximum Day Demands of the members of the Wholesale Customer Class that also have a right to or elect to receive additional water during the term of renewal.
- (c) **Notice of Intent to Renew.** Purchaser is required to give notice of its intent to renew this Agreement, specifically including the Raw Water Reservation, **on or before midnight on September 30, 2035**, being at least ten years prior to the expiration date. Notwithstanding anything in this Agreement to the contrary, Waco and Purchaser expressly agree that Purchaser's failure to provide notice of intent to renew on or before midnight on September 30, 2035 shall constitute Purchaser's determination and notice not to renew.
- (d) **Evidence of Replacement Supply upon Notice of Non-Renewal.** If on or before midnight on September 30, 2035, Purchaser does not provide Waco notice that it intends to renew, then also **on or before midnight on September 30, 2035**, Purchaser shall, for purposes of providing additional assurance to Waco that Purchaser will relinquish any reservation of Raw Water and will be disconnected from Waco's Treated Water System upon the expiration of this Agreement, provide Waco evidence that Purchaser has secured an alternative and sufficient water supply. Waco expressly may, but is not required to, enforce this requirement by any means available at law. Purchaser's failure to provide such evidence, or Waco's determination not to enforce this requirement, shall not affect the expiration of this Agreement.
- (e) **Payments Due Upon Expiration.** After expiration of the Agreement, Purchaser shall nonetheless pay Waco for all charges of any kind for Treated Water delivered pursuant to this Agreement, Demand and Excess Demand Charges and/or Raw Water Reservation Charges, Late Fees, and Pass-through

Fees as may be due and owing under the terms of this Agreement upon its expiration. In order to document the expiration of this Agreement, within thirty (30) days of expiration of this Agreement, Waco shall deliver to Purchaser a notice of expiration and a final monthly statement specifying all applicable charges for Treated Water delivered before the expiration of the Agreement, including all Volume Charges, Demand and Excess Demand Charges and/or Raw Water Reservation Charges, Late Fees and Pass-through Fees as accrued before the expiration of the Agreement. The failure of Waco to deliver such notice of expiration shall neither reinstate this Agreement nor relieve Purchaser from the obligation to pay all charges and fees that remain due and owing.

ARTICLE 8

Termination & Default

- 8.1 Termination by Mutual Consent.** This Agreement may be terminated in whole or in part by the mutual consent of the Purchaser and Waco, except that Purchaser may not maintain a Raw Water Reservation without also maintaining a right to receive Treated Water in an amount equal to or exceeding the Initial Maximum Day Demand. In the event of termination of this Agreement by mutual consent, all rights, powers, and privileges of Purchaser hereunder shall cease and terminate without necessity of further action. Upon termination of this Agreement by mutual consent, Purchaser shall have no right to receive Water from Waco and Waco is permanently released from any and all obligations to make Water available to Purchaser. Purchaser shall make no claim of any kind whatsoever against Waco, its agents or representatives, by reason of such termination or any act incident thereto. If the Parties agree to terminate this Agreement, Purchaser shall nonetheless pay Waco for all Volume Charges for Treated Water delivered pursuant to this Agreement, along with all applicable Demand and Excess Demand Charges and/or Raw Water Reservation Charges, Late Fees, and Pass-through Fees owed under the terms of this Agreement prior to termination. The provisions of this Section survive termination of the Agreement.
- 8.2 Default by Purchaser for Failure to Pay.** In the event Purchaser is in default under the terms of this Agreement, Waco may, upon twenty (20) days written notification to Purchaser, temporarily suspend the delivery of Treated Water to Purchaser. If, after the first day of suspension, Purchaser remains in default for a continuous period of ninety (90) days, Waco may, upon written notice to Purchaser, terminate this Agreement, including any Raw Water Reservation entered pursuant to Section 3.1 and as may be renewed or extended under Section 7.3 of this Agreement.
- (a) Waco shall advise Purchaser in writing immediately upon acceptance of the cure of any breach.
 - (b) If Waco terminates this Agreement, Purchaser shall nonetheless pay Waco for all Volume Charges for Treated Water delivered pursuant to this Agreement, along with all applicable Demand and Excess Demand Charges and/or Raw

Water Reservation Charges, Late Fees, and Pass-through Fees owed under the terms of this Agreement prior to termination. During the time that this agreement remains in effect, Purchaser shall continue to be obligated to pay said charges during the time Purchaser is in default. The provisions of this Subsection survive termination of the Agreement.

- (c) In the event of termination of this Agreement, all rights, powers, and privileges of Purchaser hereunder shall cease and terminate. Purchaser shall have no right to receive water from Waco, and Waco is permanently released from any and all obligations to make Water available to Purchaser. Purchaser shall make no claim of any kind whatsoever against Waco, its agents or representatives, by reason of such termination or any act incident thereto, provided Waco acted reasonably and such termination was not unreasonable, arbitrary and capricious. The provisions of this Subsection survive termination of the Agreement.

8.3 Defaults by Parties (other than Purchaser's Failure to Pay). If either Party is in default under the terms of this Agreement (except as addressed in Section 8.2 above), the other Party shall give the Defaulting Party notice in writing of the default. The Defaulting Party shall have thirty (30) days to cure the default.

- (a) If a Party put on notice of an alleged default does not believe it is in default, that Party shall respond in writing to the Party that gave notice within ten (10) days to explain its position on the alleged default. The Parties will negotiate in good faith to resolve the dispute. The Parties agree to submit any dispute that is not so resolved to non-binding mediation as provided in Section 11.1 of this Agreement if the dispute is not resolved within thirty (30) days from the date of the response to the Party that gave notice of the default.
- (b) If a Defaulting Party believes that curing the default will take longer than thirty (30) days, the Defaulting Party may make a written request for additional time. The request shall explain the need for the additional time and the amount of time needed. Approval of the additional time shall not be unreasonable withheld. The Party receiving the request shall respond in writing within seven (7) days to either deny the request or offer a modified time for curing the default. If no response is made, the request for time shall be deemed approved as submitted by the Defaulting Party.
- (c) The Defaulting Party shall give the other Party written notice when it has completed its actions to cure the default. The other Party shall within two (2) days advise the Defaulting Party in writing whether it accepts the actions as curing the default. This acceptance shall not be unreasonable withheld.
- (d) If a Party remains in default of the requirements of this Agreement for a period of one hundred eighty (180) days, the other Party may give notice in writing of its intent to terminate the Agreement on a specified date.
- (e) During the time that this agreement remains in effect, Purchaser shall continue to be obligated to pay said charges during the time Purchaser is in default.
- (f) The provisions of this Article survive termination of the Agreement.

- 8.2 Agreement Terminated under 8.3.** If the Agreement is terminated by either Party, Purchaser shall pay Waco for all accrued Volume Charges for Treated Water delivered pursuant to this Agreement, along with all applicable Demand and Excess Demand Charges and/or Raw Water Reservation Charges, Late Fees, and Pass-through Fees owed under the terms of this Agreement prior to termination. In the event of termination of this Agreement, all rights, powers, and privileges of Purchaser hereunder shall cease and terminate. Purchaser shall have no right to receive water from Waco, and Waco is permanently released from any and all obligations to make Water available to Purchaser.
- 8.3** The provisions of this Article survive termination of the Agreement.

ARTICLE 9

Force Majeure

- 9.1 Definition.** The term *Force Majeure* as used herein shall mean a cause or causes beyond the reasonable control of the Party claiming *Force Majeure*, and shall include but not be limited to natural disasters, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the United States of America or the State of Texas or any civil or military authority, insurrections, riots, epidemics, lightning, fires, hurricanes, storms, water quality events, floods, washouts, droughts, civil disturbances, explosions and breakage or accidents to machinery, pipelines, or facilities; however, lockouts shall be entirely within the discretion of the Party having the difficulty, and the above requirement that any *Force Majeure* shall be remedied with all dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing Party or Parties when such settlement is unfavorable in the judgment of the Party having the difficulty.
- 9.2 Notice; Suspension of Obligations.** By reason of *Force Majeure*, if any Party hereto shall be rendered partially or wholly unable to carry out its obligations under this Agreement, then if such Party shall give notice in writing of such *Force Majeure* to the other Party within a reasonable time after occurrence of the event or cause relied on, the obligation of the Party giving such notice, so far as it is affected by such *Force Majeure*, with the exception of the obligation of Purchaser to pay Raw Water Reservation charges, Demand Charges, Late Fees, and pass-through fees and charges and charges for services actually received from Waco hereunder, shall be suspended during the continuance of the inability then claimed, and such Party shall endeavor to remove or overcome such inability with all reasonable dispatch.

ARTICLE 10

Ownership, Liability, Indemnification and Insurance

- 10.1 Responsibility for Damages for Water.** Except to the extent provided otherwise in this Agreement, Waco shall be the owner of and responsible for **Raw Water** at all times. Except to the extent provided otherwise in this Agreement, Waco shall be the owner of and responsible for **Treated Water** only until it shall pass through the Meter(s) to the Delivery Point(s) at which time Treated Water becomes the property and responsibility of Purchaser. Unless otherwise provided in this Agreement, responsibility for damages arising from the improper treatment, transportation, and delivery of all Treated Water provided under this Agreement shall remain with Waco to the Delivery Point(s). Upon passing through the Meter(s), liability for all damages arising from improper transportation and delivery of the Treated Water after it leaves the Waco system shall pass to Purchaser. **For Treated Water, Waco's sole responsibility is to provide to Purchaser at the Delivery Point(s) potable water meeting the minimum quality requirements for human consumption as prescribed by the TCEQ or appropriate governing agency, or by federal and state law.**
- 10.2 Immunities under State Law.** Nothing in this Agreement shall be construed as waiving sovereign immunity or any other immunity to which Purchaser or Waco may be entitled to under state or federal law.
- 10.3 Purchaser's Insurance – Political Subdivision.** Upon request, a Purchaser that is a political subdivision of the State of Texas shall provide Waco with a copy of Certificate of Insurance evidencing insurance maintained by Purchaser to cover its sale of water.
- 10.4** Subject to Purchaser's right to maintain reasonable deductibles in such amounts as are approved by the City, Purchaser shall obtain and maintain in full force and effect for the duration of the services to be performed under the contract, and any extension hereof, at Purchaser's sole expense, insurance coverage written on an occurrence basis, IN THE FOLLOWING TYPES AND AMOUNTS:

Type	Amount
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000/\$1,000,000/\$1,000,000
Comprehensive General Liability Including: <ul style="list-style-type: none">• Premises/Operations• Independent Contractors• Products/Completed Operations• Personal & Advertising Injury	\$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage

<ul style="list-style-type: none"> • Explosion, Collapse, Underground • Broad form property damage, to include fire legal liability 	
Business Automobile Liability <ul style="list-style-type: none"> a. Owned/leased vehicles b. Non-owned vehicles c. Hired vehicles 	\$1,000,000 per occurrence or its equivalent on a combined single limit (CSL basis).
Professional Liability Insurance	\$500,000

All insurance policies except workers' compensation and employer liability will name the City of Waco as an additional insured.

Professional Liability Insurance: Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, CONSULTANT must maintain this policy for a period of two (2) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

10.5 Term of Policy. The required coverage must remain in effect for a two (2) year period following the expiration of the contract with the City.

10.6 Proof of Insurance Required.

Examination & Approval. All insurance policies shall be subject to the examination and approval of the City for their adequacy as to form and content, form of protection, and financial status of insurance company.

When to Submit. Prior to the commencement of any work or services under this contract, Purchaser shall furnish to the Risk Manager for City originals of completed certificates of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy, or copies of the policies, plainly and clearly evidencing such insurance. Thereafter new certificates, policy endorsements, exclusions, and/or relevant extracts from insurance policies, or policies shall be provided prior to the expiration date of any prior certificate, endorsement, or policy.

Insurers. Purchaser shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas and satisfactory to the City.

Additional Insured. Except for Workers' Compensation and Employers' Liability, the City, its elected officials, officers, servants, agents, volunteers and employees shall be named as additional insureds. No officer or employee, other than the Risk Manager, shall have authority to waive this requirement.

Other-Insurance Endorsement --All insurance policies are to contain or be endorsed to contain the following additional provisions:

1. "Other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy; and

2. Provide not less than ten (10) calendar days advance notice to the City of any suspension, cancellation, non-renewal or material change in coverage.

Agent Information. The certificate(s) must be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City.

Precondition to Performance & Basis for Termination. The City shall have no duty to pay or perform under the contract until such certificate(s), policy endorsements, exclusions, and/or relevant extracts from the insurance policy shall have been delivered to the City's risk manager. Purchaser understands that it is its sole responsibility to provide this necessary information to the City and that failure to timely comply with the requirements of this section shall be a cause for termination of this Agreement. If the City determines that it will deny payment, not perform, or terminate this contract because of the failure to provide certain information or documents, the City shall give Purchaser notice of that determination and allow Purchaser fifteen days to correct the deficiency.

Waiver of Subrogation. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

Notice of Cancellation, Non-renewal, Material Change. When there is a cancellation, non-renewal, or material change in coverage which is not made pursuant to a request by the City, Purchaser shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Purchaser knows of said change in advance, or ten (10) days' notice after the change, if the Purchaser did not know of the change in advance. Such notice must be accompanied by a replacement certificate(s) of insurance, policy endorsements, exclusions, and/or relevant extracts from the insurance policy.

- 10.7 **INDEMNIFICATION. PURCHASER AGREES TO ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE SERVICES RENDERED PURSUANT TO THE CONTRACT AWARDED UNDER THIS REQUEST FOR BID AND HEREBY AGREES TO INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY, OR IN CONNECTION WITH, THE SERVICES TO BE RENDERED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY. PURCHASER AGREES THAT ANY INSURANCE CARRIER INVOLVED SHALL NOT BE ENTITLED TO SUBROGATION UNDER ANY CIRCUMSTANCES AGAINST THE CITY, IT OFFICERS, OFFICIALS, AND EMPLOYEES.**

- 10.8 **No Warranty on Raw Water.**

RAW WATER IS NON-POTABLE AND WACO MAKES NO WARRANTY OR REPRESENTATION WITH RESPECT TO THE QUALITY OR MINERAL CONTENT OF THE RAW WATER AND EXPRESSLY DISCLAIMS ANY WARRANTY AS TO ITS QUALITY, ITS MERCHANTABILITY, OR ITS FITNESS OR SUITABILITY FOR THE INTENDED PURPOSE. PURCHASER HAS SATISFIED ITSELF THAT SUCH WATER IS SUITABLE FOR ITS NEEDS. PURCHASER AGREES THAT ANY VARIATION IN THE QUALITY OR CHARACTERISTICS OF THE RAW WATER SHALL NOT ENTITLE PURCHASER TO AVOID OR LIMIT ITS OBLIGATION TO MAKE PAYMENTS PROVIDED FOR BY THIS AGREEMENT. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION CONTAINED IN THIS AGREEMENT.

10.9 Waco's Insurance. Upon request, Waco shall provide to Purchaser copies of Certificates of Insurance evidencing insurance maintained by Waco to cover its sale and treatment of water.

10.10 Return Flows. If Purchaser and Waco are each one of the cities that makes up the Waco Metropolitan Area Regional Sewer System (WMARSS), the WMARSS interlocal agreements and related documents shall control between Waco and Purchaser the ownership and other issues related to Return Flows to the extent provided for in said interlocal agreements and related documents.

ARTICLE 11

Dispute Resolution

11.1 Non-binding mediation. Each Party agrees that prior to filing a lawsuit or an administrative complaint with a regulatory agency on an issue related to the terms of this Agreement or otherwise related to water supply in lieu of this Agreement, the Party will submit the dispute to non-binding mediation. This provision survives termination of this Agreement.

ARTICLE 12

Notice and Delivery

12.1 Manner of Giving Notice. Unless otherwise provided in this Agreement, any notice, communication, request, reply, protest, advice, approval or consent herein provided or permitted to be given, made, or accepted by either Party to the other, must be in writing and may be given or be served by depositing the same in the United States Mail postpaid and registered or certified and addressed to the Party to be notified with

return receipt requested, or by delivering the same to the Mayor/City Manager or Chief Executive Office, or by prepaid telegram, when appropriate, addressed to the Party to be notified. Any such matter deposited in the mail in the manner hereinabove described shall become exclusively deemed to be effective, unless otherwise stated in this Agreement, from and after the earlier of actual receipt of notice or the expiration of four (4) days after it is so deposited. Any such notice given in any other manner shall be effective only if and when received by the Party to be notified.

12.2 Notice to Waco.

Wiley Stem
City Manager
City of Waco
PO Box 2570
Waco, Texas 76702-2570

12.3 Notice to Purchaser.

Bo Thomas
City Manager
City of Hewitt
200 Patriot Court
Hewitt, Texas 76643

12.4 Delivery of Billing Statements. Delivery of a billing statement pursuant to Article 5 of this Agreement shall be considered effective on the earlier of the date that Waco deposits such statement in the United States regular mail or the date such statement is actually delivered to Purchaser by other means.

12.5 Change of Address. The Parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least five (5) days written notice to the other Party.

ARTICLE 13

Water System Advisory Committee

13.1 Creation of Advisory Committee. Purchaser's governing body shall annually appoint a representative to be a member of the Water System Advisory Committee, whose purpose is to consult with and advise Waco on matters pertaining to notice and renewal procedures under this Agreement, sustainability and conjunctive use of regional water resources including surface water and groundwater, water conservation, wholesale planning, improvements, grants, wholesale rate methodology and studies, administration, budgets, and additional wholesale customers, and such other issues that Waco and the Wholesale Customer Class shall agree to assign to it.

13.2 Procedures for Committee.

(a) The Committee may elect a person to preside as its chairperson.

- (b) The Committee shall meet as requested by Waco or as called to meet by the chairperson, but in no event less than once annually.
- (c) There shall be an annual meeting of the Committee in July of each year. Thereafter, meetings shall be called as requested by Waco or as called by the chairperson. The chairperson shall call a meeting if the chairperson receives a request signed by 50% of the Purchasers represented on the Committee.
- (d) Prior to any determination by Waco to significantly increase the treatment capacity in its Treated Water System, the Committee shall meet to advise Waco with regard to any adjustments that could be made with regard to the Maximum Day Demands of the Wholesale Customer Class in order to avoid additional costs.

ARTICLE 14

Miscellaneous Provisions

- 14.1 Governing Law.** This Agreement shall be governed by the applicable law of the State of Texas and due performance by each Party or any action arising under this Agreement shall lie in McLennan County, Texas. Jurisdiction and venue shall be in McLennan County, Texas, and each of the Parties submit to personal jurisdiction in the state district courts in such county.
- 14.2 Not a Permit.** The Parties acknowledge that this Agreement is not a permit for purposes of Texas Local Government Code Chapter 245.
- 14.3 No Waiver.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to any of the Parties nor to create any legal rights or claim on behalf of any third party. No Party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas of the United States.
- 14.4 Entire Agreement; Supersedes All Others.** This Agreement and any Exhibits hereto embody the entire agreement and understanding of the Parties hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters provided for herein. Specifically, any prior agreement executed between these parties, related to the provision of Treated Water from Waco to Purchaser, is voluntarily terminated by agreement of the parties on the effective date of this Agreement. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by the Party against whom enforcement of any amendment, waiver or consent is sought. This Agreement may not be amended or modified except in writing executed by all Parties and authorized by their respective governing bodies.
- 14.5 Partial Invalidity.** If any term of this Agreement is held to be invalid in any judicial action, the remaining terms will be unaffected.
- 14.6 Duty to Review and Revise.** The Parties will review and revise this Agreement to ensure compliance with the federal and state laws and rules and regulations as necessary.

- 14.7 Survival.** Any provision that by its terms survives the termination of this contract shall bind the Parties' legal representatives, heirs, and assigns as set forth herein.
- 14.8 Assignment.** This Agreement shall not be assignable by either Party without the prior written consent of the other Party nor in contravention of any other provisions contained herein.
- 14.9 Benefits.** This Agreement shall bind, and the benefits thereof shall inure to the respective Parties hereto, their heirs, legal representative, executors, administrators, successors, and assigns. This Agreement shall not be construed as creating any rights in any third party or any duty to any third party.
- 14.10 Multiple Copies.** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date when all Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.

IN WITNESS WHEREOF, the Parties have executed and attested this Agreement by their officers thereunto duly authorized as of the date signed.

CITY OF WACO, TEXAS

BY: 
Wiley Stem, City Manager

Date Signed: 10/18/19

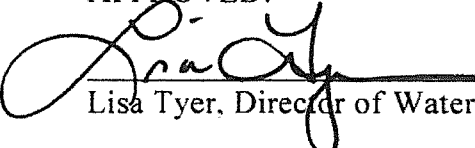
APPROVED AS TO FORM & LEGALITY:


Jennifer Richie, City Attorney

APPROVED:


Paul Cain, Assistant City Manager

APPROVED:


Lisa Tyer, Director of Water Utilities



City of Hewitt, TEXAS
("Purchaser")

By:

Bo Thomas, City Manager

ATTEST:

Lydia Lopez, City Secretary

Date Signed: 10-8-19

City of Waco - City of Hewitt Water System Connection Points

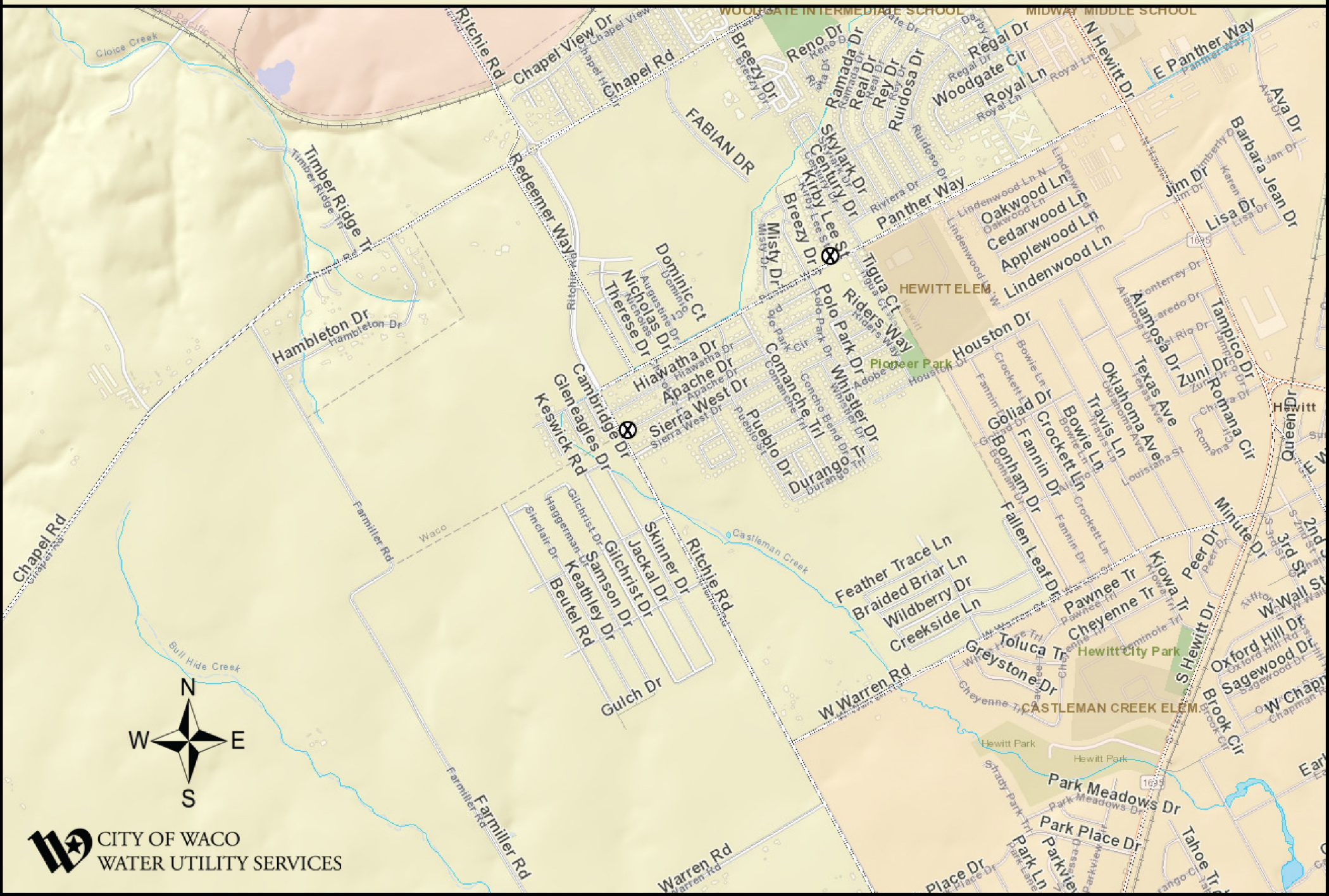


Exhibit B
City of Waco Water Utilities
Wholesale Water Supply Contract Specifications
For Fiscal Year Ending September 30, 2020
City of Hewitt

	MGD	Cost/MGD	Costs	Terms
Reservation Charges				
1 Reservation for Raw Water (\$172.24 per acre foot during contract term)	1.75	\$ 208,867	\$ 365,517	Annually for 25 years
Demand Charges				
2 Reservation for Peak (Max)	2.00	\$ 171,324	\$ 342,648	For Year 2020
3 Reservation for Plant Expansion	2.00	\$ 54,103	\$ 108,206	For Year 2020
Total Fixed Costs			\$ 816,371	
Volumetric Charges				
		Cost/1000 Gal		For Year 2020
4 Volumetric Rate:		\$ 1.95		

Reservation for Raw Water does not change annually.

All rates except the Raw Water Reservation Rate are subject to annual adjustments.

Demand Charge Components - Reservation for Peak (Max) and Plant Expansion must be same MGD.

Reservation Charge - This charge is based upon the annual debt service for the Lake Waco Pool rise divided by the incremental water within the rise to produce a rate per acre foot or MGD. This rate is then applied to the specific MGD a wholesale customer wishes to reserve. Once set it does not change for the life of the contract and is paid in twelve equal monthly installments. If after the initial reservation the Wholesale customer wishes to reserve additional water the incremental amount of water would be subject to the current debt service. New customers contracting for water pay this charge at the highest historical annual debt service to avoid subsidization in the future.

Demand Charge - The Demand charge has two components. Both components are calculated annually based upon the customers designated Peak Day requirement and are subject to penalty if the customer exceeds it designated peak by 10% (Excess Demand Charge).

- (a) The first component is calculated based upon the customers designated Peak Day as a percentage of the Systems Peak Day for the annual period under the AWWA Base/Extra Allocation Methodology as set forth in the Cost of Service Model as contract and is applied to the pre expansion cost data and the current annual operating costs and is paid in twelve equal monthly installments.
- (b) The second component "Expansion Reservation" is calculated based upon the Expansion current annual Debt Service divided by the incremental Peak Day expansion capacity to arrive at a rate per MGD. This rate is then applied to the customers designated Peak Day and is paid in twelve equal monthly installments.

Volumetric Rate - This rate is billed monthly for actual volumes delivered to the wholesale customer based upon actual metered consumption. This rate is calculated by the Cost of Service Model again based upon the AWWA sanctioned Base/Extra Methodology. The rate basically reflects the systems annual operating and maintenance costs which are volume related (average day) versus costs incurred to meet Peak Day Demand as identified by the Cost of Service Model.