

## CERTIFICATE AS TO TAX EXEMPTION

The undersigned, being the duly chosen and qualified President, Board of Directors of the Schertz/Seguin Local Government Corporation (the *Corporation*), and the property authorized officials or officers of the Cities of Seguin and Schertz, Texas (the *Cities*) hereby certify with respect to the Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023 in the aggregate principal amount of \$ \_\_, \_\_, \_\_.00 (the *Bonds*) as follows:

### A. General.

1. For all purposes of this certificate, unless otherwise defined, all defined terms herein shall have the same meaning given to them in the Resolution and the Regulations (each as defined below).

2. Pursuant to state law and the Resolution authorizing the issuance of the Bonds, we, along with other officers of the Corporation, are charged with the responsibility for issuing the Bonds.

3. This certificate is made pursuant to Treasury Regulations Sections 1.148 through 1.150 (the *Regulations*), and sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended to the date hereof (the *Code*).

4. This certificate is based on the facts and estimates described herein in existence on the Closing Date, which is the date of delivery of the Bonds to and payment for the Bonds by the initial purchasers thereof, and, on the basis of such facts and estimates, the Corporation expects that the future events described herein will occur. To the best knowledge and belief of the undersigned, there are no other facts, estimates, or circumstances which would materially change the following statements, and the expectations hereinafter set forth are reasonable. The Corporation covenants not to take any intentional acts or actions after the Closing Date of the Bonds to earn a Yield upon the investment of the proceeds materially higher than the Yield on the Bonds, except as provided herein, or take any other action or omit to take any action which would change the expectations of the Corporation set forth herein.

5. Terms used and not defined herein have the same meanings given to them in the Resolution of the Corporation adopted on September 21, 2023 (the *Resolution*) authorizing the issuance of the Bonds or in the Regulations.

6. The Corporation's employer identification number is 74-2902229.

### B. Purpose and Size.

1. The Bonds are being issued pursuant to the Resolution to provide funds to (i) constructing, acquiring, purchasing, renovating, enlarging, and improving the utility system, (ii) purchasing materials, supplies, equipment, machinery, land, and rights-of-way for authorized needs and purposes relating to the utility system improvements, (iii) the payment of professional services related to the design, construction, project management, and financing of the

aforementioned projects, and (iv) and to pay the costs and expenses of issuing the Bonds (the *Project*).

2. The Corporation has entered into a Regional Water Supply Contract, dated as of November 15, 1999, as amended (the *Contract*), with the Cities. Each City is a political subdivision of the State of Texas with significant powers of eminent domain, taxation and/or police. The debt service on the Bonds is payable solely from payments made by the Cities under the Contract, and the Corporation hereby allocates those payments allocated to the Bonds to debt service on the Bonds. The payments under the Contract are based exclusively on the amounts necessary to pay the Priority Bonds (as defined in the Resolution), the Previously Issued New Series Bonds (as defined in the Resolution), and the Bonds, to establish certain reserve and contingency funds, and to maintain and operate the Project.

3. The Corporation and the Cities have and will, at all times prior to the last Stated Maturity of the Bonds,

(a) exclusively own, operate, and possess all property acquired, refinanced, constructed, or improved with Gross Proceeds of Bonds and not use or permit the use of any property acquired, refinanced, constructed, or improved with Gross Proceeds of the Bonds in any activity carried on by any person or entity (other than a state or local government), *unless* such use is merely as a member of the general public, or by governmental entities such as the Cities, or is pursuant to a contract or agreement whose terms comply with Revenue Procedure 97-13 or Revenue Procedure 2016-44, as applicable.

(b) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of the Bonds or any property acquired, refinanced, constructed, or improved with Gross Proceeds of the Bonds, other than a charge or other payment merely as a member of the general public or by governmental entities such as the Cities or interest earned on Investments acquired with Gross Proceeds of the Bonds pending application for their intended purposes.

4. Specifically, the property financed or referenced with the Bonds is not expected to be used (directly or indirectly) in any “private business use” (within the meaning of Section 141 of the Code), *i.e.*, a use of facilities in the trade or business of a person, other than a governmental unit or instrumentality thereof. For this purpose a “use” includes use by such person as an owner, lessee, purchaser of output of facilities under a “take and pay” or “take or pay” contract, or manager or independent contractor under certain management or service contracts. Use of the property financed or refinanced by Bonds by the general public is not considered a “use” by nongovernmental persons in trades or businesses. Use of financed or refinanced property by nongovernmental persons in their trades or businesses is treated as general public use only if the property is intended to be available and in fact is reasonably available for use on the same basis by natural persons not engaged in a trade or business. In general, use under an arrangement that conveys priority rights or other preferential benefits is not use on the same basis as the general public. Arrangements providing for use that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied do not convey priority rights

or other preferential benefits. For this purpose, rates may be treated as generally applicable and uniformly applied even if -

(a) different rates apply to different classes of users, such as volume purchasers, if the differences in rates are customary and reasonable; or

(b) a specially negotiated rate arrangement is entered into, but only if the user is prohibited by federal law from paying the generally applicable rates, and the rates established are as comparable as reasonably possible to the generally applicable rates.

5. We have been advised that use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if -

(a) the term of the use under the arrangement, including all renewal options, is not longer than three years for output facilities and 50 days for all other facilities;

(b) the arrangement is a negotiated, arm's length arrangement that provides for compensation at fair market value or is based on generally applicable and uniformly applied rates; and

(c) the property is not financed for a principal purpose of providing that property for use by that nongovernmental person.

6. We have been further advised that use by a nongovernmental person pursuant to an arrangement, other than an arrangement resulting in ownership of financed property by a nongovernmental person, is not private business use if the contract is a contract with a person who will not resell the output and

(a) the obligations of purchaser to make payments is contingent upon the requirements of a single user; and

(b) do not obligate the purchaser to make payments that are not contingent on the requirements of the purchaser or obligates the purchaser to have requirements, or require the purchaser not to cease operations.

Contract provisions that require the purchaser to pay reasonable and customary damages (including liquidated damages) in the event of default or to pay a specified amount to terminate the contract while the purchaser has requirements, in each case, provided the payment is reasonably related to the purchaser's obligations to buy requirements that is discharged by the payment.

7. We have been advised that a wholesale requirements contract will not result in private business use if

(a) the term of the contract, including renewal options, does not exceed the lesser of five years or 30% of the term of the Bonds, or

(b) the amount of output to be purchased under the contract does not exceed five percent of the available output of the facilities financed by the Bonds.

8. We have been further advised that under Revenue Procedure 97-13 and Revenue Procedure 2016-44, as applicable, the Internal Revenue Service (the Service) has published guidelines relating to when a favorable ruling will usually be issued with respect to the lack of private trade or business use where a governmental unit which owns a bond-financed facility enters into a management or service contract with private for-profit persons. Under these guidelines (the Service Contract Guidelines), a ruling will usually be given to the effect that there is no trade or business use in the situations described in such Revenue Procedure. All present and future management or service contracts relating to the facilities financed or refinanced with the Bonds entered into between the Cities or the Corporation and private persons (i.e., persons other than a governmental unit) will comply with the requirements of the Service Contract Guidelines or successor guidelines applicable to the Bonds, unless a written opinion of Norton Rose Fulbright US LLP, or other nationally recognized bond counsel is received to the effect that noncompliance of such management contracts with the Service Contract Guidelines will not cause the loss of the exclusion from gross income provided under Section 103(a) of the Code for interest on the Bonds or the treatment of interest on the Bonds as a preference item under Section 57 of the Code.

9. The Cities and the Corporation, as appropriate, will not use Gross Proceeds of the Bonds to make or finance or refinance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if (1) property acquired, constructed, or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of Gross Proceeds or any property acquired, constructed, or improved with Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

10. The Project will be owned, operated, and maintained by the Corporation or another state or local government; and the Corporation has not contracted with any firm, company, or other person or entity other than a state or local government to operate and/or maintain the Project for and on behalf of the Corporation. The Corporation does not expect to enter into any contract for the operation, maintenance or management of the Project unless with another state or local government entity.

11. There is not as of the date hereof and the Corporation does not anticipate entering into any lease, contract, or other understanding or arrangement with any person other than a state or local governmental unit, pursuant to which the Corporation expects that proceeds of the Bonds or the Project will be used in the trade or business of such person (including all activities of such person who are individuals).

12. The amounts received from the sale of the Bonds, when added to available funds on hand and amounts expected to be received from the investment of such proceeds, do not exceed the amounts required to pay (i) the cost of the Project and (ii) the costs of offering and issuing the Bonds.

13. No receipts from the sale of the Bonds or amounts received from the investment thereof will be used to pay the principal of or interest on any currently outstanding issue of bonds or other obligations of the Corporation other than the Bonds.

14. The Corporation has been created pursuant to and in accordance with and is authorized by the provisions of the Texas Transportation Act, Texas Transportation Code §431.000 *et. seq.* The Corporation and the Bonds have a public purpose of constructing and operating facilities for purposes of furnishing water to the citizens of the Cities. As provided by Section (c) of Article XVII of the Articles of Incorporation, all the assets of the Corporation shall be transferred and delivered to each of the Cities, on an equal basis, after payment of all debts and claims of the Corporation. The Corporation is a political subdivision of the State of Texas with the significant power of eminent domain.

15. The Corporation will not use Gross Proceeds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be “loaned” to a person or entity if property acquired, constructed, or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or indirect benefits, or burdens and benefits of ownership, of Gross Proceeds or any property acquired, constructed, or improved with Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan

C. Original Proceeds.

1. The Bonds are being issued and delivered to the \_\_\_\_\_ (the *Purchaser*). The Purchaser purchased the Bonds for \$\_\_\_\_\_ (representing par plus a [net] reoffering premium of \$\_\_\_\_\_, less the underwriters discount of \$\_\_\_\_\_), with no accrued interest.

2. The Corporation has caused the deposit of the Sale Proceeds of the Bonds this day as follows:

<u>Disposition</u>	<u>Amount</u>
Deposit to Construction Fund	\$ __, __, __.00
Deposit to Bond Fund for Capitalized Interest	_____
Insurance Premium (defined below)	_____
Costs of Issuance of the Bonds (including Purchasers’ Discount and contingency)	_____
TOTAL	\$ _____

3. Of the proceeds of the Bonds received by the Corporation from the Purchaser, approximately \$\_\_\_\_\_ will be used to pay the costs of issuance (including underwriter’s discount and contingency) relating to the Bonds, \_\_\_\_\_ will be used to pay the Insurance Premium, and \$\_\_\_\_\_ will be deposited in a separate checking account of the Corporation (the *Construction Account or Fund*) to pay costs of the Project. \$\_\_\_\_\_ representing the capitalized interest will be

deposited in the Bond Fund (hereinafter defined) and will be used to pay the first payment of interest due on the Bonds on August 1, 2024.

4. The Corporation estimates that it will receive \$\_\_\_\_\_ in income or profit from the investment of the amounts deposited to the Construction Fund pending the disbursement of such amounts for the governmental purposes for which the Bonds are being issued. Such amount will be used to pay additional costs of the Project or deposited in the “Schertz/Seguin Local Government Corporation Contract Revenue Improvement Bonds, New Series 2023 Interest and Sinking Fund” (the *Bond Fund*) to pay principal of or interest on the Bonds within one year from the date of receipt.

D. Temporary Periods and Time for Expenditures.

1. The amount disbursed or set aside to pay costs of issuance of the Bonds will be so used within thirty (30) days from the date hereof, and may be invested without restriction as to Yield until expended as described herein.

2. Within six months from the date hereof, the Corporation will have incurred binding obligations or commitments in the amount of at least five percent of the principal amount of the Bonds for the Project by entering into contracts for construction, architectural services, engineering services, land acquisition, site development, construction materials, or the purchase of equipment. The Corporation will account for the allocation of the Bond proceeds to an expenditure not later than 18 months after the later of the date the expenditure is paid or the date the Project is placed in service; but in all events 60 days after the earlier of the fifth anniversary of the date of this certificate or the retirement of the Bonds.

3. After entering into said contracts, work on the construction or acquisition of the Project will proceed with due diligence to completion, which is expected to occur on, and the proceeds from the sale of the Bonds and investment earnings thereon are expected to be expended by \_\_\_\_\_, 20\_\_.

4. Based on the foregoing, the Corporation may invest Gross Proceeds held in the Construction Fund without restriction as to Yield until November 15, 2026. Thereafter, the Corporation will restrict the Yield on investments of Gross Proceeds held in the Construction Fund to the Yield on the Bonds.

E. Bond Fund.

1. The Bonds are payable from the deposit of the Bond Payment portion of the Annual Payments as provided in the Resolution and the Contract. All Bond Payment portions of the Annual Payments collected for and on account of the Bonds are to be deposited into the Bond Fund.

2. Except for that portion of the Bond Fund, if any, consisting of deposits made to defease in whole or in part the Bonds, the Bond Fund (i) was created primarily to achieve a proper matching of revenues and debt service with respect to the Bonds within each bond year, beginning on the Closing Date and ending on the anniversary of the Closing Date thereafter until the Bonds are no longer Outstanding and (ii) will be depleted at least once a year except possibly for a carry-

over amount not greater than the larger of the preceding bond year's earnings from the investment thereof or one-twelfth of the annual debt service paid during the preceding bond year on the Bonds. All amounts deposited to the Bond Fund will be spent within 13 months of deposit, and all amounts received from investment of such fund will be deposited therein and will be expended within twelve months of receipt. Any amounts held in the Bond Fund during such periods are expected to be invested by the Corporation without regard as to restriction of Yield. Any amounts held in the Bond Fund in excess of such periods will be invested at a Yield not to exceed the lesser of the Yield on the Bonds, taking into account any yield reduction payments.

3. All money deposited in the Bond Fund will be used solely to pay the principal of, and interest on, the Bonds as the same becomes due and payable, and there will be no other funds that will be so used or pledged or otherwise restricted so as to be available with reasonable certainty to be so used.

F. Yield, Rebate and Miscellaneous.

1. In the Issue Price Certificate with respect to the Bonds attached hereto as Exhibit A (the Issue Price Certificate), the Purchasers provided certification as to the first price at which at least 10% of each of the General Rule Maturities (as defined in the Issue Price Certificate) was sold to the public and (2) to establish compliance with the requirements of the "hold-the-offering-price rule" under Section 1.148-1 (f)(2)(ii) of the Regulations for each of the Hold-the-Offering-Price Maturities (as defined in the Issue Price Certificate). The Corporation hereby identifies Section 1.148-1 (f)(2)(i) of the Regulations as the rule that applies to determine the issue price of the General Rule Maturities and Section 1.148-1 (f)(2)(ii) of the Regulations as the rule that applies to determine the issue price of the Hold-the-Offering-Price Maturities.

2. The Yield on the Bonds is \_\_\_\_\_ percent, calculated on the basis of the information provided by the Corporation's financial advisors.

3. The Corporation has covenanted to account for the Gross Proceeds of the Bonds separately and apart from all other funds of the Corporation from the date hereof.

4. The weighted average maturity of the Bonds is \_\_\_\_\_ years, which is less than 120% of the reasonably expected economic life of the assets acquired or constructed with the proceeds of the Bonds, calculated pursuant to section 147 of the Code.

5. The Corporation does not expect that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of section 148 of the Code.

6. No other obligations payable from the same revenues of the Corporation were issued within 15 days of the sale date of the Bonds.

7. The Corporation reasonably expects that at least 75% of the Available Construction Proceeds (defined herein), including reasonably expected future earnings, of the Bonds will be used for Construction Expenditures. For purposes of this paragraph, "Available Construction Proceeds" means the issue price of the Bonds, increased by earnings on such issue price and earnings on such earnings, reduced by the issuance costs financed by the issue. "Construction

Expenditures” means capital expenditures that are allocable to the cost of (i) real property other than acquisitions of interest in land or other existing real property, (ii) certain constructed personal property as defined in Regulation Section 1.148-7(g)(3), or (iii) specially developed computer software as defined in Regulation Section 1.148-7(g)(4), which software is functionally related and subordinate to real property or constructed personal property. The Corporation does not elect to use actual facts under Regulation 1.148-7(f)(2), but based on estimated earnings set forth in Section C.4 hereof.

8. Unless the Corporation has qualified for an exception to rebate pursuant to section 148(f)(4) of the Code, not less frequently than each Computation Date, the Corporation has covenanted in the Resolution to calculate or cause to be calculated by a nationally recognized accounting, financial advisory firm or financial institution, in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder, the Rebate Amount. The Corporation has covenanted in the Resolution to maintain such calculations with the official transcript of the proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

9. The Corporation has covenanted in the Resolution to pay to the United States the amount described in the preceding paragraph of this Section, at the times, in the installments, to the place, in the manner, and accompanied by such forms or other information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

10. The Corporation does not expect that the proceeds of the Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds within the meaning of section 148 of the Code.

G. No Abusive Arbitrage Device.

1. In connection with the issuance of the Bonds, the Corporation has not employed any action which has the effect of overburdening the market for tax-exempt obligations by issuing more bonds, issuing bonds earlier, or allowing bonds to remain outstanding longer than is reasonably necessary to accomplish the governmental purposes of the Bonds.

2. In connection with the issuance of the Bonds, the Corporation has not employed any action which has the effect of enabling the Corporation to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage.

H. Qualified Guarantee.

1. The Issuer has paid on the date hereof to \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (the Guarantor) an amount equal to \$\_\_\_\_\_ (the *Insurance Premium*) to insure the payment of principal of and interest on the Bonds.

2. Neither the Guarantor nor any party related to the Guarantor will use more than 10% of the proceeds of the Bonds.

3. Under the contract between the Guarantor and the Issuer, the Guarantor is secondarily liable, and has unconditional credit risk, to pay all or a portion of the principal of or interest on the Bonds.

4. The Issuer reasonably expects that the Guarantor will not be called upon to pay the principal of or interest on the Bonds. The Guarantor is entitled to be immediately and full reimbursed for any payment of principal of or interest on the Bonds.

5. The Insurance Premium paid to the Guarantor represents a payments solely for the transfer of credit risk for the payment of principal of and interest on the Bonds and not for any other service, cost or expense. The Insurance Premium does not exceed a reasonable charge for the transfer of such credit risk.

6. The Guarantor has represented to the Issuer that the present value (determined using as the discount rate the yield-to-maturity on the Bonds with regard to the Insurance Premium) of the Insurance Premium paid to the Guarantor with respect to the Bonds is less than the present value (determined using the same discount rate) of the interest savings with respect to the Bonds resulting from the insurance by the Guarantor.

7. The Insurance Premium has been allocated among the Bonds in a manner that properly reflects the proportionate credit risk for which the Guarantor has been compensated.

I. Written Procedures. This certificate shall constitute written procedures and processes that require the Corporation to insure that, after the Closing Date, the Corporation is in compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds and for a period of three (3) years after the Bonds are paid in full will maintain records that show compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds. The Corporation designates the following officer(s) to have primary responsibility for maintaining post-issuance compliance with the covenants and representations contained herein and the Code and Regulations related to the Bonds:

General Manager

and the following officer(s) shall maintain the records related thereto:

General Manager

Such officers may assign and delegate responsibilities to others as they deem necessary or appropriate.

J. Remedial Action/Voluntary Closing Agreement Program. If the Corporation in complying with the terms and provisions the policies or guidelines set forth herein and the Code and Regulations related to the Bonds determines that the requirements of these policies and guidelines or the Code and Regulations related to the Bonds may have been violated, the Corporation will make final determinations, if necessary with the assistance of its bond and tax counsel and financial advisors, and take appropriate actions related to such noncompliance including, if appropriate, any remedial action described under applicable Regulations or through the Tax Exempt Bonds Voluntary Closing Agreement Program.

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EXECUTED AND DELIVERED this \_\_\_\_\_.

SCHERTZ/SEGUIN LOCAL GOVERNMENT  
CORPORATION

By: \_\_\_\_\_  
President, Board of Directors

CITY OF SCHERTZ, TEXAS

By: \_\_\_\_\_  
Name: Steve Williams  
Title: City Manager

CITY OF SEGUIN, TEXAS

By: \_\_\_\_\_  
Name: Steve Parker  
Title: City Manager

**EXHIBIT A**

Issue Price Certificate

See Tab No. \_\_