

MARGIE R IBARRA
COUNTY CLERK
FILED

**INTERLOCAL CONTRACT FOR SALE AND
PURCHASE OF WASTEWATER EFFLUENT**

2023 MAR -7 AM 9:46

WEBB COUNTY, TEXAS *all*

This INTERLOCAL CONTRACT FOR SALE AND PURCHASE OF WASTEWATER EFFLUENT ("Contract") is made and entered into, by and between the City of ~~Laredo, Texas~~ ^{BY City of Laredo, TEXAS DEPUTY} ("City"), a municipal corporation situated in Webb County, Texas, and Webb County ("County"), a political subdivision of the State of Texas. The Parties hereby covenant and agree as follows:

RECITALS

WHEREAS, County desires to use effluent wastewater generated by the City of Laredo's North Laredo Waste Water Treatment Plant (also referred to herein as the "NLWWTP") to irrigate its 295-acre public golf course facility; and

WHEREAS, the current contract between the County and the City expires August 1, 2027 and the parties wish to modify the terms and conditions of that contract; and

WHEREAS, both City and County recognize the use of wastewater effluent for irrigation is an efficient use of water resources reducing the amount of water extracted from the Rio Grande; and

WHEREAS, the City Council for City has determined that it is in the best interest of the City and its residents to enter into this Contract; and

WHEREAS, the Webb County Commissioners Court has determined that it is in the best interest of the County and its residents to enter into this Contract.

NOW THEREFORE, for and in consideration of the premises and the mutual covenants contained herein and pursuant to Chapter 791 of the Texas Government Code (Interlocal Cooperation Act), the parties hereto covenant, agree and bind themselves as follows, to-wit:

I. Wastewater Effluent

Section 1.1. Water to be made available. During the initial term (Section 5.1) and option term (Section 6.1) as set out and defined in this Contract, the City hereby agrees that it shall make available to the County a minimum of three hundred seventy-five thousand gallons per day (375,000 gpd) of wastewater effluent from the North Laredo Waste Water Treatment Plant (NLWWTP); and if available, up to a maximum of five hundred thousand (500,000) gallons of wastewater effluent per day. Delivery in excess of the minimum

proposed effluent volume may require an upgrade of the existing effluent transfer equipment (pumps, pipes, etc.). The cost of any upgrade necessary due to the County's demand for effluent in excess of three hundred seventy-five thousand gallons per day (375,000 gpd) shall be paid for by both parties hereto on an equal basis for all such pumps, pipes and transfer equipment. It is understood and agreed that this Contract includes and contemplates delivery of wastewater effluent as managed by the existing equipment from the NLWWTP. This paragraph is subject to sections 6.2 and 7.4 of this Contract.

Section 1.2. Point of Delivery. The term "point of delivery" as used herein shall mean that point where the City owned facilities for delivery of wastewater effluent to the Casa Blanca Golf Course connect to the County owned facilities with a metering device. Title, ownership and responsibility for the wastewater effluent shall pass from the City to the County at the point of delivery.

Section 1.3. Equipment. Upon completion of the upgrade of the existing effluent transfer equipment contemplated in Section 1.1 above, City shall deliver waste water effluent in quantities at the maximum amount as set forth in Section 1.1. City shall be responsible for the maintenance, at its sole expense, of all equipment, including water treatment equipment, pumping equipment, meters and pipelines used for delivery of waste water effluent to the Casa Blanca Golf Course to the point of delivery. Maintenance of all equipment beyond the point of delivery shall be the County's responsibility at its sole expense.

II. Rate

Section 2.1. Rate. During the initial term of this Contract (Section 5.1), the County agrees that the County shall pay the City the rate of twelve (\$0.12) cents per 1,000 gallons of wastewater effluent (the "effluent rate") delivered to Casa Blanca Golf Course. It is also agreed by the parties hereto that the effluent purchase rate shall also increase as per City of Laredo Code of Ordinances Chapter 31, Article III, Division 3. In the event City experiences a financial hardship caused by an increase in plant operations cost due to regulatory requirements relating to the quality of effluent, the City reserves the right to amend this contract to increase the effluent purchase rate in an amount sufficient to pay for the increased operations costs, subject to County's right to negotiate the increase or in the alternative to terminate the contract because of the increase.

The County Shall be billed and shall pay City for a minimum of three hundred seventy-five thousand gallons per day (375,000 gpd) of effluent. Any amounts of effluent used by the County in excess of three hundred seventy-five thousand gallons per day

(375,000 gpd) of effluent per day shall be billed according to the meter readings at the existing Casa Blanca Golf Course meter maintained by the City.

III. Effluent Quality Standards

Section 3.1. Standards for Wastewater Effluent. All wastewater effluent delivered to the Casa Blanca Golf Course hereunder shall meet the following standards:

The Standards specified by the Texas Commission of Environmental Quality (TCEQ) in Permit Number WQOO 10681-004 as that permit may be amended or renewed from time to time.

Section 3.2. Testing. Testing to determine compliance with the standards set out in Section 3.1 above shall be performed by the City at City's sole cost and expense and the results of such test shall periodically be made available to the County at such times as may be mutually agreed to by the parties.

Section 3.3. Metering. The City shall, at its sole expense, provide and maintain sufficient accurate metering equipment, to meter all wastewater effluent and any potable water taken by the County in accordance with this Contract.

- (A) **Monitoring Equipment Maintenance.** In accordance with State requirements or permits, the City shall calibrate and perform maintenance on all monitoring and analytical instrumentation to insure accuracy of measurements.
- (B) **Data Recording Requirements.** For each measurement or sample taken pursuant to the requirements of this Contract, the City shall comply with the regulations and requirements of the Texas Commission on Environmental Quality as required by TCEQ Permit Number WQOO 10681-004 as it may be amended or renewed from time to time.

IV. Potable Water

Section 4.1. The City agrees to make potable water available for sale to the County, at the City's commercial irrigation rates at the lowest commercial irrigation rate available (irrespective of line or meter size) as specified in City of Laredo Code of Ordinances Chapter 31, Article III, Division 3, including any increases authorized by Ordinance, under the following circumstances:

- (A) When effluent water supplies are limited because of maintenance work or equipment

breakdowns at the NLWWTP City shall make up any shortfall of effluent wastewater by supplementing with potable water (from the fire hydrant that is adjacent to the golf course tract along U.S. 59/Loop 20) which shall be used to ensure the minimum volume of water is delivered to the County at the effluent rate and any potable water provided above the minimum volume set forth in Section 1.1 shall be charged at 1/2 of the rate as provided in Section 4.1 at the lowest commercial irrigation rate available (irrespective of line or meter size); or

- (B) For periodic flushing of the greens on the Casa Blanca Golf Course.
- (C) In the event City needs to flush and clear its potable water lines, County will accept, at no cost to County, all such flush water from the fire hydrant that is adjacent to the golf course tract along U.S. 59/Loop 20.
- (D) In the event the quantity of wastewater effluent City is obligated to deliver to County is insufficient because of drought or a decrease in the effluent wastewater generated at the NLWWTP due to conservation measures or a decrease in the quantity of wastewater collected at the plant for treatment, City shall advise County in writing of the decrease and ensure that County receives at least one third of the wastewater effluent discharged up to the minimum amount of wastewater effluent set forth in Section 1.1.
 - Upon an occurrence as set forth in Section 4.1 (D) above, City shall allow County to supplement potable water for irrigation at a cost of \$0.12 per 1000 gallon for half of the difference needed to meet the minimum gpd obligation set forth in Section 1.1 and the lowest commercial irrigation rate available (irrespective of line or meter size) for the other half of the difference. By way of example: the minimum gpd is 375,000 gpd. If only 200,000 gpd is delivered the remaining balance or difference is 175,000 gpd. One half of the difference or 87,500 gpd would be charged at 0.12 per 1000 gallons and the other half would be charged at the lowest commercial irrigation rate available (irrespective of line or meter size).
- (E) The Irrigation rate for potable water shall be the lowest commercial irrigation rate available (irrespective of line or meter size) as periodically set by Ordinance and as increased annually by authorized yearly percentage increases.

V. Term

Section 5.1 Initial Term. The initial term of this Contract shall begin on the date when this contract has been signed by the last party whose signing makes the contract fully executed and shall terminate on December 31, 2038, subject to one option to extend the Contract.

VI. Renewal Option and Termination

Section 6.1. Option Term. The County has the option to extend this Contract for a period of an additional ten (10) years after the expiration of the initial term of this Contract. The County will provide the City with notice of its desire exercise its option to extend this Contract during the final twelve (12) month period of the initial term. The City reserves the right to approve or deny the option to extend this contract beyond the initial term.

Section 6.2. Termination. The City and the County agree that this Contract can be terminated during its initial term or option term based on the following reasons:

- (A) The City and the County mutually consent in writing to terminate this Contract;
or
- (B) In the event that the City's legal ability to deliver wastewater effluent is materially impaired or is eliminated because of the termination or adverse modification of state or federal permits, mandates, decrees, or legally required authorizations which are needed or relied upon by the City to deliver the wastewater effluent to the Casa Blanca Golf Course.

VII. Miscellaneous

Section 7.1. Performance. This contract is entered into and performable in Webb County, Texas. The Parties hereby stipulate to venue in the State Courts of Webb County, Texas.

Section 7.2. Notices. All notices and other documents required or authorized to be given or delivered under the terms of this Contract, shall be delivered in person or by U.S. mail, certified, returned receipt requested, to each of the persons below:

If to City:
City Manager
City of Laredo
1110 Houston Street
Laredo, TX 78040

With a copy to:
City Secretary
City of Laredo
1110 Houston Street
Laredo, TX 78040

and a copy to:
Utilities Director
City of Laredo
5816 Daugherty Ave.
Laredo, TX 78041

If to Webb County:
Webb County Judge
1000 Houston Street, 3rd Floor
Laredo, Texas 78040

With a copy to:
Webb County
Commissioners Court Administrator
1000 Houston Street, 2nd Floor
Laredo, Texas 78040

Any such notice shall be deemed to be delivered upon deposit of the notice, enclosed in postpaid, property addressed wrapper or envelope, in a post office or official depository under the care and custody of the United States Postal Service.

Section 7.3. Prior Contracts. All prior contracts and agreements relating to the purchase of wastewater effluent for irrigation of the Webb County Casa Blanca Golf Course, including but not limited to the Renewal And Extension Of Agreement For Sale and Purchase Of Wastewater Effluent, dated December 2, 2022, are superseded by this Contract and of no further force or effect.

Section 7.4. Force Majeure. In the event either party hereto is rendered unable, either wholly or in part, by force majeure to carry out its obligations under this Contract, the obligations of both parties hereto, so far as they are affected by the force majeure, shall be suspended during the continuance of such force majeure, and such force majeure shall be, so far as possible, remedied with all reasonable dispatch.

The term "force majeure" employed herein shall mean strikes, lockouts, other industrial disturbances, shut downs for necessary maintenance, acts of public enemy, wars blockades, instructions, riots, epidemics, landslides, lightning, earthquakes, fires, floods, hurricanes, storms washouts, droughts, arrests, and restraint of government and people, civil disturbances, explosions, brakeage, accidents or failure of facilities of either party, acts of God and any other causes, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming suspension.

Section 7.5. Severability. In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect in a final non-appealable order rendered by a court of competent jurisdiction, that invalidity, illegality, or unenforceability shall not affect any other provision in this Contract and this Contract shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

Section 7.6. Inconsistencies. Where there exists any inconsistency between this Agreement and other provisions of collateral contractual agreements that are made a part hereof by reference or otherwise, the provisions of this Agreement shall control.

Section 7.7. Law of Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in Webb County, Texas.

Section 7.8. Entire Agreement. This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.

Section 7.9. Amendment. No changes to this Agreement shall be made except upon written agreement of both parties.

Section 7.10. Headings. The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.

Section 7.11. Waiver. The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.

Section 7.12. Terminology and Definitions. All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.

Section 7.13. Rule of Construction. The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this agreement, and the parties hereby agree that the

normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement or any amendments or exhibits hereto.

Section 7.14. Immunity. Neither the City of Laredo or Webb County waive or relinquish any immunity or defense on behalf of themselves, their trustees, councilmembers, commissioners, offices, employees and agents as a result of the execution of this Agreement and performance of the functions and obligations described herein.

Section 7.15. No rights created. Any other provision of this Agreement to the contrary notwithstanding, this Agreement shall not create any rights or benefits on behalf of any other person not a party to this Agreement, and this Agreement shall be effective only as between the parties hereto, their successors and permitted assigns.

Section 7.16. Dispute Resolution, Mediation and Litigation.

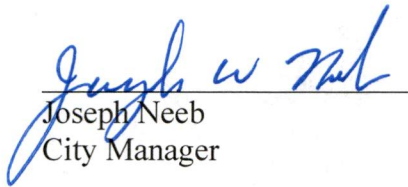
- (A) It is a condition precedent to the filing of a lawsuit by one party to this contract against the other until the parties shall attempt in good faith to resolve any dispute arising out of or relating to this contract promptly by negotiation (hereinafter referred to as “good faith negotiation”) between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this contract. Any party may give the other party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 30 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place.
- (B) Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above (“First Meeting”). Such closure shall not preclude continuing or later negotiations, if desired.
- (C) All offers, promises, conduct and statements, whether oral or written, made in the

course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

- (D) At no time prior to the First Meeting shall either side initiate litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by agreement of the parties. However, this limitation is inapplicable to a party if the other party refuses to comply with the requirements of Paragraph (A) above.
- (E) All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in Paragraphs (A) and (B) above are pending and for 15 calendar days thereafter. The parties will take such action, if any, required to effectuate such tolling.
- (F) In the event the good faith negotiations are unsuccessful the matter shall be submitted to non-binding mediation with a mediator chosen by joint agreement of the parties.

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed.

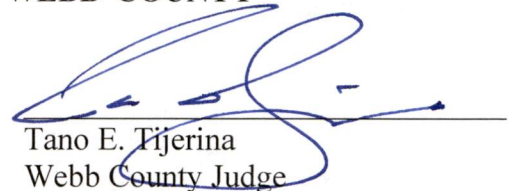
THE CITY OF LAREDO



Joseph Neeb
City Manager

Date: 3-3-23

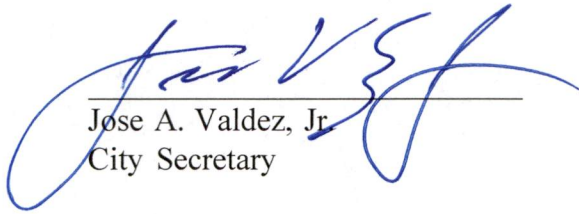
WEBB COUNTY



Tano E. Tijerina
Webb County Judge

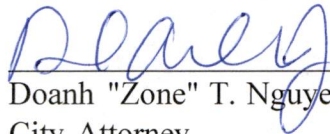
Date: 2/13/2023

ATTEST:



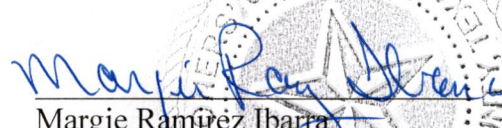
Jose A. Valdez, Jr.
City Secretary

Approved as to Form:

For: 

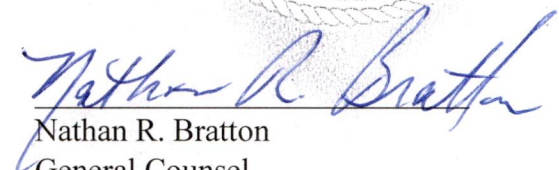
Doanh "Zone" T. Nguyen
City Attorney
By: _____

ATTEST:



Margie Ramirez Ibarra
Webb County Clerk

Approved as to Form:



Nathan R. Bratton
General Counsel
Civil Legal Division*

*The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf Webb County, its client. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

