

STATE OF TEXAS §

COUNTY OF HIDALGO §

**AGREEMENT
BETWEEN THE COUNTY OF HIDALGO, TEXAS
AND NORTH ALAMO WATER SUPPLY CORPORATION**

This AGREEMENT is made on this the ___ day of _____, 2014, by and between **COUNTY OF HIDALGO, TEXAS**, hereinafter referred to as "County", and the **NORTH ALAMO WATER SUPPLY CORPORATION**, hereinafter referred to as "North Alamo", pursuant to the provisions of Texas Water Code Section 67.010, as follows:

WHEREAS, County is a political subdivision of the State of Texas;

WHEREAS, County is the owner of certain real property in Hidalgo County, Texas located on Holmes Road to be known as "San Carlos Community Resource Center and Park", (the "SCCRC");

WHEREAS, County has determined that a lift station is required in order to provide sewer service to SCCRC'

WHEREAS, construction of the lift station is necessary for the operation of the SCCRC

WHEREAS, in accordance with Texas Water Code section 67.009, North Alamo may construct, acquire, lease, improve, extend or maintain a facility, plant, equipment or appliance helpful or necessary to provide more adequate sewer service for a political subdivision;

WHEREAS, County has determined that it is in its best interest for County to design the lift station and for North Alamo to construct the lift station;

WHEREAS, North Alamo is a non-profit water supply corporation; and holds a certificate of convenience and necessity ("CCN") for the area in which the SCCRC is located;

WHEREAS, County will design the lift station to include a wet well twenty (20) feet in depth and eight feet in width (the "Lift Station") and a six (6) inch diameter force main (the "Force Main");

WHEREAS, after North Alamo has constructed the Lift Station, and County has constructed the Force Main, and the construction has been accepted by North Alamo,

North Alamo will operate and maintain the Lift Station;

NOW THEREFORE, County and North Alamo, in consideration of North Alamo constructing operating and maintaining the Lift Station, and providing sanitary sewer service to the SCCRC and the mutual covenants expressed hereinafter, agree as follows:

1. County agrees that before North Alamo will be required to serve County's facilities in SCCRC with sewer service, County shall: 1) apply for and be approved for membership in North Alamo; 2) execute a Modified Subdivision Non-Standard Water/ Sewer Service Agreement; 3) file the fully approved plat of SCCRC and an original of this Agreement in the appropriate records of Hidalgo County, Texas; and 4) pay all required fees and costs to begin service. The aforementioned items are a condition precedent to North Alamo providing sewer service to SCCRC.
2. County shall submit the plat (the "Plat") of SCCRC prior to recording same to North Alamo, a copy of which is attached hereto as Exhibit A. North Alamo retains the right to approve any plat and construction plan as submitted or to require a change of size and/or location of any sewer line and service line cleanout.
3. No more than the SCCRC facilities referenced above, as reflected on the Plat, shall be served without the prior written approval of North Alamo.
4. Within thirty (30) days following execution of this Agreement, County agrees to show on the Plat the location of the Lift Station and the Force Main area which North Alamo may enter for so long as North Alamo provides sanitary sewer services to the SCCRC for the construction operation, repair and maintenance of the Lift Station and Force Main.
5. County will retain an engineer, at County's sole cost and expense, to prepare construction plans and specifications for the construction of the lift station containing a wet well twenty (20) feet in depth and eight (8) feet in width.
6. County agrees to provide a survey to North Alamo showing metes and bounds description for the licensed areas of the Lift Station and the Force Main as shown on the Plat and more particularly described on Exhibits A-1 and A-2 respectively attached hereto and set construction survey stakes to allow North Alamo or North Alamo's contractor to construct the Lift Station necessary to serve SCCRC within the licensed areas shown on the Plat.
7. Except for the Lift Station to be constructed within the licensed area shown on the Plat by North Alamo, County, at its own expense, agrees to install all sewer lines, facilities and appurtenances within the SCCRC (the "System"). County accepts the

sole and full responsibility for designating the location of the System. County shall obtain all permits from any governmental agency having jurisdiction that may be necessary for the installation of the System.

8. North Alamo will construct the Lift Station to its specifications, including any sizing and appurtenances necessary to serve the needs of the geographic area, including but not limited to the wet well, pump, controls, odor control system, and SCADA.
9. County, at County's sole cost and expense, will provide the electrical service connection to Lift Station.
10. North Alamo agrees to complete the construction of Lift Station described herein within 120 days following the delivery of plans and specifications prepared by County's engineer(s), which have been approved by North Alamo, subject to any time extensions agreed in writing by North Alamo and County.
11. In accordance with the construction plans hereinafter agreed upon by the parties to which reference is hereby made, County will construct the Force Main required to provide the sewer service as set forth under this Agreement within the licensed area shown on the Plat.
12. County will retain an engineer, at County's sole cost and expense, to prepare construction plans and specifications for the construction of the six (6) inch Force Main. County shall obtain all permits from any governmental agency having jurisdiction which may be necessary for the installation of the Force Main.
13. Upon North Alamo's approval of the construction plans and specifications for the Force Main, County will construct the Force Main to North Alamo's specifications, including any sizing and necessary appurtenances in accordance with approved plans.
14. County agrees to complete the construction of the Force Main described herein within 120 days following the delivery of plans and specification prepared by County's engineer(s) subject to any time extensions agreed to in writing by County and North Alamo.
15. As a condition for service, within thirty (30) days of execution of this Agreement, County will pay North Alamo the maximum sum of One Hundred Sixty Thousand and no/100ths Dollars (\$160,000.00) to be used for the construction of the Lift Station. Upon completion, and within thirty (30) days after acceptance of the Lift Station by North Alamo, North Alamo will remit to County any sum of money to County not used in the construction of the Lift Station. North Alamo shall furnish County an accounting of the construction cost of the Lift Station, within thirty (30) days of the date of

completion of the Lift Station.

16. In addition to County's payment to North Alamo in numbered paragraph 15 herein, County shall pay North Alamo an amount not to exceed Twelve Thousand and no/100ths Dollars (\$12,000.00) to reimburse North Alamo or its agent(s) for inspection and oversight of the construction of the Lift Station and County's construction of the Force Main.
17. Upon North Alamo submitting a tabulated bid form for the piping costs for the Force Main, County shall pay to North Alamo an amount equal to the cost of such bid. Upon North Alamo's receipt of payment of the bid amount by County, North Alamo will order the pipes, as quoted on the bid, for the Force Main project and deliver the said pipes to a location to be designated by County.
18. Each party shall conform to its applicable purchasing laws, regulations, policies, and procedures for its respective portion of the work performed under this Agreement.
19. County or its agents shall have the right to examine all records of North Alamo which are related to North Alamo's costs and expenses for construction of the Lift Station and costs incurred by North Alamo for the purchase of materials for the Force Main, including without limitation, all financial books and records, generated by or received by North Alamo or its contractor(s), subcontractors or any other related parties in connection with performance of this Agreement.
20. Following the construction and acceptance of the Lift Station by North Alamo, North Alamo will hold title to the equipment and structure constituting the Lift Station and County shall have no responsibility for the operation and maintenance of the Lift Station.
21. Upon North Alamo making the sewer service available to County as set forth in this Agreement, North Alamo will operate and maintain the Lift Station and permit County to discharge from SCCRC into North Alamo's sewer system and County shall pay the monthly minimum usage charges for such sewer service.
22. If and when the licensed areas shown on the Plat as Lift Station and Force Main and additionally described on Exhibits A-1 and A-2 attached hereto are ever used for purposes other than a sanitary sewer Lift Station or force main gravity line or are abandoned by North Alamo, its successors or assigns, the right to utilize or occupy such licensed real property as described on Exhibits A-1 and A-2, respectively, by North Alamo shall be null and void, and all rights of North Alamo to occupy such licensed areas shown on the Plat shall absolutely cease with all rights to such licensed areas denoted as Lift Station and Force Main shall revert to Grantor, its

successors and assigns without the necessity of re-entry or suit; and no act or omission on the part of any beneficiary of this clause shall be a waiver of the operation and enforcement of such condition.

23. **Conflict of Applicable Law:** Nothing in this Agreement shall be construed to require the commission of any act contrary to law, and if there is any conflict between any provision of this Agreement and any present or future law, ordinance, or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
24. **No Waiver:** No waiver by any party hereto of a breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
25. **Entire Agreement:** This Agreement contains the entire agreement between the parties hereto and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by an agreement, in writing, executed by County and North Alamo, and not otherwise.
26. **TEXAS LAW TO APPLY.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.
27. **Notice.** Except as may otherwise be specifically provided in this Agreement, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been heretofore specified by written notice and delivered in accordance herewith:

If to North Alamo: North Alamo Water Supply Corporation
Attention: Stephen P. Sanchez, General Manager
420 5. Doolittle Road
Edinburg, Texas 78539

If to County: Hidalgo County, Texas
Attention: Ramon Garcia, County Judge
302 W. University Drive
Edinburg, Texas 78540-0758

With copy to: Joseph Palacios, Commissioner Precinct No.4
1051 N. Doolittle Rd.
Edinburg, TX 78542

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

28. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
29. **Successors.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns where permitted by this Agreement.
30. **Assignment.** This Agreement shall not be assignable.
31. **Headings.** The headings and captions contained in this Agreement are solely for reference convenience and shall not be deemed to affect the meaning or interpretation of any provision of any paragraph hereof.
32. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and so often as may be appropriate.
33. **Authority to Execute.** The execution and performance of this Agreement by North Alamo and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of North Alamo and County in accordance with its terms.
34. **Governmental Purpose.** County is entering into this agreement for the purpose of

providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.

35. **Commitment of Current Revenues Only.** In the event that, during any term hereof, the governing body of County does not appropriate sufficient funds to meet the obligations of County under this Agreement, then any party may terminate this Agreement upon ninety (90) days written notice to the other party. County agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. 271.903.

The parties hereto agree this document may be filed in the Official Records of Hidalgo County, Texas.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

HIDALGO COUNTY

Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, Jr. County Clerk

NORTH ALAMO WATER SUPPLY CORPORATION

By: Steve D. Krenek Its:
President

APPROVED AS TO FORM:

ATLAS, HALL & RODRIGUEZ, LLP

By: _____
Stephen L. Crain

(ACKNOWLEDGEMENT)

STATE OF TEXAS §

COUNTYOFHIDALGO §

BEFORE ME, the undersigned authority, on this day personally appeared Ramon Garcia, Hidalgo County Judge known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

2014. Given under my hand and seal of office, this the ____ day of _____,

Notary Public State of Texas

(ACKNOWLEDGEMENT)

STATE OF TEXAS §

COUNTYOFHIDALGO §

BEFORE ME, the undersigned authority, on this day personally appeared Steve D. Krenek, President of North Alamo Water Supply Corporation known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed, and in the capacity therein stated.

2014. Given under my hand and seal of office, this the ____ day of _____,

Notary Public State of Texas

EXHIBIT A
Subdivision Plat

**Lift Station Utility Easement
For North Alamo Water Supply Corporation
Exhibit A-1 Proposed Exclusive**

STATE OF TEXAS
COUNTY OF HIDALGO



**PROPOSED EXCLUSIVE LIFT STATION
UTILITY EASEMENT FOR NORTH ALAMO
WATER SUPPLY CORPORATION**

BEING A 0.078 ACRE (3,397 S.F.) TRACT OF LAND LOCATED IN BLOCK NO. 10, SECTION NO. 260, OF THE TEXAS-MEXICAN RAILWAY COMPANY'S SUBDIVISION, AS RECORDED IN VOLUME 2, PAGE 29 OF THE HIDALGO COUNTY MAP RECORDS (M.R.H.C.), TEXAS, OUT OF THAT CERTAIN CALLED 55.00 ACRE TRACT CONVEYED TO THE COUNTY OF HIDALGO AS RECORDED IN DOCUMENT NO. 1987997, OF THE HIDALGO COUNTY OFFICIAL RECORDS (O.R.H.C.), TEXAS, SAID 0.078 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point being on the proposed 15-foot wastewater easement, for the southwest corner of the proposed exclusive lift station utility easement, from which the northeast corner of Rankin Subdivision as recorded in Volume 21, Page 23 (M.R.H.C.), Texas, bears North 81°02'58" West, a distance of 6.50 feet to a point on the existing east right-of-way line "plat county road" also known as Holmes Road (40.00 feet r.o.w. width), **THENCE**, South 08°57'02" West, along said existing east right of way line of said Holmes Road, a distance of 719.42 feet to a point, **THENCE**, South 81°11'03" East, a distance of 372.19 feet to a found 1-inch iron pipe;

THENCE, North 08°57'02" East, along said 15-foot wastewater easement, being the west line of said proposed exclusive lift station utility easement, a distance of 50.00 feet to a point, for the northwest corner of this described easement;

THENCE, South 81°02'58" East, along the north line of said proposed exclusive lift station utility easement, a distance of 67.94 feet to a point, for the northeast corner of this described easement;

THENCE, South 08°57'02" West, parallel to said 15-foot wastewater easement, along the east line of said proposed exclusive lift station utility easement, a distance of 50.00 feet to a point, for the southeast corner of this described easement;

THENCE, North 81°02'58" West, along the south line of said proposed exclusive lift station utility, a distance of 67.94 feet to the **POINT OF BEGINNING** of the herein described tract of land, said tract contains 0.078 acre (3,397 S.F.), more or less.

Bearings are Grid North, based on the Texas State Plane Coordinate System, South Zone (4205), NAD 83.

A survey plat of even date was prepared and is made a part of this metes and bounds description.

The deed of records for the subject tract is recorded in Document No. 1987997 (O.R.H.C.), Texas.

Juan M. Castillo

Juan M. Castillo, R.P.L.S. No. 6146



Exhibit A-2
Proposed 15-Foot Wide Wastewater Easement

STATE OF TEXAS
COUNTY OF HIDALGO**PROPOSED 15-FOOT WIDE
WASTEWATER EASEMENT**

BEING A 0.282 ACRE (12,595 S.F.) TRACT OF LAND LOCATED IN BLOCK NO. 10, SECTION NO. 260, OF THE TEXAS-MEXICAN RAILWAY COMPANY'S SUBDIVISION, AS RECORDED IN VOLUME 2, PAGE 29 OF THE HIDALGO COUNTY MAP RECORDS (M.R.H.C.), TEXAS, OUT OF THAT CERTAIN CALLED 55.00 ACRE TRACT CONVEYED TO THE COUNTY OF HIDALGO AS RECORDED IN DOCUMENT NO. 1987997, OF THE HIDALGO COUNTY OFFICIAL RECORDS (O.R.H.C.), TEXAS, SAID 0.282 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a point being on the existing east right of way line of Holmes Road (r.o.w. width varies), for the southeasterly corner of the proposed 15-foot wastewater easement, from which the northeast corner of Rankin Subdivision as recorded in Volume 21, Page 23 (M.R.H.C.), Texas, bears South 81°11'03" East, a distance of 365.69 feet to a found 1-inch iron pipe;

THENCE, North 81°11'03" West, along said existing east right of way line of said Holmes Road (r.o.w. width varies), at a distance of 6.50 feet pass the east right of way line "plat county road", also known as Holmes Road (40.00 feet wide), and continuing for a total distance of 15.00 feet to a point, for the southwest corner of this described easement;

THENCE, North 08°57'02" East, running parallel to the west boundary line of said Block No. 10, a distance of 819.64 feet to a point on the common line of said 55.00 acre tract and that certain called 10.135 acre tract of land conveyed Willard Fike, as recorded in Volume 3178, Page 838 (O.R.H.C.), Texas, for the northwest corner of this described easement;

THENCE, South 81°08'28" East, along said common line of said 55.00 acre tract and said 10.135 acre tract, a distance of 15.00 feet to a point, for the northeast corner of this described easement;

THENCE, South 08°57'02" West, running parallel to the west boundary line of said Lot 10, a distance of 819.63 feet to the **POINT OF BEGINNING** of the herein described tract of land, said tract contains 0.282 acre (12,295 S.F.), more or less.

Bearings are Grid North, based on the Texas State Plane Coordinate System, South Zone (4205), NAD 83.

A survey plat of even date was prepared and is made a part of this metes and bounds description.

The deed of records for the subject tract is recorded in Document No. 1987997 (O.R.H.C.), Texas.

Juan M. Castillo
Juan M. Castillo, R.P.L.S. No. 6146

