

STATE OF TEXAS §
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COUNTY OF HIDALGO §

**MODIFIED NON-STANDARD
WATER/SEWER SERVICE AGREEMENT**

THIS AGREEMENT (“Agreement”), made by and between NORTH ALAMO WATER SUPPLY CORPORATION, a Texas Corporation with offices in Hidalgo County, Texas, hereinafter called “Corporation” and COUNTY OF HIDALGO, hereinafter called “County.”

WITNESSETH

1. (a) COUNTY is the owner of that certain real property in Hidalgo County, referred to as the **SAN CARLOS COMMUNITY RESOURCE CENTER AND PARK**, hereinafter called **“SCCRC”**, a plat of which will be filed for record in the map records of Hidalgo County, Texas and more particularly described as follows:

A 55.00 acre tract out of Block No. 10, Section No. 260, of the Tex-Mex Railway Company’s Subdivision recorded as of Hidalgo County Map Records, by (Warranty Deed?) of record at Document No. , Official Records, Hidalgo County, Texas.

(b) County agrees to deposit with Corporation all required fees and costs required to begin service (the **“Deposit”**) and to file the fully approved map of the SCCRC and an original of this Agreement in the appropriate records of Hidalgo County, Texas before Corporation is required to provide service. County agrees that before Corporation will be required to serve said SCCRC with service, County, , shall apply for membership in Corporation, be approved and execute a service agreement on a form acceptable to Corporation.

(c) This Agreement shall, in its entirety and with all supplements and amendments, be a limitation and restriction to the SCCRC , and shall be included in and become a part of all contracts of sale, deeds, or other instruments whereby title and possession are divested from County into any other party (the **“Landowner”**), and likewise into their successors in title to all or any part of the property in said SCCRC , and which shall be a covenant running with the property known as the SCCRC .

(d) The plat of the SCCRC shall be submitted to Corporation and shall comply with the following:

- (i) The plat to be drawn by a Texas Registered Professional Engineer and show the total area to be developed, and include reference to known landmarks.
- (ii) The plat and construction plans will show the location and size of all proposed water / sewer lines, gate valves, service lines and meter locations.
- (iii)The plat will show all proposed development for the SCCRC , however, the SCCRC and its utility systems may be developed in stages as desired by the County, if the development is done in accordance with the approved plan for the entire SCCRC Any changes from the approved plan must be given written approval by Corporation.
- (iv)Corporation has the right to approve any plat and construction plan as submitted or to require a change of the size and location of any sewer line, water line, service line or meter stop.

2. (a) County, for the benefit of the Corporation, does hereby agree to install sewer line, water lines, facilities and appurtenances in the SCCRC and to the extent necessary, outside of the SCCRC, in accordance with the construction plans agreed upon by the parties to which reference is hereby made. County agrees that the SCCRC shall be surveyed and construction survey stakes be set out so that Corporation’s contractor will be able to install the lift station required for the System in accordance with the SCCRC plan and in the location required by County. County accepts the sole and full responsibility for designating the location of the System for installation. County shall obtain all permits from any governmental agency having jurisdiction which may be necessary for the installation of the System.

(b) County may perform its own construction or may hire an independent contractor to install the System other than the lift station. If County does its own construction or if County elects to hire an independent contractor, County or the contractor must be approved by Corporation and (i) the supervisor of the construction selected to install the System must possess a Grade **“C”** water distribution certificate issued by the Texas Commission on Environmental Quality , or its successor (**“TCEQ”**) or (ii) County must provide Corporation with certification that all construction was done as required by the rules of the TCEQ, made and signed by a Texas Registered Professional Engineer. County shall pay a \$500.00 non-

refundable inspection fee to corporation prior to beginning construction of the System. Subject to that certain agreement between Corporation and County, County shall be wholly responsible for any and all costs for the installation of the System, source line, and other necessary appurtenances required to provide sewer and water service to the SCCRC . Corporation will not be required to deliver any water to the SCCRC , except for testing and inspection, until all costs of construction have been paid, an affidavit stating that all bills for the construction have been paid, is given to Corporation and any mechanics or material liens on the System, if any, have been removed.

(c) Upon completion, and after County has provided Corporation with an affidavit that all material suppliers, contractors, subcontractors, and laborers have been paid, as well as a release of liens from all material suppliers, contractors, subcontractors and laborers that contributed to the construction of the System, Corporation or its representative will inspect and test the System and when completed in accordance with Corporation's requirements, County will be notified that Corporation has accepted the System, at which time the System and related licensed areas are to become the property of Corporation. This Agreement shall be evidence of the transfer of the System from County to Corporation.

3. All parts of the System paid for by County for services to the SCCRC upon acceptance by Corporation, shall become the property of Corporation, and subject to any warranty; Corporation will maintain lines and perform all repairs up to each service meter or in the case of a sewer line, up to the SCCRC's property line. Each customer's water meter shall remain the property of Corporation. Once paid, the Deposit and any interest accrued thereon will become the sole property of Corporation.

4. County does hereby grant a license for the System as set out on the SCCRC's plat and plans, which licensed areas shall be kept clear of all fences, obstructions, buildings, or other structures which would interfere with Corporation maintaining the System in such licensed areas, and Corporation is to have the right of ingress and egress through said licensed areas and adjacent property of the Landowner, for necessary construction, repairs and maintenance purposes. Corporation shall not be liable for any damages to the surface or sub-surface of such licensed areas which may result from its construction, repair and maintenance activities, or which may result from Corporation's ingress and egress to such licensed areas for such purposes.

5. The System shall be constructed in conformity with rules and regulations of all local state and federal government and their agencies. Fire hydrants shall not be installed in the SCCRC , unless Corporation hereafter agrees. In the event of installation of a sewer system therein, such sewer lines and related system shall remain a distance from the System equal to that required by the rules and regulations of the Texas Department of Public Health and the Texas Commission on Environmental Quality and their successors, whichever are more restrictive, even though such rules and regulations may not be considered applicable or enforceable by these agencies. Moreover, the installation of sewer lines and sewer systems shall meet all rules and regulations as required by the Texas Department of Public Health, the Texas Commission on Environmental and their successors or any other agency with similar authority. Additionally, all sewer lines, septic tanks and septic tank's drain fields shall be at least ten feet (10') from the water lines as constructed and, in the event that Corporation shall require changes to maintain the requirements of this paragraph, such changes shall be made at the expense of Landowner. Corporation shall have the right to disconnect service to the SCCRC or any part thereof or Landowner's property in the event of a violation of this Agreement, and that it may incur in connection therewith. Such disconnection of service shall continue until the violation of this Agreement or any regulation or statute is corrected by such Landowner.

6. If the SCCRC is within the boundaries of a governmental body with the duty to provide non-potable water for use in the property within the SCCRC , County agrees to petition the governmental body for exclusion from the boundaries of the body as allowed by Texas Water Code § 49 and County agrees to take all those steps required of County to assure that such an exclusion occurs. County assigns all rights to receive water for the land within the SCCRC from any governmental body to Corporation as well as all rights County has to divert waters of the State associated with the Subdivision.

7. County shall provide Corporation with the right to divert water for municipal purposes from the Rio Grande below Falcon Dam in an amount equal to the amount of municipal water rights required to serve the SCCRC plus an amount required by the governmental body delivering water to Corporation for canal and delivery losses. This may be accomplished by the purchase, conversion, and transfer of water rights to Corporation or by the assignment of a valid, assignable contract to purchase water rights together with the payment of all costs, fees and attorney fees required to purchase, convert to municipal use, and transfer the water rights to Corporation as well as to record this transaction with the appropriate public records including those in Hidalgo County and the TCEQ and any other regulatory agency whose approval is required before such water rights are absolutely effective and all

costs and expenses related to such endeavors are paid. Upon further agreement by Corporation, all or part of this requirement to provide water rights may be satisfied by a payment to Corporation of a fee.

8. Corporation does, by this Agreement, agree only to furnish service to the extent of its capabilities and to the extent provided by its rules and regulations as presently existing or as hereafter amended, which are incorporated herein by reference. Upon timely completion of all terms of this Agreement required of County, Corporation will provide a separate document evidencing its obligation to furnish water service for a period of thirty (30) years commencing upon the date of this Agreement. Corporation is not obligated to reserve water or its capacity of service or to make water service connections until such time as membership and service agreements have been signed by Landowner and all related costs have been fully paid. It is understood that this Agreement applies only to the SCCRC described above. No property outside of the SCCRC is entitled to any service as a result of this Agreement. Following thirty (30) years from the date of this Agreement, applications for service shall be accepted only upon agreement and Corporation's ability to provide water pressure and line capacity required.

9. This Agreement shall be performed under the laws of the State of Texas, in Hidalgo County, Texas and the parties further agree that the venue shall lie in Hidalgo County, Texas, in the event of a suit. This Agreement shall be valid and binding not only upon the parties, but also upon their successors and assigns, and be a covenant running with the property in said Subdivision.

10. This Agreement contemplates the parties will agree to a letter of conditions and upon a set of plans and specifications for construction of the System. All such and other supplements and amendments to this Agreement shall be in writing and signed by all parties before they will be enforceable. No oral agreements shall be effective so as to modify the terms of this Agreement. All writings executed by Corporation must be expressly approved by the Board of Directors of Corporation as evidenced by Corporation's minutes before Corporation is bound by its terms.

11. If the SCCRC is not filed of record and all the capital improvements required hereunder, both within and outside of the SCCRCs, are not totally completed within two (2) years of the Effective Date set forth below, then this Agreement is completed without either party having any further obligation or liability to the other party arising from this Agreement.

12. This Agreement may not be modified and is not assignable by either party unless otherwise agreed, set forth in writing and accepted by official acts of the Board of Directors of Corporation. Notwithstanding the terms of the preceding sentence, if the sums required for the Deposit and/or the construction of the System are advanced under the terms of a written financing agreement, and the SCCRC is sold pursuant to the terms of the written financing agreement, Corporation, at its sole discretion, may consider such foreclosure action as an attempted assignment of this Agreement and may, but is not required to, agree to and accept the assignment of the rights and obligations of the County to the purchaser at the foreclosure sale. Such acceptance will not alter the rights and obligations of the parties and shall not be effective unless evidenced by a writing authorized by and executed on behalf of the Board of Directors of the Corporation.

13. This AGREEMENT is executed in multiple originals, each of which is to be considered an original for all purposes.

Effective Date: _____, 20 ____.

WITNESS OUR HANDS IN DUPLICATE ORIGINALS the date given above.

NORTH ALAMO WATER SUPPLY CORPORATION

COUNTY OF HIDALGO

By: _____
Steven P. Sanchez, General Manager

By: _____
Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, Jr. County Clerk

THE STATE OF TEXAS §
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COUNTY OF HIDALGO §

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this date personally appeared Stephen P. Sanchez, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the NORTH ALAMO WATER SUPPLY CORPORATION for the purpose and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 201__.

(SEAL)

Notary Public in and for the State of Texas

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BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this date personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 201__.

(SEAL)

Notary Public in and for the State of Texas

AFTER RECORDING RETURN TO:
NORTH ALAMO WATER SUPPLY CORP.
420 S. Doolittle Road
Edinburg, Texas 78542-9707