

**INTERLOCAL AGREEMENT REGARDING
RELOCATION OF WATER SYSTEM IMPROVEMENTS**

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

THIS INTERLOCAL AGREEMENT REGARDING RELOCATION OF WATER SYSTEM IMPROVEMENTS (“Agreement”) is entered into between Aqua Utilities, Inc dba Aqua Texas, Inc (“**Aqua**”) and Williamson County, a political subdivision of the State of Texas (the “**County**”). In this Agreement, Aqua and the County are sometimes individually referred to as “**a Party**” and collectively referred to as “**the Parties**”.

WHEREAS, the County is, has been and will be in the process of Sam Bass Road in Williamson County (the “County Project”); and

WHEREAS, some of Aqua’s water system lines and appurtenances (the “Improvements”) are located within existing County right-of-way; and

WHEREAS, in connection with the construction of the County Project, the County desires to relocate portions of the Improvements within existing County right-of-way into the new rights-of-way (the “Aqua Project”); and

WHEREAS, this Agreement sets forth the terms and conditions pursuant to which the County shall relocate the Improvements within certain segments of the County Project within existing County right-of-way and/or new rights-of-way.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements of the Parties contained in this Agreement, the Parties agree as follows:

**I.
STATEMENT OF INTENT**

1.01 General. The purpose of this Agreement is to provide for the County’s relocation of the Aqua waterlines caused by the County’s reconstruction and/or widening of Sam Bass Road.

1.02 Relocation of Improvements. The County will, subject to the terms and conditions as stated herein, relocate the Improvements as described in the construction plans and the specifications associated with the Aqua Project (the “Plans and Specifications”) within existing County right-of-way and/or the new rights-of-way acquired by the County. Additionally,:

(a) The County grants Aqua a right to utilize a portion within existing County right-of-way and/or the new rights-of-way for its water lines;

(b) Aqua shall retain Hewitt, Inc., to prepare the Plans and Specifications, which shall be completed and approved by both Parties prior to the bidding of the County Project.

(c) Upon completion of the Aqua Project, after Aqua accepts the Aqua Project, Aqua shall assume ownership and maintenance responsibility for the Aqua Project, no formal conveyance being required.. Acceptance will not be unreasonably delayed.

(d) County will provide Aqua the right to make any repairs or improvements to its water lines, but with the obligation to repair the overlying roadway improvements, including but not limited to driveways. Any repairs to the Aqua lines or other appurtenances within the County right-of-way shall require County approval prior to repair work.

1.03 Continuation of Service. The County agrees that the County Project shall be undertaken so as to minimize any disruption of water service to existing customers of the Aqua and will not result in the permanent loss of water service to any such customers.

II. CONSTRUCTION OF PROJECT

2.01 General. The Parties mutually acknowledge and agree that the County shall, subject to the terms and conditions stated herein, construct all physical improvements that constitute the Aqua Project, simultaneously with the construction of the County Project.

2.02 Construction Plans. The County shall submit any modifications to the Aqua Project Plans and Specifications to Aqua for review and approval prior to commencing construction. Aqua shall not unreasonably withhold review and approval.

2.03 Inspection. Aqua may inspect the Aqua Project during construction. If Aqua's inspectors determine that the construction by the County is not in accordance with the approved Aqua Project Plans and Specifications and upon receipt of such notification from the Aqua, the County shall cease construction until the deficiency can be identified and a corrective plan of construction implemented with the agreement of the Aqua.

2.04 Future Relocations. Should the County or other entity require the relocation of the Aqua water system improvements, Aqua shall, at its own expense, be responsible for the relocation expenses, including the acquisition of new easements, if necessary.

2.05 Payment of Costs for Aqua Project. Aqua shall pay the County for all costs that the County incurs for inspections, permitting, engineering, construction, legal services and other services related to the relocation of the Waterlines as stated herein (the "Aqua Payment") prior to contract award, based on the jointly-bid County Project and Aqua Project. Any remediation for asbestos pipe remediation shall be the sole responsibility of Aqua. .

(a) The Aqua Payment shall be in an amount not to exceed Five Hundred Thirteen Thousand, Four Hundred Eighty Eight dollars and forty-three Dollars (\$513,488.43).

(b) The final amount of the Aqua Payment, if there are modifications will be based upon actual costs incurred by the County for the Aqua Project modifications. All invoices for the modifications shall be presented to Aqua as soon as possible after Aqua has accepted the Aqua

Project. The Aqua payment for modifications shall be due and payable to the county within 45 days after receipt of County invoices.

2.06 Insurance, Bonds and Warranties. The County shall require the contractor for the Project to name the Aqua as an additional insured on any policies related to the Project. The County shall require the contractor to provide performance bonds, payment bonds and maintenance bonds in favor of the Aqua for the Project in amounts satisfactory to the Aqua. The County shall transfer any warranties for the Project to the Aqua upon final completion and acceptance of the project.

III. DISPUTES

3.01 Material Breach; Notice and Opportunity to Cure.

(a) In the event that one Party believes that another Party has materially breached one of the provisions of this Agreement, the non-defaulting Party will make written demand to cure and give the defaulting Party up to 30 days to cure such material breach or, if the curative action cannot reasonably be completed within 30 days, the defaulting Party will commence the curative action within 30 days and thereafter diligently pursue the curative action to completion. Notwithstanding the foregoing, any matters specified in the default notice which may be cured solely by the payment of money must be cured within 10 days after receipt of the notice. This applicable time period must pass before the non-defaulting Party may initiate any remedies available to the non-defaulting party due to such breach.

(b) Any non-defaulting Party will mitigate direct or consequential damage arising from any breach or default to the extent reasonably possible under the circumstances.

(c) The Parties agree that they will negotiate in good faith to resolve any disputes and may engage in non-binding mediation, arbitration or other alternative dispute resolution methods as recommended by the laws of the State of Texas.

3.02 Equitable Relief. In recognition that failure in the performance of the Parties' respective obligations could not be adequately compensated in money damages alone, the Parties agrees that after providing notice and an opportunity to cure in accordance with Section 3.01 above, the Parties shall have the right to request any court, agency or other governmental authority of appropriate jurisdiction to grant any and all remedies which are appropriate to assure conformance to the provisions of this Agreement. The defaulting Party shall be liable to the other for all costs actually incurred in pursuing such remedies, including reasonable attorney's fees, and for any penalties or fines as a result of the failure to comply with the terms including, without limitation, the right to obtain a writ of mandamus or an injunction requiring the governing body of the defaulting party to levy and collect rates and charges or other revenues sufficient to pay the amounts owed under this Agreement.

IV. GENERAL PROVISIONS

4.01 Authority. This Agreement is made in part under the authority conferred in Chapter 791, *Texas Government Code*.

4.02 Severability. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement will not be affected and this Agreement will be construed as if the invalid portion had never been contained herein.

4.03 Payments from Current Revenues. Any payments required to be made by a Party under this Agreement will be paid from current revenues or other funds lawfully available to the Party for such purpose.

4.04 Cooperation. The Parties agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

4.05 Entire Agreement. This Agreement contains the entire agreement of the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings or representations, whether oral or written, regarding the subject matter and only relates to those portions of the County Project shown in the Project Plans.

4.06 Amendments. Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

4.07 Applicable Law; Venue. This Agreement will be construed in accordance with Texas law. Venue for any action arising hereunder will be in Williamson County, Texas.

4.08 Notices. Any notices given under this Agreement will be effective if (i) forwarded to a Party by hand-delivery; (ii) transmitted to a Party by confirmed telecopy; or (iii) deposited with the U.S. Postal Service, postage prepaid, certified, to the address of the Party indicated below:

AQUA:

Aqua Utilities, Inc dba Aqua Texas, Inc
1106 Clayton Lane, Suite 400W
Austin, Texas 78723
Attn: President
Telephone: (512) 990-4400 ext 56105

With a copy (which shall not constitute notice) to:

General Counsel
762 W. Lancaster Ave
Bryn Mawr, Pennsylvania, 19010
Attn: General Counsel

COUNTY:

Williamson County
710 Main Street, Suite 101
Georgetown, Texas 78626
Attn: Judge Bill Gravell
Telephone: (512) 943-1577

4.09 Counterparts; Effect of Partial Execution. This Agreement may be executed simultaneously in multiple counterparts, each of which will be deemed an original, but all of which will constitute the same instrument.

4.10 Authority. Each Party represents and warrants that it has the full right, power and authority to execute this Agreement.

(SIGNATURES ON FOLLOWING PAGE)

ATTEST:

DocuSigned by:
Laura Schroter
1232C4CB5BE143D
Secretary

AQUA Utilities, Inc dba Aqua Texas, Inc:

DocuSigned by:
Craig Blanchette
824B8C1A43A44C8
By: Craig L. Blanchette
Printed Name: Craig L. Blanchette
Title: President
Date: 1/10/2023

ATTEST:

Danaye E. Ruter
County Clerk

WILLIAMSON COUNTY:

Bill Gravell
By: Bill Gravell (Jan 18, 2023 09:10 CST)
Printed Name: Bill Gravell
Title: County Judge
Date: Jan 18, 2023