

**INTERLOCAL AGREEMENT FOR EMERGENCY WATER SERVICE  
BETWEEN AGUA SPECIAL UTILITY DISTRICT AND THE CITY OF  
MISSION, TEXAS**

STATE OF TEXAS           §  
                                          §  
COUNTY OF HIDALGO   §

This Interlocal Agreement (the "Agreement") is made and entered into pursuant to Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code this \_\_\_\_ day of \_\_\_\_\_, 2025 between AGUA SPECIAL UTILITY DISTRICT (hereinafter "Agua") and the City of Mission, Texas (hereinafter "City").

WHEREAS, Agua desires to use the existing and longstanding interconnection between Agua and the City for the purpose of providing emergency water service to Agua during the term of this Agreement; and

WHEREAS, the governing bodies of the City and Agua believe that this Agreement is necessary for the benefit of the public and that each has the legal authority to provide the governmental function that is the subject of this Agreement; and

WHEREAS, for and in consideration of the mutual promises, covenants, and agreement contained herein, City agrees to provide Agua with a source of treated domestic water during times of emergency; and

NOW THEREFORE, in consideration of the premises and the agreements, covenants and promises herein set forth, it is agreed as follows:

**SECTION 1. EMERGENCY PROVISION OF WATER**

- (a) City agrees to sell treated water to Agua through the water main interconnection identified in Section 4 of this Agreement in the event of an emergency that debilitates Agua's water distribution system or water treatment plant. "Emergency," for purposes of this Agreement, shall mean the following:
- 1) an event arising from fire, flood, storm, or other calamity directly affecting Agua's water distribution system or water treatment plant, and causing an immediate threat to the life, health, or property of the customers and users of Agua's water supply system; or
  - 2) maintenance of Agua's water treatment plant that causes the plant to be offline and unable to produce water for an extended period of time, which would cause an immediate threat to the life, health, or property of the customers and users of Agua's water system.

- (b) To initiate emergency water service from the City, Agua shall provide notice to the City in accordance with Section 2. Upon receipt of notice provided in accordance with Section 2, the City shall read the meter, and open the interconnection between Agua's and the City's water systems.
- (c) Either City or Agua personnel may operate the interconnection to release water into Agua's system, upon written notice and approval from each Party.
- (d) The City's City Manager may discontinue the supply of water to Agua through the interconnection at any time, if, in the opinion of the City, discontinuing the supply of water is necessary for the health, safety, and welfare of the City's water customers and users.
- (e) Agua agrees to that it will use its best efforts to resolve the Emergency as soon as possible. Agua agrees to immediately discontinue obtaining emergency water service for Agua when the Emergency ceases to exist. Agua shall notify the City's City Manager, or his designee, in writing at the end of the Emergency to terminate the emergency water service. The City's personnel will close the interconnection and read the meter within 24 hours after Agua's termination notice is received by the City.
- (f) Unless terminated earlier, the provision of emergency water service shall terminate on the thirtieth (30) day after the date the City initiates emergency water service to Agua under this Agreement.

## **SECTION 2. NOTIFICATION**

- (a) In the event of an Emergency for which Agua needs to initiate an emergency water service, Agua shall contact the City's City Manager, or his designee, in writing to request approval to open the interconnection between the City's and Agua's water supply systems, and to read the meter. The City agrees to respond to the request within at least four (4) hours of being notified of the Emergency. If the Emergency occurs after regular business hours or on the weekend, and Agua is unable to contact the City's City Manager or his designee, Agua may contact the City's operator on-call through the City's business answering service by calling the City's main telephone number.
- (b) By 5:00 p.m. the next business day after notification and initiation of emergency water service by Agua, Agua shall provide written notice of the Emergency to The City that includes the information as set out in (c) below.
- (c) Written notification under this Section (2) shall include a description of the Emergency, actions Agua is taking to address and abate the Emergency, and the duration Agua anticipates needing emergency water service.

### **SECTION 3. DROUGHT CONTINGENCY PLAN IMPLEMENTATION**

During the period in which the City is providing emergency water service to Agua under Section 1 of this Agreement, Agua shall implement and enforce its most stringent drought contingency level contained in its Drought Contingency Plan. The City may terminate the provision of emergency water service to Agua for failure by Agua to implement and enforce its most stringent level of its drought contingency plan.

### **SECTION 4. EMERGENCY INTERCONNECTION AND WATER METER**

- (a) The interconnection between Agua's water system and the City's water system has been and is located at the location designated in Exhibit A, which is attached hereto and incorporated herein. The City shall be responsible for the maintenance, testing, and operation of the interconnection assembly up to and including the meter. To the extent possible, the City shall notify Agua, in writing in accordance with Section 17, whenever it is working on the interconnection prior to such activity. Agua shall be responsible for the maintenance, and testing of its side of the interconnection, including the backflow prevention device. With respect to the interconnection, Agua shall comply at all times with the City's backflow and cross-contamination prevention requirement contained in the City's rules.
- (b) Water delivered to Agua through the interconnection is measured by an eight (8) inch meter installed at the interconnection. The interconnection is and shall continue to be equipped with a backflow prevention device of an eight (8) inch double check valve of a make, model, and serial approved by Agua's General Manager.
- (c) The City will operate, maintain, and will calibrate the metering equipment when requested by Agua and when necessary. Agua shall be responsible for any expense associated with the repair or replacement of the meter. If requested by Agua, any calibrations of the meter by the City will be done at Agua's expense. The City will provide Agua with a copy of the calibration report within ten (10) days of the City's receipt of same. Any meter registering within the standards established by the American Water Works Association ("AWWA") will be deemed to be accurate. If the meter does not register within AWWA standards for accuracy, the City will repair or replace the meter at the expense of Agua.
- (d) The City shall be the owner of and responsible for the water only to meter on the emergency interconnection. After the water has passed through the interconnection, it becomes the property and responsibility of Agua. Unless otherwise provided in this Agreement, responsibility for damages arising from the improper treatment, transportation, and delivery of water provided under this Agreement shall remain with the City to the interconnection. Upon passing

through the interconnection, liability for all damages arising from improper transportation and delivery of the water after it passes through the interconnection to Agua's water system shall pass to Agua. The City's sole responsibility is to provide to Agua at the interconnection potable water meeting the minimum quality requirements for human consumption as prescribed by the Texas Commission on Environmental Quality ("TCEQ") or other appropriate governing agency.

## **SECTION 5. PAYMENT FOR EMERGENCY WATER SERVICE**

- (a) The City agrees to take a water meter reading before and after the Emergency to calculate the water flow that occurred as a result of the emergency water service.
- (b) Agua agrees to pay for the water that passes through the interconnection pursuant to this Agreement at the mutually agreed upon rate of \$2.50 per kgal. The City's commercial base rate shall not apply to water sold to Agua during periods in which the City is providing emergency water service to Agua.
- (c) The City will bill Agua for the water sold to Agua within sixty (60) days after the termination of the emergency water service. Agua shall pay the bill by the due date indicated on the bill, which will be no fewer than thirty (30) days from the date the bill is mailed to Agua. If the due date is on a weekend or holiday, the due dates for payment purposes shall be the next day business day.
- (d) The bill is delinquent if not paid by the due date. All amounts due and owing to the City by Agua shall, if not paid when due, bear eight percent (8%) interest from the due date until paid, provided that if such rate is found to be usurious, the interest will be the maximum rate permitted by law.
- (e) The City may terminate this Agreement if Agua fails to pay any undisputed amounts owed within ninety (90) days after the due date without any additional notice to Agua.
- (f) Agua's obligation to pay for water that passes through the interconnection pursuant to this Agreement plus any accrued interest shall survive the termination of this Agreement.

## **SECTION 6. TERM**

This Agreement will be in force and effect from the date of execution by both Parties and will continue in effect for five (5) years thereafter. This Agreement may be renewed or extended for such term or terms as may be mutually agreed upon by the Parties.

## **SECTION 7. DEFAULT**

Except as otherwise provided by Section 5(e), if either party defaults in the observance or performance of any of the provisions, agreements or conditions to be observed or performed on its part under this Agreement, the other party may give written notice to the party in default of its intention to terminate this Agreement, specifying the failure or default relied upon. Upon the expiration of forty-five (45) days after the receipt of such notice, this Agreement shall automatically terminate, unless, within such forty-five (45) day period, or such longer period as may be specified in such notice or any amendment of or supplement to such notice, the default specified in such notice shall have been fully cured to the reasonable satisfaction of the non-defaulting party.

## **SECTION 8. WAIVER AND AMENDMENT**

- (a) Failure to enforce or the waiver any provision of this Agreement or any breach or nonperformance by Agua or the City shall not be deemed a waiver by the City or Agua of the right in the future to demand strict compliance and performance of any provision of this Agreement. Regardless of any provision contained in this Agreement to the contrary, any right or remedy or any default under this Agreement, except the right of the City to receive the payments specified in Section 5 which shall never be determined to be waived, shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years plus one (1) day after the occurrence of the default.
- (b) No officer or agent of Agua or the City is authorized to waive or modify any provision of this Agreement. No modifications to or rescission of this Agreement may be made except by a written document signed by the authorized representatives of Agua and the City.

## **SECTION 9. REMEDIES**

It is not intended hereby to specify, and this Agreement shall not be considered as specifying, an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by any party hereto and shall be cumulative. Recognizing, however, that failure in the performance of any party's obligations hereunder could not be adequately compensated in money damages alone, each party agrees in the event of any default on its part that each party shall have available to it the equitable remedy of mandamus and specific performance, in addition to any other legal or equitable remedies which also may be available.

## **SECTION 10. INDEMNITY**

To the extent allowed by law, each party agrees to release, defend, indemnify, and hold harmless the other (and its officers, agents, and employees) from and against all claims or causes of action for injuries (including death), property damages (including loss of use), and

any other losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, in any way arising out of, related to, or resulting from its performance under this Agreement, or caused by its negligent acts or omissions (or those of its respective officers, agents, employees, or any other third parties for whom it is legally responsible) in connection with performing this Agreement.

## **SECTION 11. FORCE MAJEURE**

If, for any reason of force majeure, either Agua or the City shall be rendered unable, wholly or in part, to carry out its obligation under this Agreement, other than the obligation of Agua to make the payments required under the terms of this Agreement, then if the party shall give notice of the reasons in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving the notice, so far as it is affected by the "force majeure," shall be suspended during the continuance of the inability then claimed, but for no longer period. The term "force majeure," as used in this Agreement, shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders or actions of any kind of government of the United States or of the State of Texas, or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and people, civil disturbances, explosions, breakage or accident to dams, machinery, pipelines, canals, or other structures, partial or entire failure of water supply, including pollution (accidental or intentional), and any inability on the part of the City to deliver water, or of Agua to receive water, on account of any other cause not reasonably within the control of the party claiming the inability.

## **SECTION 12. NON-ASSIGNABILITY**

No right or interest in this Agreement shall be assigned by either party without the written permission of the other party, and any attempted assignment shall be wholly void and totally ineffective for all purposes.

## **SECTION 13. NO THIRD-PARTY BENEFICIARIES**

This Agreement shall inure only to the benefit of the parties hereto and third persons not privy hereto shall not, in any form or manner, be considered a third-party beneficiary of this Agreement. Each party hereto shall be solely responsible for the fulfillment of its customer contracts or commitments, and the City shall not be construed to be responsible for contracts or commitments of Agua by virtue of this Agreement or any provision contained herein.

## **SECTION 14. RELATIONSHIP OF THE PARTIES**

This Agreement is by and between Agua and the City and is not intended, and shall

not be construed to create, the relationship of agent, servant, employee, partnership, joint venture, or association as between Agua and the City nor between Agua and any officer, employee, contractor, or representative of the City. No joint employment is intended or created by this Agreement for any purpose. The City agrees to so inform its employees, agents, contractors, and subcontractors who are involved in the implementation of or construction under this Agreement.

## **SECTION 15. SOLE AGREEMENT**

This Agreement constitutes the sole and only agreement of the City and Agua and supersedes any prior understanding or oral or written agreements between Agua and the City respecting the subject matter of this Agreement, including any oral or written agreement with Agua that the City obtained by assignment.

## **SECTION 16. SEVERABILITY**

The provisions of this Agreement are severable, and if, for any reason, any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect the invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall remain in effect and be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Agreement.

## **SECTION 17. NOTICES**

All notices, payments, and communications (collectively "notices") required or allowed by this Agreement to be in writing may be given: (i) by depositing the notice in the United States Mail, postage paid, certified, and addressed to the party to be notified with return receipt requested; (ii) by delivering the notice to the party, or an agent of the party or (iii) by confirmed facsimile, provided that a copy of the notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the previously described manner shall be conclusively deemed to be effective from and after the expiration of three (3) days after the notice is deposited in the mail. For the purposes of notice, the addresses of the parties will, until changed as provided below, be as follows:

**AGUA:**

Agua Special Utility District  
Attn: District Manager (robertos@aguasud.com)  
PO Box 4379  
Mission, TX 78573-0075  
(956) 585-2459  
(956) 585-1188 (Fax)

**CITY:**

City of Mission

Mission City Hall  
Attn: City Manager  
1201 E. 8<sup>th</sup> Street  
Mission, Texas 78572  
(956) 580-8650

Either party may change its address by giving written notice of the change to the other party at least fifteen (15) days before the change becomes effective. The City may only rely on a designee of Agua's General Manager for performance of the terms under this Agreement if the current General Manager has named that designee in writing.

#### **SECTION 18. APPLICABLE LAW AND VENUE**

This Agreement will be construed under and in accordance with Texas law. Venue for any action arising hereunder will be in Hidalgo County, Texas.

#### **SECTION 19. DUPLICATE ORIGINALS**

The City and Agua, acting under the authority of their respective governing bodies, shall authorize the execution of this Agreement in several counterparts, each of which shall be an original.

#### **SECTION 20. AGREEMENT DRAFTED EQUALLY.**

This Agreement shall be deemed drafted equally by the parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against either Party shall not apply.

#### **SECTION 21. AUTHORITY.**

The respective signatories to this Agreement covenant that they are fully authorized to sign this Agreement on behalf of their respective party.

#### **SECTION 22. PREAMBLE AND RECITALS.**

The preamble and preliminary recitals in this Agreement are incorporated by reference.

#### **SECTION 23. ADDITIONAL REPRESENTATIONS.**

Pursuant to Chapter 791, the Texas Interlocal Cooperation Act, Agua and the City agree as follows:

- (a) This is an interlocal contract between Agua and the City for



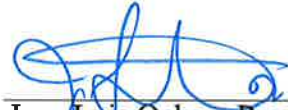
governmental functions and services to be provided for their mutual aid and benefit.

- (b) In order to serve the public interest, Agua and the City are mutually interested in the governmental functions and services described in this Agreement.
- (c) Agua and the City acknowledge that their performance of this Agreement shall accomplish the worthwhile public purposes herein described.
- (d) Agua and the City are authorized by law to contract for and perform the mutual obligations described in this Agreement.
- (e) This Agreement may be renewed by the written consent of Agua and the City, and if so, may be renewed for a specified term of years.

EFFECTIVE as of the date signed by the authorized representative of Agua.

AGUA SPECIAL UTILITY DISTRICT

BY:



Jose Luis Ochoa, President

5/5/2025

Date

ATTEST:



Gerardo Perez, Secretary

CITY OF MISSION  
City Manager  
1201 E. 8th Street  
Mission, Texas 78572  
(956) 580-8650

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

Mike R. Perez, City Manager

\_\_\_\_\_  
Date .

ATTEST:

\_\_\_\_\_  
Anna Carrillo, City Secretary