

RESOLUTION NO. R-2018-106

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, APPROVING AN AGREEMENT WITH AQUA AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; PROVIDING FOR A REPEALING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Texas Water Code – Water §13.254, Revocation or Amendment of Certificate codifies SB 511, which created a streamlined expedited release of a Certificate of Convenience and Necessity (CCN) for landowners with at least 25 acres, who are not receiving water and wastewater service, and are located in one (1) of 33 counties to petition the Texas Commission on Environmental Quality (TCEQ) to remove their property from an existing CCN. Bastrop is one (1) of the 33 counties; and

WHEREAS, in 2017, Aqua Water Corporation worked with Representative John Cyrrier to sponsor a bill to modify this process. The City of Bastrop opposed the bill. Representative Cyrrier called a meeting with representatives from the City of Bastrop and Aqua Water Corporation and instructed both entities to work out some form of an agreement; and

WHEREAS, multiple meetings have occurred over the past 1 ½ years to reach a solution that creates a win-win scenario for both entities; and

WHEREAS, under this contract, the City agrees to purchase water at a wholesale cost for any development that wishes to decertify Aqua's water CCN under Texas Water Code – Water §13.254, Revocation or Amendment of Certificate and have the City of Bastrop provide water; and

WHEREAS, Aqua Water Corporation maintains the collateral commitment for their USDA loans by still providing water at a wholesale cost to the same customers that use to be in their CCN. The City will establish a wholesale water rate that covers the cost of Aqua's water, yet is cheaper than a developer installing their own water system; and

WHEREAS, the economic development challenge regarding fire flow is resolved through a connection at SH20 between the City of Bastrop and Aqua that will allow the wholesale water purchase to be pressurized in the City's system for fire flow purposes, which will require less water to be purchased; and

WHEREAS, this agreement provides a "one-stop" shop for economic development opportunities regarding supplying water and wastewater services; and

WHEREAS, the City of Bastrop will be able to expand its Water CCN to match its Wastewater CCN through a long-term wholesale water agreement; and

WHEREAS, this agreement will provide immediate water supply redundancy that we currently do not have and helps manage peak demand until a new plant can be built in the Simsboro Aquifer; and

WHEREAS, both Aqua Water Corporation and the City of Bastrop believe this mutual agreement is a precedent setting agreement for the State of Texas and represents a win-win-win scenario for Aqua, the City, and the wholesale customer.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

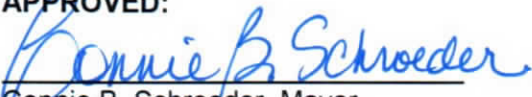
Section 1. The City Manager is hereby authorized to execute this contract, which is attached as Exhibit A, as well as all other necessary documents.

Section 2. All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 13th day of November 2018.

APPROVED:



Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

WHOLESALE WATER SERVICE AGREEMENT

BETWEEN

AQUA WATER SUPPLY CORPORATION

AND

CITY OF BASTROP

WHOLESALE WATER SERVICE AGREEMENT

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EXHIBITS

- Exhibit A – Aqua WSC’s Retail Water CCN Service Area as of Effective Date**
- Exhibit B – Aqua WSC’s Terms and Conditions for Wholesale Service Outside CCN No. 10294**
- Exhibit C – Description(s), Map(s) of Point(s) of Delivery, and Technical Information for Point(s) of Delivery**
- Exhibit D – Map of Aqua WSC’s Retail Water CCN Service Area, City of Bastrop’s Retail Wastewater CCN Service Area, and Areas of Overlap between Both CCN Service Areas**
- Exhibit E – City of Bastrop Water CCN Service Area as of Effective Date**
- Exhibit F – City of Bastrop Wastewater CCN Service Area as of Effective Date**
- Exhibit G – Resolution of the Aqua WSC Board of Directors**
- Exhibit H – Aqua WSC’s Water Rationing Plan**



WHOLESALE WATER SERVICE AGREEMENT

THIS WHOLESALE WATER SERVICE AGREEMENT is made and entered into by and between Aqua Water Supply Corporation (hereinafter called "Aqua"), a non-profit water supply corporation operating under Texas Water Code Chapter 67 in Bastrop, Caldwell, Williamson, Lee, Fayette, and Travis Counties, Texas, and the City of Bastrop (hereinafter called "Purchaser"), a home rule city, body politic of the State of Texas, and retail public utility. This Agreement is effective on the date of the last to execute below, (the "Effective Date").

WITNESSETH:

WHEREAS, Bastrop County is experiencing substantial economic and population growth and the growth will continue for the decades to come; and

WHEREAS, Aqua and Purchaser are both integral parts of the past, present, and future of Bastrop County; and

WHEREAS, Aqua and Purchaser strongly agree that the two entities must work together both now and in the future to not only address the growth and water needs that Bastrop County is experiencing but to enable Bastrop County to meet its full potential as a great place to work and live; and

WHEREAS, Aqua and Purchaser believe this Agreement is crucial to making certain the Purchaser has the water the area needs to grow; and

WHEREAS, Aqua holds retail water Certificate of Convenience and Necessity ("CCN") No. 10294, issued by the Texas Commission on Environmental Quality, ("TCEQ") or its predecessors or successors in interest, identified as Exhibit "A" and made a part hereto; and

WHEREAS, Purchaser holds retail water CCN No. 11198, issued by the TCEQ or its predecessors or successors in interest, which is adjacent to Aqua's retail water CCN and identified as Exhibit "E"; and

WHEREAS, Purchaser holds retail wastewater CCN No. 20466, issued by the TCEQ or its predecessors or successors in interest, identified as Exhibit "F"; and

WHEREAS, on September 1, 2014, the Public Utility Commission ("PUC") took over regulation of water utility rates and services including wholesale water rate appeals and the issuance of water and wastewater CCNs; and

WHEREAS, Purchaser desires to contract with Aqua for the purchase of wholesale water service ("Wholesale Service") to be provided by Aqua; and

WHEREAS, Aqua's Terms and Conditions, attached hereto as Exhibit "B" and which may be amended from time to time, set forth the minimum conditions under which it will agree to provide Wholesale Service to Purchaser; and

WHEREAS, Purchaser shall submit an application to Aqua for Wholesale Service under the provisions of Aqua's Terms and Conditions for each Point of Delivery and area of service from Aqua; and

WHEREAS, Aqua has determined that Aqua has sufficient water supplies available to enable it to contract with Purchaser for Wholesale Service, and has documented such findings with a Resolution adopted by its Board of Directors, attached hereto as Exhibit "G"; and

WHEREAS, Aqua and Purchaser wish to enter into an agreement whereby Aqua will provide Wholesale Service to Purchaser at rates that are generally applicable and uniformly applied to similarly situated purchasers; and

WHEREAS, Aqua and Purchaser wish to enter into an agreement that may be amended from time to time to include additional locations where Purchaser will receive Wholesale Service from Aqua upon the subsequent written request by Purchaser for additional Wholesale Service under this Agreement, and only in such areas where Aqua's retail water CCN service area and Purchaser's retail wastewater CCN service area overlap, as further detailed in the map attached hereto as Exhibit "D"; and

WHEREAS, Purchaser intends to take water purchased from Aqua pursuant to this Agreement at the locations as specified in Exhibit "C" and which may be amended from time to time as such locations may change and/or water is used by Purchaser at additional locations; and

WHEREAS, the Wholesale Service to be provided by Aqua hereunder and purchased by Purchaser is for a public purpose and not for the benefit of any private entity; and

WHEREAS, the provision of Wholesale Service to Purchaser by Aqua will further the public purpose of regionalization of water supplies;

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Aqua agrees to furnish and Purchaser agrees to pay for Wholesale Service upon the Terms and Conditions and for the consideration set forth herein.

**ARTICLE I.
DEFINITIONS AND CONSTRUCTION OF AGREEMENT**

1.1 Defined Terms. Capitalized terms used in this Agreement and in any exhibit or attachment that is made a part of this Agreement, and not otherwise defined herein, shall have the meanings contained in Aqua's Terms and Conditions. The following additional terms shall have the meanings set forth herein:

(a) "Agreement" means this contract or agreement between the Parties, otherwise known as the Wholesale Service Agreement and any written amendments thereto.

(b) "Annual Daily Average" means the total amount of water taken by Purchaser in the prior Water Year, divided by 365.

(c) "Aqua Indemnified Party" means Aqua, its officials, employees, contractors, agents and representatives.

(d) "Business Day" means any Day other than Saturdays, Sundays, and Days on which banks in the Service Area of Aqua are required or permitted to be closed for all or part of their customary hours of operation.

(e) "CCN" means a certificate of convenience and necessity granted by the Texas Commission on Environmental Quality or its predecessor or successor agency, or the Public Utility Commission under the provisions of the Texas Water Code.

(f) "Claim" means any claim, action, cause of action, suit or proceeding before any Governmental Authority or arbitral tribunal.

(g) "Commencement Date" means the date that Aqua begins providing Wholesale Service to Purchaser at the Point of Delivery.

(h) "Day" and "Days" mean and refer to calendar day(s), unless otherwise specified herein.

(i) "Effective Date" means the date set forth above on which this Agreement becomes effective.

(j) "Event of Default" means an event by which a Party is in default of this Agreement.



(k) "Force Majeure" means, and shall be limited to, any event or circumstance that is beyond the reasonable control of, without the fault or negligence of, and should not, in the exercise of reasonable caution, have been foreseen and avoided or mitigated by, the Party asserting Force Majeure (the "Affected Party"), and which delays or prevents the Affected Party from timely performing any obligation hereunder, including, without limitation: (i) acts of God, earthquakes, fire, storms, unprecedented droughts that render Aqua unable to provide water to its members and purchasers, floods, lightning, hurricanes, tornadoes, and severe snow storms; (ii) explosions, wars, civil insurrections, acts of the public enemy, acts of civil or military authority, sabotage, and terrorism; (iii) strikes, lockouts or other labor disputes with respect to which the Affected Party has not been determined by the National Labor Relations Board to have engaged in any unfair labor practices; and (iv) any change in any Requirement of Law or the interpretation thereof by a responsible Governmental Authority that shall in any circumstances impact a Party's ability to perform its obligations of the Agreement; provided, a "Force Majeure" shall not include economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic, or the inability of a Party to make payment when due under this Agreement, unless the cause of such inability is an event that physically prevents payment and that would otherwise constitute Force Majeure as described above.

(l) "Forced Outage" means a shut-down by Aqua in the operation of all or a portion of Aqua's System, such that no water is delivered to Purchaser's Point of Delivery: (i) which shut-down is, in the reasonable opinion of Aqua, necessary or required to protect persons or property (including the System) from contamination or releases that could reasonably result in harm, injury, or material damage; and (ii) with respect to which Aqua has notified Purchaser in accordance with Section 3.2.



(m) "Governmental Authority" means and includes any federal, state, local or other governmental body, including but not limited to the Lost Pines Groundwater Conservation District, the Gonzales County Underground Water Conservation District, the Fayette County Underground Water Conservation District, any governmental or quasi-governmental, regulatory or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or other governmental tribunal.

(n) "Loss(es)" means and includes any loss, cost, expense, Claim, demand, damage, fine, liability, obligation or penalty (including court costs and reasonable attorney's fees and expenses) to the extent allowed by law.

(o) "Master Meter(s)" means the necessary metering equipment, including a meter house or pit, and any other required devices of standard type, for properly measuring the quantity and delivery rate of water delivered by Aqua to Purchaser at the Point(s) of Delivery.

(p) "Maximum Daily Delivery Rate" means the maximum rate at which Aqua is obligated to deliver water to Purchaser in one twenty-four (24) hour period.

(q) "Maximum Instantaneous Delivery Rate" means the Maximum Daily Delivery Rate expressed in gallons per minute. For example, a Maximum Daily Delivery Rate of 1 MGD is equivalent to a Maximum Instantaneous Delivery Rate of 694.4 gallons per minute.

(r) "MGD" means millions of gallons per day.

(s) "New Rate Billing Cycle" means the second billing cycle after the New Rate Effective Date.

(t) "Party" or "Parties" means Purchaser, Aqua, and their respective successors or/and assigns.



(u) "Permit" means any permit, order, license, declaration, consent, waiver, approval, registration, or filing with or other requirement of any Governmental Authority.

(v) "Planned Outage" means a shut-down by Aqua in the operations of Aqua's System, such that no water is delivered to the Point(s) of Delivery: (i) which shut-down is scheduled by Aqua in order to carry out foreseeable preventive, corrective, and other maintenance activities on such System or which may be required by any Governmental Authority; (ii) for which Aqua has notified Purchaser in accordance with Section 3.1; (iii) which occurs no more than two (2) times in one (1) calendar year; and (iv) lasts for no more than three (3) Days unless another time period is mutually agreed-to in writing by both Parties.

(w) "Point(s) of Delivery" means one or more point(s) designated and approved under this Agreement at which Purchaser may withdraw water from Aqua's System for distribution as more particularly described in Article VI and in Exhibit "C".

(x) "Prevailing Pressure" means the pressure of Aqua's System at the Point(s) of Delivery as specifically provided in pounds per square inch (psi) for each Point of Delivery in Exhibit "C".

(y) "Purchaser Indemnified Party" means Purchaser, its officials, employees, contractors, agents, and representatives.

(z) "Rate" or "Rates" means the price to be paid by Purchaser to Aqua for the purchase and delivery of water to Purchaser's Point(s) of Delivery under this Agreement, which Rate shall be based on Aqua's then current Terms and Conditions.

(aa) "Rate Effective Date" means the date on which Aqua adopts new Rates.

(bb) "Requirement of Law" means any statute, ordinance, code, rule or regulation, tariff or policy, and judicial or administrative order, request or judgment, any common law



doctrine or theory, any provision or condition of any Permit, or any other binding determination of any Governmental Authority.

(cc) "Service Area" means the area contained within Aqua's CCN or Purchaser's CCN, as appropriate, as may be amended from time to time.

(dd) "System" means collectively all of Aqua's production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water, which heretofore have been acquired or constructed by Aqua, together with all future improvements, enlargements, extensions and additions to any of the foregoing, and all the future new facilities that are required or constructed by Aqua, and all repairs to, or replacement of, the System.

(ee) "Tariff" means the Water Supply Corporation Tariff for Aqua, as approved by Aqua's Board of Directors, and as may be amended or revised from time to time.

(ff) "TCEQ" or "Commission" means the Texas Commission on Environmental Quality, and its successor agencies.

(gg) "Terms and Conditions for Wholesale Service Outside CCN No. 10294" or "Terms and Conditions" shall mean the Aqua Water Supply Corporation Terms and Conditions for Wholesale Service Outside CCN No. 10294, as adopted by the Aqua Board of Directions, and as may be amended from time to time by Aqua.

(hh) "Water Year" means a calendar Year.

(ii) "Year" and "Years" mean and refer to calendar year(s).



1.2 Rules of Construction.

(a) Unless the context otherwise clearly requires:

(i) references to the plural include the singular, and references to the singular include the plural;

(ii) references to the masculine, feminine or neuter include all such forms;

(iii) the words "include," "includes," and "including" do not limit the preceding terms or words and shall be deemed to be followed by the words "without limitation";

(iv) the terms "hereof," "herein," "hereunder," "hereto," and similar terms refer to the entire agreement in which they appear and not to any particular provision of such agreement; and

(v) "or" is used in the inclusive sense of "and/or."

(b) Unless otherwise specified, any reference to any document, instrument or agreement:

(i) includes and incorporates all exhibits, schedules and other attachments thereto;

(ii) includes and incorporates all documents, instruments or agreements issued or executed in connection therewith or in replacement thereof; and

(iii) means such document, instrument or agreement, or replacement or predecessor thereto, as amended, modified or supplemented from time to time in accordance with its terms and in effect at any given time.

(c) Unless otherwise specified, all references to articles, sections, schedules and exhibits are references to the Articles, Sections, Schedules and Exhibits of this Agreement.



1.3 Recitals. All recitals of the Preamble are incorporated and made a part of this Agreement.

1.4 Captions. All titles of sections of this Agreement have been inserted for reference only and shall in no way affect the interpretation of this Agreement.

ARTICLE II. PROVISION OF WATER

2.1 Agreement to Sell and Purchase.

(a) Subject to all the terms and conditions set forth in this Agreement, and Exhibit "B" - Aqua's Terms and Conditions for Wholesale Service Outside CCN No. 10294, Aqua agrees to sell and the Purchaser agrees to buy water on a wholesale basis. The water shall be provided at the Point(s) of Delivery for Purchaser's own use and for distribution to customers served by Purchaser's water distribution system within Purchaser's certificated Service Area.

(b) The Wholesale Service provided hereunder is partial requirements only. Purchaser shall, at all times during the term of this Agreement, maintain at least one (1) other source of supply of water. Purchaser's failure to comply with this provision shall be an Event of Default of a material obligation under the provisions of Article X hereof.

(c) All sales of water from Aqua to Purchaser under this Agreement are subject to any applicable rules of the Lost Pines Groundwater Conservation District. No sales shall take place without any required approval by Lost Pines Groundwater Conservation District.

(d) Unless waived in writing by Aqua, Purchaser shall be required to submit requests for feasibility studies for all Point(s) of Delivery and pay all fees required by Aqua for such studies.

2.2 Quantity of Water to be Delivered. The Maximum Daily Delivery Rate of water to be treated and delivered under this Agreement to any Point(s) of Delivery in any Water Year shall be specifically provided in Exhibit "C" for each Point of Delivery in gallons per minute (GPM).

2.3 Rate of Delivery and Pressure.

(a) Aqua shall deliver water to the Point(s) of Delivery at the Maximum Daily Delivery Rate. Aqua shall install devices to insure compliance with this section, and may restrict deliveries to Purchaser to the Maximum Instantaneous Delivery Rate when appropriate.

(b) Water will be furnished at the Prevailing Pressure of Aqua's System at the Point(s) of Delivery. Emergency failure of pressure or supply shall excuse Aqua from this provision for such reasonable period of time as may be necessary to restore service.

(c) Aqua's responsibility and liability for the water being delivered to Purchaser shall cease after said water passes through the Master Meter(s) at the Point(s) of Delivery and enters Purchaser's system.

(d) Aqua is under no obligation to increase the capacity of its System to satisfy any of the provisions of the Agreement, except as otherwise expressly stated herein.

2.4 Responsibilities of Purchaser and Aqua.

(a) Purchaser is solely responsible for meeting its minimum production, storage, service pump, and pressure maintenance requirements, and any other requirements imposed on Purchaser under Title 30 Texas Administrative Code, Chapters 290 and 291, and any other regulatory requirements. Aqua shall bear no such responsibility to Purchaser or any of Purchaser's customers.

(b) With the exception of a backflow prevention device specified in Section 2.7, the Master Meter(s) specified in Section 5.1 and any feasibility study related to the provision of



Wholesale Service under this Agreement, Purchaser and Aqua agree to evenly split on a fifty percent / fifty percent (50%/50%) basis all costs associated with each Point of Delivery with the planning, siting, development, design, engineering, procurement, construction and testing of all pipes, interconnects, pumps, mains, trunk lines, junctions, extensions, and other infrastructure, equipment, improvements and facilities, and all easements and right-of-way acquisitions required for Purchaser to connect to Aqua's System at the Point(s) of Delivery described herein to receive the Wholesale Service to be furnished by Aqua under this Agreement or any subsequent amendments hereto. Within ninety (90) Days of the Purchaser receiving the Preliminary Cost Summary ("PCS") from Aqua regarding a Point of Delivery, Purchaser shall pay the full amount indicated on the PCS to Aqua. After each Point of Delivery project has been completed, the final cost of the project will be reconciled with the payments made by Purchaser. Aqua shall reimburse Purchaser in the amount of fifty percent (50%) of the final cost within ninety (90) Days of completion of the Point of Delivery project.

2.5 Water Quality.

(a) The quality of Water to be supplied and delivered by Aqua at the Point(s) of Delivery shall meet the quality criteria prescribed by federal or state law for public water supply and specifically satisfy the TCEQ Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems, 30 Tex. Admin. Code Chapter 290, Subchapter F, as currently in effect or as may be amended or superseded from time to time. The water that Aqua delivers to Purchaser shall be of the same quality of water that Aqua delivers to its retail members. Purchaser has satisfied itself that such water is suitable for its needs.

(b) Purchaser shall protect Purchaser's system from cross-connection and contamination under the specifications required by the health standards of the State of Texas. If



Aqua becomes aware of any situation involving Purchaser's system that could reasonable lead to the contamination of Aqua's System or could otherwise compromise the integrity of Aqua's System, Aqua shall immediately notify Purchaser of the situation and request immediate remediation of the situation by Purchaser. If Aqua determines that the seriousness of the situation requires such action, it may immediately, and without prior notice to Purchaser, take such steps to prevent the contamination or compromise of System integrity, including, without limitation, severing connections between Aqua's System and Purchaser and terminating delivery of water to the extent necessary to remedy the problem. If such conditions or problems persist or recur, then Aqua may, in its sole discretion, require the installation of an air gap between Aqua's System and Purchaser. The expenses associated with the installation of such air gap shall be the sole responsibility of Purchaser.

2.6 Sale of Water by Purchaser. Purchaser shall not provide retail water utility service using the water taken from Aqua under this Agreement within Aqua's retail water CCN service area, as identified on Exhibits "A" and "D", and outside of Purchaser's retail wastewater CCN service area as indicated in Exhibit "F", during the Term of this Agreement unless specifically approved in writing by Aqua. Purchaser's provision of retail water service within the area identified on Exhibit "A" as Aqua's retail water CCN service area and not within Purchaser's retail wastewater CCN service area identified as Exhibit "F" shall be considered an Event of Default pursuant to Article X hereof.

2.7 Separation of Systems. A device purchased by Purchaser and approved by Aqua to prevent flow reversal shall be maintained between Aqua's System and Purchaser's system at the Point(s) of Delivery.



2.8 CCN Amendment Application. Purchaser shall submit an application for service to any Point(s) of Delivery and provide Aqua with documentation that identifies the area to be served by Purchaser with the water purchased from Aqua. After approval of the application by Aqua, Aqua shall prepare, file and pursue approval of an application with the PUC to amend Aqua's retail water CCN to exclude the area identified by Purchaser in its application for service. Purchaser shall pay the full cost to Aqua to prepare, file, and pursue the approval of the CCN amendment application at the PUC.

**ARTICLE III.
MAINTENANCE AND CURTAILMENT**

3.1 Planned Outages. By December 1 of any Calendar Year during the Contract term, Aqua shall provide notice to Purchaser of the number and duration of any Planned Outages to be conducted by Aqua during the subsequent Calendar Year that may affect delivery of water to Purchaser. Provided, however, that Aqua shall not schedule more than two (2) such Planned Outages in any given Calendar Year. To the extent reasonably possible, Aqua shall coordinate the timing of any Planned Outage with Purchaser and shall cooperate with Purchaser to minimize the impact of any Planned Outage on the operation and maintenance of Purchaser's system.

3.2 Forced Outages. When a Forced Outage occurs, curtailing the flow of water to the Point(s) of Delivery, Aqua shall notify Purchaser of the existence, nature, and expected duration of the Forced Outage as soon as practical. Aqua shall use its best efforts to ensure that any interruption in the delivery of water to the Point(s) of Delivery due to a Forced Outage shall continue only for so long as reasonably necessary. Aqua shall immediately inform Purchaser of any changes in the nature and expected duration of such Forced Outage.



3.3 Curtailment.

(a) If water supplies or services are curtailed to Aqua's retail members, or if water conservation measures are mandated by a Governmental Authority, Aqua shall impose a like curtailment on deliveries or water conservation measures on Purchaser as provided in Texas Water Code § 11.039. The curtailment Aqua imposes on Purchaser shall be equal in duration to the curtailment imposed on Aqua's retail members.

(b) Aqua will notify Purchaser of the quantity by which Purchaser will reduce its daily take from Aqua, as well as the duration of the requirement that the take be reduced. Purchaser shall cooperate by imposing conservation measures upon its customers.

(c) The reduction to Purchaser's daily take under this Section shall be calculated as follows: (i) determine the total volume of water taken by Purchaser in the same month of the previous calendar year; (ii) divide this monthly volume by the number of days in the month to arrive at an average take per day of that month; (iii) apply the reduction percentage to the average take per day of that month. For example, if it becomes necessary for Aqua to impose a 5% reduction in Purchaser's daily take starting on August 15, 2018, Aqua will determine, based on meter data, the amount of water purchased by Purchaser in August 2017, and divide that number by thirty-one (31) (the number of days in August). The product of that calculation times 5% will be the amount, in gallons, that Purchaser must reduce its daily take until further notice from Aqua. If it becomes necessary for Aqua to impose a curtailment in the year immediately following the Effective Date, Aqua shall use a 5% reduction of the average gallon per person per day amount of 182 gallons for Purchaser in place of the calculation provided above in this section.



3.4 Conservation Measures.

(a) Aqua has in place a Water Rationing Plan in its Tariff as identified as Exhibit "H". Purchaser is required to abide by the Water Rationing Plan in accordance with Aqua's Tariff and Aqua's Terms and Conditions, and is subject to the penalty provisions therein.

(b) Before taking water from Aqua, Purchaser shall either adopt or amend, then enforce water conservation and drought contingency plans that specifically references Aqua's Water Rationing Plan, and that:

- (i) comply with Title 30 Texas Administrative Code, Chapter 288;
- (ii) will conserve the same or a greater amount of water as under the plans implemented by Aqua, and
- (iii) are approved by TCEQ and provided to Aqua.

Such water conservation and/or drought contingency plans shall be applicable to water taken by Purchaser from Aqua. Purchaser shall submit to Aqua a copy of Purchaser's water conservation and/or drought contingency plans as originally adopted and as updated from time to time during the term of this Agreement.

3.5 Emergency Notification. Aqua shall notify Purchaser as promptly as possible of all emergency and other conditions of which it becomes aware that may directly or indirectly affect the quality or quantity of the water provided by Aqua, and to provide Purchaser a copy, upon receipt, of all notices received from state or federal agencies or departments having jurisdiction over the installation and operation of public water systems.

3.6 No Statutory Violation for Curtailment. The Parties agree that curtailment of the provision of services under this Agreement is not a violation of the anti-curtailment provision of the Consolidated Farm and Rural Development Act, 7 U.S.C. § 1926(b). If Aqua curtails the



delivery of water under this Agreement it shall not incur any liability under the provisions of this statute.

**ARTICLE IV.
RATES AND COMPENSATION**

4.1 Rates. The Rate for Wholesale Service under this Agreement shall be as provided in Aqua's Terms and Conditions.

4.2 Adjustment to Rates.

(a) The Rates to be paid by Purchaser for services under this Agreement are subject to adjustment by Aqua for each Water Year. Any adjustment made by Aqua shall remain in effect until the next adjustment of Rates which, except as provided in this Section 4.2 and in Section 4.3, shall occur no earlier than twelve (12) months following the date of the last adjustment to Rates.

(b) In determining the Rates to be set hereunder, Aqua may, but need not, consider, but shall not be limited to considering, all costs incurred by Aqua to build, maintain and operate the System, which shall include but not be limited to: operation and maintenance expenses, debt service requirements along with an adequate amount of insurance coverage as determined by Aqua's financial policies now and in the future, depreciation expense, contractual obligations, capital improvements, administrative overhead, supplies, personnel services, and other utility services, and all other costs or expenses directly or indirectly related to Aqua's ability to meet the conditions of this Agreement and determined by Aqua to relate to its performance hereunder.

(c) Aqua shall notify Purchaser of Aqua's proposed Rate adjustments for the ensuing Water Year at least sixty (60) Days prior to the Rate Effective Date. Thereafter, Purchaser may request additional information from Aqua and provide Aqua with any information Purchaser deems pertinent to the level of the Rates to be established by Aqua. The Rate Effective Date will

be the date on which Aqua's Board of Directors adopts the new Rate. The new Rate will be billed to Purchaser effective on the New Rate Billing Cycle.

(d) Aqua may adjust Rates more often than once every twelve months if, in the sole determination of Aqua, additional revenues are needed for the continued prudent operation of the System or to meet Aqua's obligations, and it would not be prudent to wait the full twelve months for a Rate adjustment. In the event Aqua determines to adjust Rates under this paragraph, it shall provide advance notice to Purchaser of at least sixty (60) Days prior to the implementation of such adjustment.

4.3 Pass-through of Rate Adjustments and Other Costs Imposed by Third Parties. The Rates may be adjusted, at any time, for an amount equivalent to any increased charges for any new or revised Governmental Authority restrictions, impositions, rental fees or charges levied, assessed or imposed on Aqua by any new or amended Governmental Authority law or regulation.

4.4 Books and Records. All books and records upon which such Rate adjustment is based shall be made available to Purchaser at the office of Aqua during the regular business hours of Aqua, upon request by Purchaser.

4.5 Reasonableness of Rates. Purchaser agrees that the Rates initially charged by Aqua and the policies defined in this Agreement are just and reasonable, and do not adversely affect the public interest. The Rates charged by Aqua are subject to modification as provided herein. Purchaser agrees that it is reasonable for Aqua to adjust the Rates periodically as provided herein, including the considerations provided in Section 4.2(b), and understands that any adjustments made in accordance with this Agreement, and the considerations provided in Section 4.2(b) are part of the consideration for this Agreement. Notwithstanding any provision to the



contrary, Purchaser does not waive the right to file and pursue an appeal of any increase in Rates proposed or adopted by Aqua that is not in conformance with the terms of this Agreement.

4.6 Rate Case. If a court, the Public Utility Commission, or any federal or state regulatory authority finds that Aqua's Rates or policies for services provided under this Agreement are unreasonable or otherwise unenforceable, Aqua has the option to terminate this Agreement without liability to Purchaser, but Aqua shall provide Purchaser at least six (6) months' notice prior to such termination.

4.7 Pledge of Revenues. Purchaser represents and covenants that all payments to be made by it under this Agreement will be made from the revenues associated with the sale of water purchased from Aqua. Purchaser agrees throughout the term of this Agreement to continuously operate and maintain its water system and to fix and collect such rates and charges for water services to be supplied by its water system as will produce revenues in an amount equal to at least all of its payments under this Agreement.

4.8 Funds on Hand. Purchaser shall use funds on hand to pay Aqua for Wholesale Service provided on a monthly basis.

ARTICLE V. EQUIPMENT AND OPERATION

5.1 Master Meter(s). Aqua shall furnish and install, or caused to be furnished and installed, operate, and maintain a Master Meter(s) at the Point(s) of Delivery as provided by Aqua's current specifications and standards. Purchaser shall be responsible for the cost of the Master Meter(s). The Master Meter(s) shall remain the property of Aqua at all times and shall be located on Aqua's property or on an easement dedicated to Aqua. The amount of water delivered by Aqua through the Point of Delivery to Purchaser shall be determined based upon the data collected at the Master Meter(s) at such location. Purchaser shall install and maintain, and



be responsible for all costs of acquisition, installation, maintenance, and operation of, a Supervisory Control and Data Acquisition ("SCADA") system at the Master Meter(s) to enable the Master Meter(s) to communicate with Aqua's System.

5.2 Access to Master Meter(s). Purchaser may have access to the Master Meter(s) only upon approval by Aqua and only for the purpose of verifying its readings. Such approval shall not be unreasonably withheld or delayed, so long as Purchaser provides Aqua with a written request at least forty-eight (48) hours before such access would occur. At no time shall Purchaser be permitted to tamper with, alter, or otherwise adjust any meter or appurtenances at the Point(s) of Delivery or any other component of Aqua's System. If the Master Meter(s) is located within an area of restricted access, Purchaser shall ensure that Aqua has access at all times.

5.3 Reading of Meter. On a monthly basis, Aqua shall be responsible for reading the meter(s) at the Point(s) of Delivery and submitting an invoice to Purchaser for the quantity of water provided. Aqua shall keep accurate records of all measurements of water required under this Agreement. Upon reasonable request and notice, Purchaser or its agents may have access to the records maintained by Aqua of meter readings associated with the Point(s) of Delivery.

5.4 Regular Testing of Master Meter(s). It shall be the duty of each of the Parties to notify the other Party in the event that the Master Meter(s) is not registering accurately or is malfunctioning, so that the meter can be promptly repaired. Aqua shall test the Master Meter(s) for accuracy at least once each twelve (12) month period, and more often as deemed necessary by Aqua to ensure its accuracy. Aqua shall provide Purchaser with five (5) Business Days' notice of its intent to perform the annual test of the Master Meter(s), and Purchaser shall have the right to be present when such testing is conducted. In the event the percentage of accuracy of the Master Meter(s) is found to be within the tolerance of one and one-half percent (1.5%) after any



test, such Master Meter(s) shall be deemed to have correctly measured the quantity of water taken under this Agreement. If, however, upon any test of the percentage of accuracy tolerance, such tolerance is found to be in excess of one and one-half percent (1.5%), then such Master Meter(s) shall be adjusted at once to register correctly and accurately, and the amount of water delivered to Purchaser shall be corrected in accordance with the percentage of inaccuracies found by such test for a period extending back to the time when such inaccuracy began, if such time is ascertainable. If such time is not ascertainable, then the correction shall account for a period extending back one-half (1/2) of the time elapsed since the last date of calibration, but in no event further back than a period of six (6) months.

5.5 Additional Testing of Master Meter(s). Purchaser shall have the right to request Aqua to test the Master Meter(s) more frequently than once per Year as contemplated by Section 5.4 herein, but no more frequently than once a month. Upon any such request, Aqua agrees to perform its testing and calibration of the Master Meter(s) in the presence of a representative of Purchaser, and the Parties shall jointly observe any adjustments that are made to the Master Meter(s) in case any adjustments shall be necessary. For such additional testing requests, Aqua shall give Purchaser forty-eight (48) hours' notice of the time when any such testing shall occur. Aqua may proceed with such testing and adjustment, if necessary, in the absence of any representative of Purchaser. Purchaser shall pay the cost of any additional test for a Master Meter if the test shows that such Master Meter is accurate [within one and one-half percent (1.5%) registration], but Aqua shall pay the costs of the additional test for such if the results indicate that such Master Meter is not accurate [in excess of one and one-half percent (1.5%) registration].



5.6 Maintenance of Master Meter(s). Except as provided in Section 5.5 above, all maintenance, testing and/or repairs or replacement of the Master Meter(s) and related appurtenances at the Point(s) of Delivery shall be made by Aqua. Aqua shall provide repairs to the Master Meter(s) in a prompt and timely manner. If Aqua cannot make such repairs in a timely manner, then Purchaser shall have the option of making such repairs at its own expense, subject to the prior approval and post-inspection of the repairs by Aqua.

**ARTICLE VI.
POINT(S) OF DELIVERY**

6.1 Location of and Cost Responsibility for Point(s) of Delivery. Each Point of Delivery for Water delivered and taken under this Agreement is located as described in Exhibit "C" hereto. Purchaser agrees to be responsible for all costs associated of the acquisition, construction, and installation of each Point(s) of Delivery, any associated metering station(s), and any line extension(s) from Aqua's existing water infrastructure to the Point(s) of Delivery that are necessary to enable Aqua to deliver water to the Point(s) of Delivery. Aqua shall own any water line extensions that connect Aqua's water distribution infrastructure to the Point(s) of Delivery and such line extensions shall be part of Aqua's System. Purchaser shall own any water line extensions that connect Purchaser's water distribution infrastructure to the Point(s) of Delivery and such line extensions shall be part of Purchaser's System.

6.2 Relocation of Point(s) of Delivery. The Parties may agree in writing to relocate any Point of Delivery or to add additional Points of Delivery as necessary. Any such relocation and/or each such additional Point(s) of Delivery will be reflected by amendment to this Agreement and to Exhibit "C".

6.3 Acquisition of Necessary Easements. Aqua will acquire the necessary easements, through either negotiation or eminent domain, if required, and Purchaser will pay the full cost of



acquiring the necessary easements and rights-of-way in which any of Aqua's System is located, including any such easements as become necessary for any additional Point(s) of Delivery.

**ARTICLE VII.
OWNERSHIP OF WATER AND FACILITIES**

7.1 Transfer of Ownership. As between the Parties, Aqua shall be: (i) deemed to have exclusive care, custody, and control for all water up to the Point(s) of Delivery; and (ii) responsible for all Losses required to deliver water to the Point(s) of Delivery. Purchaser shall be: (i) deemed to take exclusive care, custody, and control of all water from and after the Point(s) of Delivery; and (ii) responsible for all Losses associated with all water from and after the Point(s) of Delivery.

7.2 No Ownership of Facilities.

(a) Purchaser obtains no ownership, leasing, or management interest in any of Aqua's System by or through this Agreement or payment of any Rate set forth herein.

(b) Purchaser shall be responsible for maintenance and repairs on all facilities located downstream of the Point(s) of Delivery. Aqua and Purchaser will use all reasonable efforts to prevent waste through line leakages or breaks.

**ARTICLE VIII.
BILLING AND PAYMENT**

8.1 Meter Readings.

(a) Aqua shall send a bill to Purchaser once per month setting forth the quantity of water delivered to Purchaser as determined by Aqua's periodic readings of the Master Meter(s) installed at the Point(s) of Delivery. Purchaser shall pay the total amount owed to Aqua by the due date on each bill. Penalties for late payment shall be imposed according to the provisions of Aqua's Terms and Conditions.



(b) Aqua shall also invoice Purchaser for additional charges, if any, as provided in this Agreement. These invoices shall be due and payable by Purchaser within fifteen (15) Days after receipt.

8.2 Breach for Failure to Timely Pay. Should Purchaser fail to tender payment to Aqua by the due date, the bill shall be considered delinquent, unless contested in good faith as provided herein. In such event, Aqua shall notify Purchaser of such delinquency in writing. If Purchaser fails to make payment of the delinquent billing within thirty (30) Days from the due date, then Aqua may, at its discretion, temporarily terminate service to Purchaser until payment is made. If such delinquency is not cured within thirty (30) Days after temporary termination of service, Purchaser will be in breach of a material term and/or condition of this Agreement and Aqua may terminate this Agreement as provided herein.

8.3 Disputed Bills. If Purchaser in good faith disputes the amount of the bill, Purchaser shall submit such dispute in writing to Aqua no later than thirty (30) Days after receipt of the invoice, and shall timely make the disputed payment or payments. If it is subsequently determined by agreement or court decision that the disputed amount paid by Purchaser should have been less, or more, Aqua shall promptly revise the monthly invoice amount in a manner that Purchaser or Aqua will recover the amount due plus interest, with interest being calculated at an annual rate of five percent (5%).

**ARTICLE IX.
FORCE MAJEURE**

9.1 Procedure for Calling Force Majeure.

(a) Notice of Force Majeure. The Affected Party shall give prompt notice to the other Party of any event or circumstance of Force Majeure as soon as reasonably practicable after becoming aware of such event or circumstance. Each notice served by an Affected Party to

the other Party pursuant to this Subsection 9.1(a) shall specify the event or circumstance of Force Majeure in respect of which the Affected Party is claiming relief. Noncompliance by the Affected Party with the procedure specified in this Subsection 9.1(a) shall relieve the other Party from accepting the Affected Party's claim of Force Majeure until the Affected Party so complies, and the Affected Party shall not be excused from performance of any obligation under this Agreement until it so complies.

(b) **Obligations During Pendency of Force Majeure.** The Affected Party shall, by reason of any event or circumstance of Force Majeure in respect of which it has claimed relief under Subsection 9.1(a):

(i) use its best efforts to mitigate the effects of such Force Majeure and to remedy any inability to perform its obligations hereunder due to such event or circumstance as promptly as reasonably practicable;

(ii) furnish timely reports to the other Party regarding the progress in overcoming the adverse effects of such event or circumstance of Force Majeure; and

(iii) resume the performance of its obligations under this Agreement as soon as is reasonably practicable after the event or circumstance of Force Majeure is remedied or such event or circumstance, or the effect thereof on the Affected Party, ceases to exist.

(c) **Resumption of Performance.** When the Affected Party is able, or would have been able if it had complied with its obligations under this Article IX, to resume the performance of any or all of its obligations under this Agreement affected by the occurrence of an event or circumstance of Force Majeure, then the period of Force Majeure relating to such event or circumstance shall be deemed to have ended.



9.2 Effects of Force Majeure.

(a) Relief From Obligation of Performance. Provided it has complied with its obligations under Section 9.1, the Affected Party shall be relieved from any liability for the non-performance of its obligations under this Agreement where and to the extent that such non-performance is attributable directly to the event or circumstance of Force Majeure asserted.

(b) Relief From Obligation of Counterperformance. The non-Affected Party shall not be required to perform or resume performance of its obligations to the Affected Party corresponding to the obligations of the Affected Party excused by reason of Force Majeure.

9.3 Limitations on Force Majeure.

(a) Scope and Duration. No event or circumstance of Force Majeure shall relieve the Affected Party of any obligation that accrued prior to the commencement of such event or circumstance of Force Majeure, and the suspension of the Affected Party's performance shall be no longer in duration and no greater scope than is required by the event or circumstance of Force Majeure.

(b) No Extension of Term. Except as agreed by the Parties, no suspension, delay or failure of performance caused by a Force Majeure event shall extend this Agreement beyond the Term.

**ARTICLE X.
DEFAULT AND TERMINATION**

10.1 Event of Default. It shall be an Event of Default by either Party if such Party shall breach any material covenant, obligation, representation, or warranty of such Party under this Agreement, which breach remains uncured for a period of thirty (30) Days after written notice from the non-breaching Party of the existence of such breach; provided, that the non-breaching Party shall extend the cure period for any such breach (and thus no Event of Default shall occur)



if the nature of the default is such that it cannot reasonably be remedied within such thirty (30) Day period, and the breaching Party has diligently commenced corrective action within such thirty (30) Day period and is diligently pursuing such correction thereafter.

10.2 Remedies. If an Event of Default has occurred and is continuing, the non-defaulting Party shall be entitled to the following remedies, which shall be cumulative:

- (a) injunctive relief;
- (b) specific performance;
- (c) the right to cure the other Party's default;
- (d) suspension of delivery of water hereunder;
- (e) termination of this Agreement;
- (f) any of the remedies afforded in this Agreement; and
- (g) any other remedies permitted at law or in equity, including damages.

Provided, that Aqua shall not be responsible in damages for any failure to supply water or for any interruption of the supply of water under this Agreement.

10.3 Aqua Right to Suspend or Terminate. Aqua shall have the right, for its sole convenience and without cause, to terminate or suspend, in whole or in part, Aqua's performance of any of its duties or obligations under this Agreement, upon sixty (60) Days prior written notice to Purchaser, in the event that:

- (a) Aqua, through no fault or negligence of its own, loses any Permit or other authorization from a Governmental Authority that is required by Aqua to perform its obligations under this Agreement; or
- (b) Aqua, after due diligence, is unable to obtain any necessary Permit, Permit amendment, or other necessary authorization from a Governmental Authority or is subject to an



action by a Governmental Authority that reduces its permitted quantity of surface water or groundwater that is necessary to perform its respective duties under this Agreement.

10.4 Termination for Continued or Multiple Force Majeure. Either Party shall have the right (but not the obligation) to terminate this Agreement upon seven (7) Days prior written notice to the other Party in the event the suspension of any material obligation of the Affected Party resulting from one or more events of Force Majeure continues for a period of more than three (3) consecutive months or for a period of more than three (3) months in the aggregate during a one (1) year period; provided that the Affected Party shall only be entitled to terminate this Agreement under this Section 10.4 if it has met its obligations under Section 9.1 (Procedures for Calling Force Majeure). The non-affected Party may, but shall not be obligated to, extend either such period for such additional period as it deems appropriate, if the Affected Party is exercising due diligence in its efforts to cure the Force Majeure event.

10.5 Effective Date of Termination for Continued or Multiple Force Majeure. Upon receipt of any notice of termination delivered pursuant to this Article X, this Agreement shall terminate, effective immediately, and will be of no further force or effect, except with respect to: (i) rights and obligations of the Parties arising during or relating to any period prior to termination, including, in the case of termination for any Event of Default, all of the damages incurred by the non-defaulting Party in connection with such Event of Default, which shall include but not be limited to, Aqua's stranded investment incurred in anticipation of providing the services to Purchaser throughout the term of this Agreement; and (ii) the covenants and obligations of the Parties set forth in this Agreement intended to survive the expiration or termination of this Agreement, which shall survive the expiration or earlier termination of this Agreement as



expressly provided in this Agreement, or if no express survival period is provided for, then until such obligations have been satisfied, or, if later, pursuant to any applicable statute of limitations.

10.6 Mutual Termination by Parties. This Agreement may be terminated upon agreement of Aqua and Purchaser as evidenced in writing. The termination shall take effect upon the date agreed to in writing by Aqua and Purchaser.

ARTICLE XI. DISPUTE RESOLUTION

11.1 Attempt to Resolve. The Parties agree that, prior to instituting any lawsuit or other proceeding arising from a dispute under this Agreement, the Parties will first attempt to resolve the dispute by taking the following steps:

(a) A written notice substantially describing the nature of the dispute shall be delivered by the dissatisfied Party to the other Party, which notice shall request a written response to be delivered to the dissatisfied Party not less than five (5) Days after receipt of the notice of dispute.

(b) If the response does not reasonably resolve the dispute, in the opinion of the dissatisfied Party, the dissatisfied Party shall give notice to that effect to the other Party whereupon each Party shall appoint a person having authority over the activities of the respective Parties who shall promptly meet, in person, in an effort to resolve the dispute.

(c) If those persons cannot or do not resolve the dispute, then the Parties shall each appoint a person from the highest tier of managerial responsibility within each respective Party, who shall then promptly meet, in person, in an effort to resolve the dispute.

11.2 Non-Binding Mediation for Matters not under PUC Jurisdiction. In the event the measures provided for in Section 11.1 are not successful in resolving the dispute for matters not under the PUC's jurisdiction, Aqua and Purchaser shall enter into non-binding mediation in an



attempt to resolve the dispute prior to commencing litigation. Aqua and Purchaser shall mutually select an impartial individual to serve as mediator. In the event the Parties are unable to agree on an individual to serve as the mediator, either Party may apply to a District Judge for Bastrop County who shall be empowered to designate an individual to serve as the mediator.

11.3 Rates Not Subject to Mediation. Notwithstanding Sections 11.1 and 11.2, and in accordance with Sections 4.5 and 4.6, neither the Rates to be paid hereunder, nor the provisions for payments of said Rates, shall be subject to mediation unless ordered by the PUC.

11.4 Costs of Mediation. Each Party shall bear its own costs and expenses associated with any mediation or appeal of any provision of this Agreement.

ARTICLE XII. LIABILITY

12.1 Limitation on Liability and Responsibility / Hold Harmless. Neither Aqua nor Purchaser shall be liable or responsible to the other for any claims or damages of any kind for injury to or death of any person or persons, for damage to or loss of property arising out of or attributed directly or indirectly to operations, acts or failures to act by the other and shall hold the other party harmless for any such claims, damages, losses, injuries or deaths.

12.2 General Limitation on Liability. Notwithstanding any other provision of this Agreement, in no event shall either Party be liable to the other under any theory of tort, contract, strict liability, or other legal or equitable theory, whether by way of indemnity or otherwise, for any lost profits, exemplary, punitive, special, incidental, indirect, or consequential damages of the other Party.



ARTICLE XIII.
REPRESENTATIONS, WARRANTIES AND COVENANTS

13.1 Aqua Representations and Warranties. Aqua hereby represents and warrants to Purchaser, as of the date hereof, as follows:

(a) Aqua is a retail public utility holding a CCN and has all requisite power and authority to enter into and to perform its obligations hereunder, and to carry out the terms hereof and the transactions contemplated hereby.

(b) This Agreement has been duly executed and delivered on behalf of Aqua by the appropriate officials of Aqua, and constitutes the legal, valid and binding obligation of Aqua, enforceable against Aqua in accordance with its terms except as the enforceability thereof may be limited by: (i) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally; and (ii) general equitable principles.

(c) The execution, delivery and performance of this Agreement by Aqua have been duly authorized under the bylaws and all other applicable Requirements of Law of Aqua and will not contravene any provision of or constitute a default under any other agreement or instrument to which Aqua is a party or by which Aqua or its property may be bound, and do not conflict with any Requirement of Law currently in force and applicable to Aqua.

(d) There is no legislation, litigation, action, suit, proceeding, or investigation pending or (to the best of Aqua's knowledge) threatened, against Aqua, whether related to the operation of any facility that will supply water under this Agreement, or otherwise, before or by any Governmental Authority which, if adversely determined, individually or in the aggregate: (i) could adversely affect the performance by Aqua of its obligations hereunder; (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Aqua;



or (iii) questions the validity, binding effect or enforceability thereof or of this Agreement, any action taken or to be taken pursuant hereto or any of the transactions contemplated hereby.

13.2 Purchaser Representations and Warranties. Purchaser represents and warrants to Aqua, as of the date of this Agreement, as follows:

(a) Purchaser is a retail public utility holding a CCN and is authorized to provide retail water utility service to the areas within its CCN, and has all requisite power and authority to enter into and to perform its obligations hereunder, and to carry out the terms hereof and the transactions contemplated hereby.

(b) This Agreement has been duly executed and delivered on behalf of Purchaser, and constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms except as the enforceability thereof may be limited by: (i) bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally; and (ii) general equitable principles.

(c) There is no legislation, litigation, action, suit, proceeding or investigation pending or (to the best of Purchaser's knowledge) threatened, against Purchaser or related to Purchaser's activities by any court, administrative agency, arbitrator or governmental authority, body or agency which, if adversely determined, individually or in the aggregate: (i) could adversely affect the performance by Purchaser of its obligations hereunder; (ii) could have a material adverse effect on the condition (financial or otherwise), business or operations of Purchaser; or (iii) questions the validity, binding effect or enforceability thereof or of this Agreement, any action taken or to be taken pursuant hereto or any of the transactions contemplated hereby.

(d) No officer or employee of Aqua has been or will be compensated in any manner with respect to directly or indirectly bringing the Parties together, agreement negotiations, or the



entering into this Agreement. In no event will Purchaser pay a fee to or in any other manner compensate any of Aqua's board members, officers, or employees in connection with the acceptance of this Agreement. A breach of this Subsection 13.2(d) shall result in automatic and immediate termination of this Agreement and shall be an Event of Default.

**ARTICLE XIV.
TERM**

This Agreement shall be effective on the date of the last to execute below, the Effective Date of this Agreement, and shall remain in force and effect for a period of fifty (50) years from the Effective Date hereof. However, this Agreement may be terminated by either Party in accordance with Article X of this Agreement. As provided in Article X, earlier termination by Purchaser shall render Purchaser liable in damages for repayment of Aqua's stranded investment incurred in anticipation of providing services to Purchaser throughout the term of this Agreement. Purchaser agrees that Aqua has no obligation to provide it with water after the termination of this Agreement. Unless either Purchaser or Aqua provides the other party with its written intent to not renew this Agreement not later than one (1) year prior to the date of the expiration of the initial term of this Agreement, this Agreement shall automatically renew for an additional fifty (50) year period and the Agreement's terms and conditions shall remain in effective for the length of the additional fifty (50) year period.

**ARTICLE XV.
MISCELLANEOUS**

15.1 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their legal successors, but the Agreement shall not be otherwise assignable in whole or in part by either Aqua or Purchaser without first obtaining the written consent of the other.

15.2 Governing Law and Venue. The Constitution and the laws of the State of Texas and the decisions of its courts shall govern with respect to any question or controversy that may arise hereunder. All amounts due under this Agreement, including but not limited to payments due under this Agreement or damages for breach of this Agreement, shall be paid and be due in Bastrop County, Texas, which is the county in which the principal administrative offices of Aqua are located. It is specifically agreed that Bastrop County, Texas, is a principal place of performance of this Agreement. Venue for any actions arising under this Agreement shall lie exclusively in the courts of Bastrop County, Texas.

15.3 Notices. Unless the context requires immediate notice, which may be provided by telephone, any notice, request or other communication required by this Agreement between the Parties regarding the Agreement shall be given in writing and shall be deemed to have been given to the other Party upon either of the following dates:

(a) The date of the mailing thereof, as shown by a post office receipt, if mailed to the Party by registered or certified mail at the latest address specified for such other Party in writing;
or

(b) The date of the receipt thereof by such other Party if not so mailed by registered or certified mail. Notice shall be made to Aqua as follows:

General Manager
Aqua Water Supply Corporation
P.O. Drawer P
415 Old Bastrop Highway
Bastrop, Texas 78602

With copy to: Ty Embrey
Lloyd Gosselink, P.C.
1800 Congress Avenue, Suite 1900
Austin, Texas 78703



Notice to Purchaser shall be made as follows:

City of Bastrop
P.O. Box 427
Bastrop, Texas 78602
Attn: City Manager

With copy to: Alan Bojorquez
Bojorquez Law Firm
12325 Hymeadow Drive
Suite 2-100
Austin, Texas 78750

(c) The Parties shall have the right from time to time to change their respective addresses by giving written notice to the other Party.

15.4 No Waiver of Rights.

(a) No waiver by either Party of any default or defaults by the other Party in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults whether of a like or different character or shall be effective unless in writing, duly executed by a duly authorized representative of the Party waiving any such default.

(b) Neither the failure by a Party to insist on any occasion upon the strict performance of the terms, conditions, and provisions of this Agreement, nor time or other indulgence granted by one Party to the other, shall act as a waiver of such breach.

15.5 Severability. In case any one or more of the Articles, Sections, provisions, clauses, or words of this Agreement shall for any reason be held to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect any other Articles, Sections, provisions, clauses, or words of this Agreement, and it is intended that this Agreement shall be severable and shall be construed and applied as if such invalid or unconstitutional Article, Section, provision, clause or word had not been included herein.



15.6 Entire Agreement. This Agreement contains all of the agreements between the Parties on the subjects contained herein. As of the Effective Date of this Agreement, this Agreement shall replace any and all prior agreements between the Parties, both oral and written, with regard to the subject matter.

15.7 Amendments. This Agreement may be changed or modified at any time by a written instrument signed by both Parties and only after having obtained approval from the governing bodies of Aqua and Purchaser. Any amendments to any exhibits attached hereto that become necessary from amendments to this Agreement shall be done and be made effective contemporaneously with any amendments to this Agreement. No change or modification shall be made to this Agreement that will affect adversely the prompt payment, when due, of all monies to be paid by Purchaser under the terms of the contract or that will adversely affect the tax-exempt status of any tax-exempt obligations issued by Aqua or Purchaser. The foregoing notwithstanding, the Parties hereto agree to use their best efforts to modify this Agreement if the Internal Revenue Service determines that a failure to do so would adversely affect the tax-exempt status of any outstanding tax-exempt obligations issued by Aqua or Purchaser.

15.8 Cooperative Drafting. This Agreement is the product of a cooperative drafting effort by the Parties and shall not be construed or interpreted against either Party solely on the basis that one Party or its attorney drafted this Agreement or any portion of it.

15.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Parties may execute this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement and exchange the counterparts of such documents by means of facsimile transmission, and the Parties agree that the receipt of such executed counterparts shall



be binding on such Parties and shall be construed as originals. Thereafter, the Parties shall promptly exchange original versions of this Agreement and all other agreements, certificates, instruments and other documents contemplated by this Agreement that were executed and exchanged by facsimile transmission.

15.10 Third Party Beneficiaries. Nothing in this Agreement is intended or shall be construed to confer upon, or to give to, any legal Person other than the parties, any right, remedy, or Claim under or by reason of this Agreement. Any covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. Nothing in this Agreement is intended to interfere with any agreement of any Party with a third party.

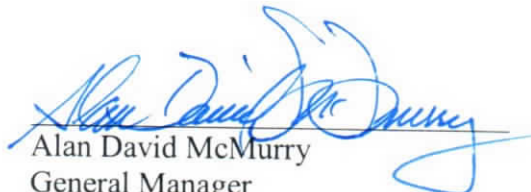
15.11 Certified Copy to PUC. Aqua shall provide the PUC with a certified copy of the executed wholesale water supply contract with Purchaser within thirty (30) Days after the date of execution of the Contract in accordance with Texas Water Code Section 13.144.

15.12 Deadlines. To the extent that the date for any payment or notice due hereunder by either Party shall fall on a Day that is not a Business Day, such deadline for payment or notice, as the case may be, shall be automatically extended to the next following Business Day.



IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below.

AQUA

By: 
Alan David McMurry
General Manager

Date: 11/28/2018

PURCHASER

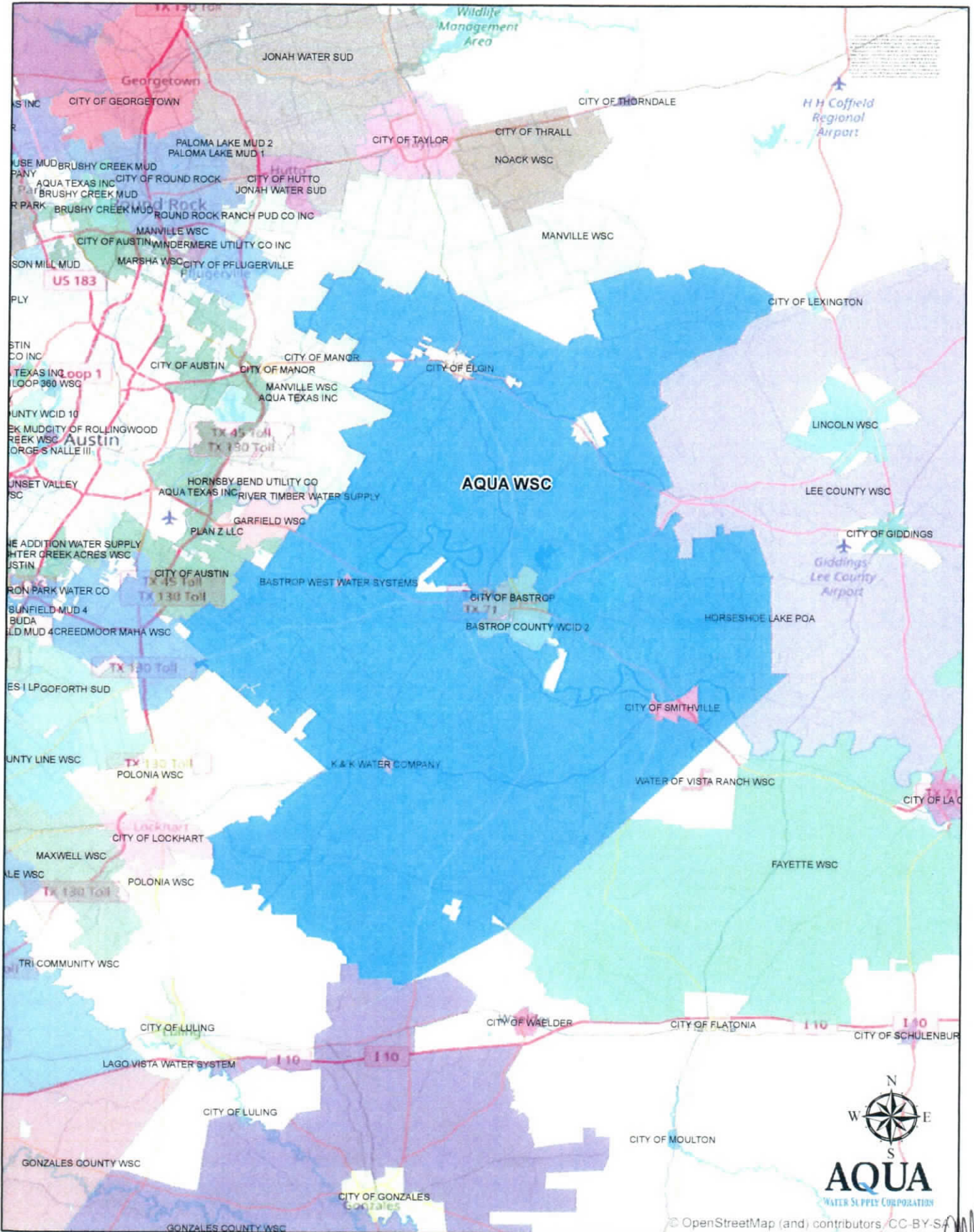
By: 
Lynn Humble
City Manager

Date: 11/28/2018

Attest: By Graci Chavez
Ann Franklin
City Secretary



Exhibit A AQUA WSC CCN




A handwritten signature or mark in the bottom right corner of the page.

Exhibit B

**AQUA WATER SUPPLY CORPORATION
TERMS AND CONDITIONS FOR WHOLESALE
SERVICE**

City of Bastrop

November 2018



SECTION 1.0
DEFINITIONS

“Aqua” means Aqua Water Supply Corporation as represented by its Board of Directors.

“Aqua’s Engineer” means a person or firm licensed by the State of Texas and engaged by Aqua to provide engineering consulting services to Aqua.

“Aqua’s System” means collectively all of Aqua’s production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water.

“Bastrop” means the City of Bastrop, Texas.

“Bastrop’s Engineer” means a person or firm licensed by the State of Texas and engaged by the City of Bastrop to provide engineering consulting services to Bastrop.

“Bastrop’s System” means collectively all of Bastrop’s production, distribution, and transmission facilities, including, without limitation, wells, ground storage reservoirs, pump stations, elevated storage tanks, water transmission and distribution lines connecting any of the aforementioned facilities, and other properties or interest therein wherever located for the production, distribution, and transmission of water.

“Board of Directors” or “Board” means the duly elected members of the Board of Directors of Aqua Water Supply Corporation.

“Capacity Charge” means the cost to have water service available under a Wholesale Service Agreement.

“Commodity Replacement Charge” means the charge assessed against Bastrop under a Wholesale Service Agreement for the purpose of replacing the water supply contracted for sale to Bastrop.

“Cost of Construction” means all expenses associated with constructing, installing and placing a facility into operation including, but not limited to, planning, engineering, clearing, surveying, legal, land acquisition, acquisition of rights-of-way, the construction contract, and the like.

“Maximum Daily Delivery Rate” means the maximum rate at which Aqua will deliver water to a Bastrop under a Wholesale Service Agreement in one twenty-four (24) hour period.

“Monthly Customer Charge” means the cost to have water available at a meter.

“Service Area” means that area to which Aqua may lawfully provide water service, whether within or outside the area described by the Certificate of Convenience and Necessity held by Aqua.

“Usage Charge” means the charge billed for water delivered through a metered point of delivery.

“Wholesale Service” means wholesale water service provided to a retail public utility, as defined by the Texas Water code, located outside of Aqua’s service area. Water provided under Wholesale Service shall be partial requirements only, pursuant to a Wholesale Service Agreement between Aqua and Bastrop. Such water shall be submetered for resale by the Bastrop within Bastrop’s service area. Aqua will not be the retail service provider to the customers of Bastrop.

SECTION 2.0
WHOLESALE SERVICE RATE SCHEDULE

Section 2.01 – Water Rates

The monthly charge for Wholesale Service shall be the sum of the Capacity Charge, the Usage Charge, and the Commodity Replacement Charge.

The Capacity Charge is a fixed charge assessed against the contractual Maximum Daily Delivery Rate (0.75 MGD) in the amount of \$45,000 per million gallons of water per day (“MGD”). Such amount shall be payable in advance on a monthly basis.

The Usage Charge is applicable to all water actually delivered to Bastrop by Aqua pursuant to the Wholesale Service Agreement in the amount of \$0.75 (seventy five cents) per 1,000 gallons delivered.

The Commodity Replacement Charge is a variable charge applicable to all water actually delivered to Bastrop in the amount of \$0.20 (twenty cents) per 1,000 gallons delivered.

Lost Pines Groundwater Conservation District Assessment

The assessments established by the Lost Pines Groundwater Conservation District shall be collected from each member.

Section 2.02 – Other Fees

After receipt of the Feasibility Study, Aqua will determine the size meter assembly required to meet the request. Aqua shall also calculate the appropriate Meter Set Fee associated with the requested meter. The Tap Fee shall include the actual cost for purchasing and installing the appropriate size and type meter and any flow controlling device and backflow prevention device as determined to be necessary by Aqua. The Membership Fee for Wholesale Service shall be \$100.00.

Bastrop shall be responsible for all fees and expenses incurred by Aqua associated with Aqua applying for, and obtaining, all permits required by a groundwater conservation district for the transport of water out of such district for the benefit of Bastrop and all fees and expenses, such as attorneys’ fees, estimated to be incurred by Aqua in negotiating and drafting a Wholesale Service Agreement.

A deposit of \$2,500.00 to cover expected fees and expenses shall be submitted to Aqua by Bastrop at the time Bastrop submits its request for a Wholesale Service Agreement to Aqua. Aqua shall issue an invoice to Bastrop for all such fees and expenses incurred in excess of the deposit, and Bastrop shall promptly submit payment in full to Aqua. The failure of Bastrop to timely reimburse Aqua for such fees and expenses will be cause for Aqua to reject Bastrop's request for a Wholesale Service Agreement or to abate consideration of such request pending receipt of payment from Bastrop. If such permits are required, the issuance of such permits shall be a condition precedent to Aqua providing a Wholesale Service Agreement to Bastrop.

Section 2.03 -- Miscellaneous Fees and Requirements for Service

a. Reconnection Fees

Base Reconnection Fee \$60.00

Past Due Balance As applicable

The above Reconnection Fee must be paid before service can be restored to Bastrop who has been disconnected. A Base Fee of \$60.00 shall be charged for all reconnections. At service locations where equipment tampering or an unauthorized connection has resulted in forfeiture of membership and tap rights, the former member shall be required to make full payment of the Membership Fee and the Tap Fee in effect at the time service is requested. Additionally, the former member shall be required to make full payment of applicable Equipment Damage Fees.

b. Late Charge

A 10% penalty will be added for payment received after the 10th day of the month. Failure to pay by the 10th, may require disconnection. The penalty on delinquent bills may not be applied to any balance to which the penalty was applied in a previous billing.

c. Returned Check Charge

\$ 35.00

SECTION 3.0
SERVICE RULES AND REGULATIONS

Section 3.01 – Application for Wholesale Service

Wholesale Service is provided pursuant to a long-term Wholesale Service Agreement, after (i) receipt of an application for Wholesale Service, and (ii) a determination is made by Aqua that Wholesale Service is available to Bastrop. This service may be provided by Aqua in Aqua's sole determination, taking into consideration the proposed place of use of the water, the furtherance of the goals of regionalization, the optimal use of Aqua's infrastructure, and other policies and guidelines adopted by Aqua from time to time. Aqua is under no obligation to provide Wholesale Service.

Entities meeting the following minimum qualifications may apply for Wholesale Service. However, meeting the following minimum qualifications in no event entitles any entity to become a purchaser of Wholesale Service. Minimum qualifications for Bastrop for Wholesale Service include, but are not limited to, the following:

1. Bastrop is a retail public utility as defined by the Texas Water Code that either (i) holds a valid Certificate of Convenience and Necessity ("CCN") for the provision of retail water utility service issued by the Texas Commission on Environmental Quality, its predecessors or successors, or (ii) is statutorily exempt from the requirement that it hold a CCN in order to provide retail water utility service.
2. Bastrop's service area is adjacent to the CCN held by Aqua.
3. Bastrop demonstrates to Aqua's satisfaction its creditworthiness and ability to perform financially under the terms of the Wholesale Service Agreement. Unless Aqua agrees otherwise, such demonstration shall be made by Bastrop providing to Aqua an irrevocable letter of credit in the amount of six (6) months' estimated billings by Aqua under the requested Wholesale Service Agreement. The letter of credit shall be continuously valid for the term of the Agreement, shall be issued by a bank authorized to do business in the State of Texas, and shall identify Aqua as the beneficiary.
4. Bastrop has other water supplies available and will not be a full-requirements wholesale customer of Aqua.

Bastrop must present a complete application for Wholesale Water Service.

If the sale of water by Aqua to Bastrop requires a transport permit from an underground water conservation district, then upon request by Bastrop, Aqua will submit an application for a Transport Permit at Bastrop's expense. By accepting Bastrop's application for Wholesale Water Service, and by submitting an application for a Transport Permit, Aqua makes no warranty or guarantee to Bastrop that the Transport Permit application will be successful.

Section 3.02 -- Billing

Water bills shall be rendered monthly unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle may be billed with the following month's bill.

Payment is considered late if not received at Aqua's office or postal address by the 10th of the month. A 10% penalty will be added for payment received after the 10th day of the month. Failure to pay by the 10th may result in disconnection.

Section 3.03 -- Service Disconnection

Wholesale service to Bastrop may be disconnected if a bill has not been paid and proper notice has been given.

Proper notice shall consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the words "termination notice" or similar language prominently displayed on the notice. If applicable, the notice must also list the past due balance.



Service may be disconnected after proper notice for any of the following reasons:

1. Failure to pay a delinquent account or to comply with a deferred payment agreement;
2. Willful violation of a usage rule when that violation interferes with another member's service;
3. Other reasons set forth in the Wholesale Service Agreement.

Service may only be disconnected without notice:

1. When a known dangerous condition exists, for as long as the condition exists;
2. When service is established through meter bypassing, an unauthorized connection or unauthorized reconnection; or
3. In instances of tampering with Aqua's meter or equipment.

Section 3.04 -- Forfeiture of Membership

If Wholesale Service has been disconnected for nonpayment for more than 365 consecutive days or if Aqua's equipment has been tampered with or water is taken by means of an unauthorized connection, or both:

Bastrop shall forfeit all rights and privileges of membership;

Bastrop shall forfeit all connection and tap rights;

The meter shall be removed; and

The Point of Delivery shall be sealed.

Section 3.05 -- Limitation of Liability

Aqua shall not be liable for any damages, including without limitation, direct damages, special damages, incidental damages, consequential damages, or loss of profit or revenue, resulting from failures or interruptions of water supply occurring because of maintenance of Aqua's water distribution system or that are occasioned by causes beyond the control of Aqua. Aqua shall not be liable in any event for consequential damages.

Section 3.06 -- Litigation

These Terms and Conditions shall be construed under and in accordance with the laws of the State of Texas. All obligations of the parties created under these Terms and Conditions shall be performable in Bastrop County, Texas. All payments required to be made to Aqua under the Wholesale Service Agreement shall be made at Aqua's offices in Bastrop County, Texas. Bastrop County, Texas shall be the exclusive place of venue for any disputes arising under the Wholesale

Service Agreement. In the event Aqua is required to retain an attorney to enforce the Wholesale Service Agreement or any of the Terms and Conditions or to collect amounts owed, Bastrop shall be responsible for all costs incurred by Aqua, including reasonable attorneys' fees.

SECTION 4.0 -- WATER RATIONING PLAN

Aqua has enacted a Water Rationing Plan as set out in its Tariff and Water Conservation Plan. Prior to service by Aqua, Bastrop is required to adopt Aqua's Water Rationing Plan and Water Conservation Plan, or a plan that is substantially similar that has been approved by the Texas Commission on Environmental Quality. Aqua will notify Bastrop of any revisions to the Water Rationing Plan and Water Conservation Plan and Bastrop shall ensure that their plan conforms with such amendments within thirty (30) days of notification.



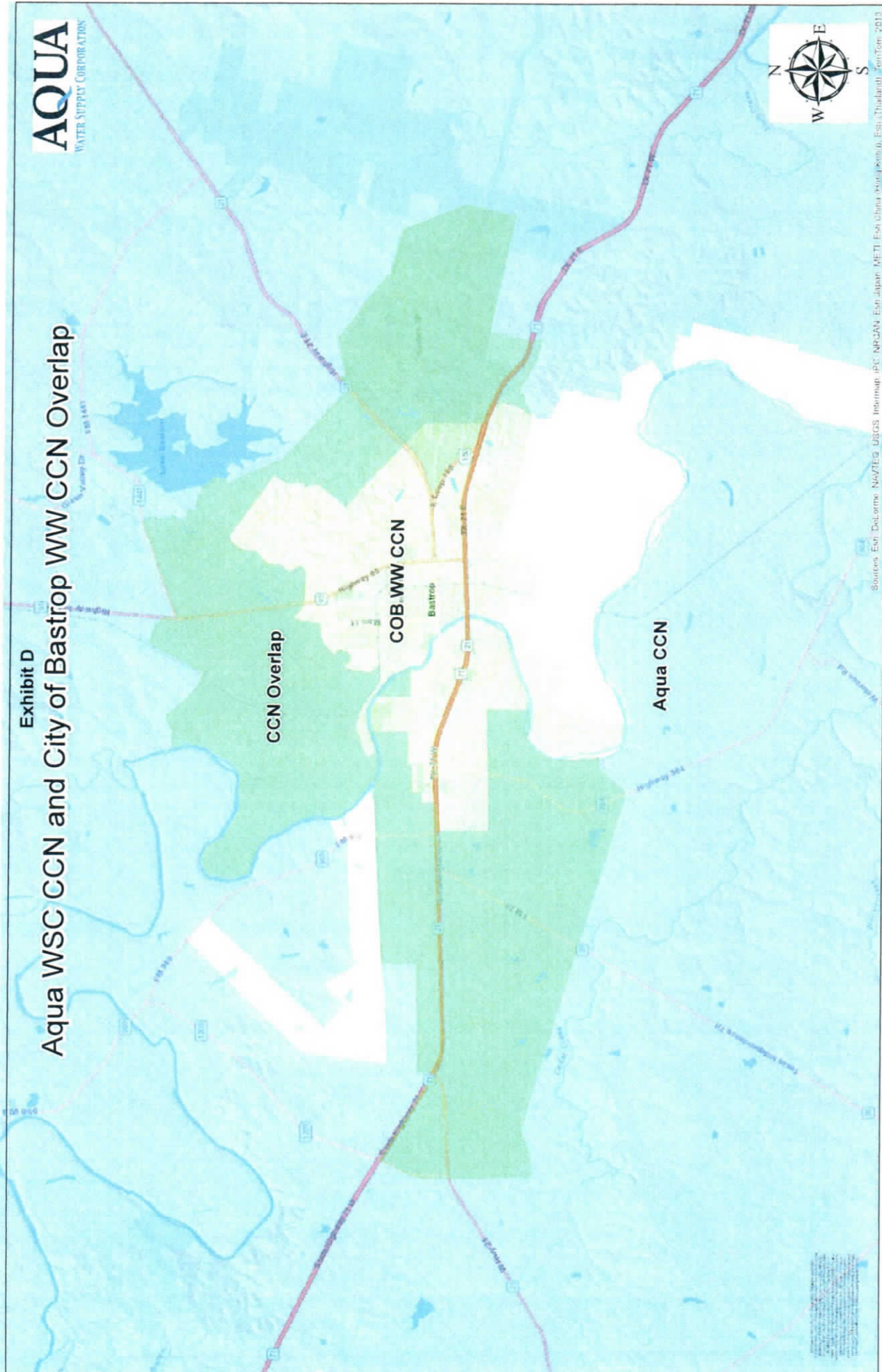
Exhibit C

Description(s), Map(s) of Point(s) of Delivery, and Technical Information for Point(s) of Delivery

- To Be Determined

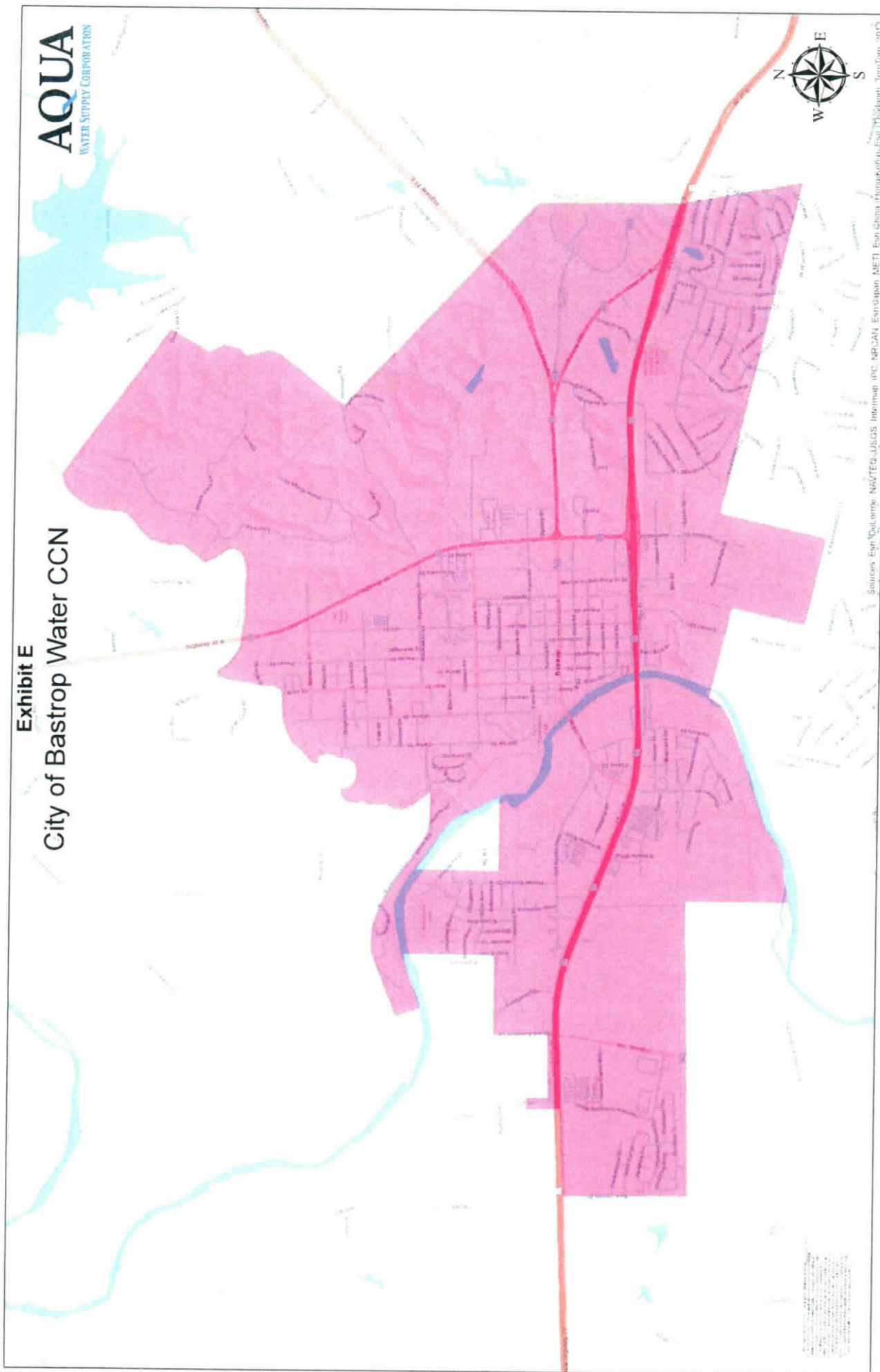


Exhibit D
Aqua WSC CCN and City of Bastrop WW CCN Overlap



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, MRCAN, Esri, Japan, METI, Esri, China, Swis, Poleo, Esri, Thailand, Swis, Tom, 2013

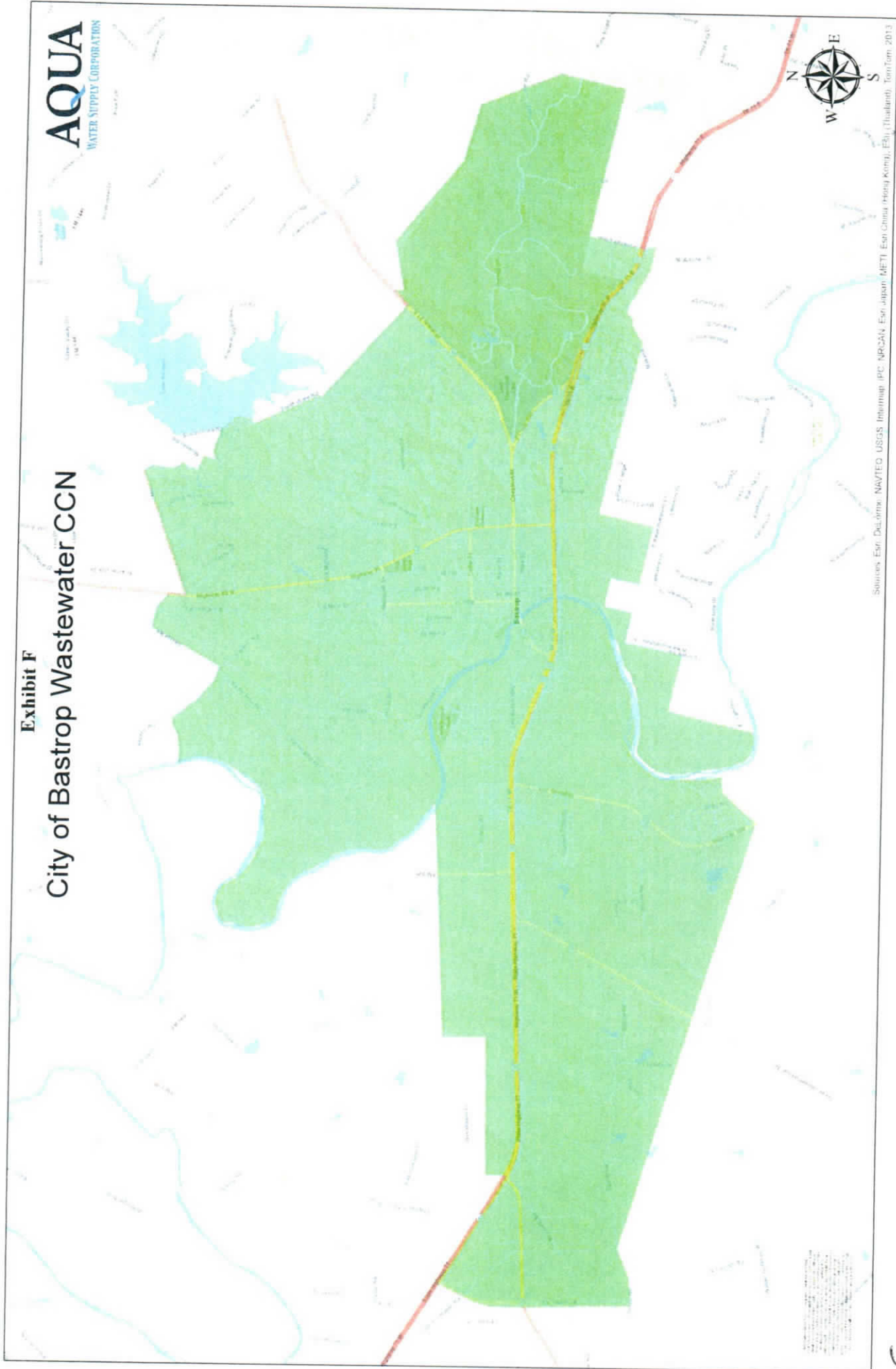
Exhibit E
City of Bastrop Water CCN



Source: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, MRCAN, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, TomTom, 2012

Exhibit F

City of Bastrop Wastewater CCN



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri, Swisstopo, METI, Esri, China (Hong Kong), Esri, Swisstopo, TomTom, 2013

RESOLUTION #18.11.02
A RESOLUTION OF THE BOARD OF THE DIRECTORS OF AQUA WATER
SUPPLY CORPORATION AUTHORIZING THE GENERAL MANAGER TO NEGOTIATE AND
EXECUTE A WHOLESALE WATER SERVICE AGREEMENT
WITH THE CITY OF BASTROP

WHEREAS, Aqua Water Supply Corporation ("Aqua") is a non-profit water supply corporation, operating under the authority of Chapter 67 of the Texas Water Code and the holder of retail water Certificate of Convenience No. 10294 ("CCN") issued by the Texas Commission on Environmental Quality; and

WHEREAS, the City of Bastrop ("Bastrop") is a home rule city, body politic of the State of Texas, and retail public utility located adjacent to Aqua's CCN in Bastrop County and the holder of retail water Certificate of Convenience No. 11198 ("CCN") issued by the Texas Commission on Environmental Quality; and

WHEREAS, Bastrop County is experiencing substantial economic and population growth and the growth is likely to continue for the decades to come; and

WHEREAS, Aqua and Bastrop are both integral parts of the past, present, and future of Bastrop County; and

WHEREAS, Aqua and Bastrop strongly agree that the two entities must partner and work together both now and in the future to not only address the growth and water needs that Bastrop County is experiencing but to enable Bastrop County to meet its full potential as a great place to work and live; and

WHEREAS, Aqua and Bastrop believe this Agreement is crucial to making certain the Bastrop area has the water the area needs to grow; and

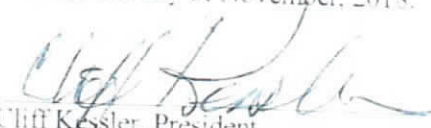
WHEREAS, Aqua and Bastrop desire to enter a Wholesale Water Service Agreement ("Agreement") that would enable Aqua to provide wholesale water service to Bastrop to allow Bastrop to provide water service in those areas where Bastrop's retail wastewater CCN as of the effective date of the Agreement overlaps with Aqua's retail water CCN; and

WHEREAS, Aqua has determined that it has sufficient facilities and capacity to provide wholesale water service to Bastrop in the areas specified in the Agreement; and

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AQUA WATER SUPPLY CORPORATION THAT:

1. The above recitals are true and correct.
2. The General Manager is hereby authorized to negotiate and execute, on behalf of Aqua, a Wholesale Water Service Agreement with the City of Bastrop.
3. The Board of Directors hereby authorizes the President, the General Manager, Aqua staff and Aqua's attorneys and engineers to take any action necessary to implement the terms of this resolution.

PASSED, APPROVED AND ADOPTED this the 5th day of November, 2018.


Cliff Kessler, President

WITNESSETH:


William F. Tomsu, Secretary Treasurer



Exhibit H

SECTION 5.0 – WATER RATIONING PLAN

Section 5.01 – General Provisions

1. Declaration of Necessity for Rationing: When system demand threatens to exceed production or storage capability, or refilling the storage facilities is rendered impossible, Aqua, acting through its General Manager, may declare that a necessity for rationing exists, and thereafter ration water in the following manner.
2. Notice Requirements: Reasonable notice, including, by way of example and without limitation, notice published in a local newspaper, radio and television announcements, and by posting notice in public buildings, of the proposed rationing shall be provided 24 hours before Aqua actually starts the program. Published notice may be followed by mailed notice included in the next regular bill. Any notice shall contain the following information:
 - a. the date rationing shall begin;
 - b. the date rationing shall end;
 - c. the stage (level) and explanation of rationing to be employed; and
 - d. explanation of penalties for violations.
3. Violation of Rationing Rules:
 - a. First violation -- Aqua may install a flow restrictor in the line to limit the amount of water which will pass through the meter in a 24-hour period. The cost to be charged to the member's account shall be the actual installed cost to Aqua.
 - b. Subsequent violations -- Aqua may terminate service at the meter for a period of seven (7) days, or until the end of the calendar month, whichever is LESS. The normal reconnect fee of Aqua shall apply for restoration of service.
4. Exemptions or Variances From Rationing Rules: Aqua may grant any member an exemption or variance from the uniform rationing program, for good cause. Aqua shall treat all members equally concerning exemptions and variances, and shall not employ discrimination in such grants.
5. Rates: All existing rates schedules shall remain in effect during the rationing period, and no charges may be levied against a member which are not contained in the approved Tariff of Aqua as filed with the Commission.

The purpose of the Water Rationing Program is to conserve the total amount of water demanded from Aqua until supply can be restored to normal levels.



Section 5.02 – Stages of Rationing

Stage I (Voluntary Conservation)

Under Stage I, Aqua members will be requested to voluntarily restrict usage of water for outdoor purposes such as lawns, gardens, car washing, etc. Members will be requested to voluntarily limit the amount of water used to that amount absolutely necessary for health, business, and outdoor water use. Voluntary Conservation may include following the “Central Texas Water Wise Plan” which includes the following:

1. Landscape Watering Schedule: Aqua will provide a calendar noting the respective outdoor watering days and the order will remain consecutive as new months begin. For members having rural delivery numbers, the last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.
2. Restricted Outdoor Watering Hours: Outdoor watering should be done only before 10 a.m. and after 7 p.m. on your watering day.
3. Restricted Outdoor Watering Volume: Water no more than 1 inch on your watering day.

Stage II (Mild Rationing Conditions)

Under Stage II, Aqua may select one or more of the alternatives listed below, except that usage for livestock is exempt.

1. Time of Use Restriction: Usage of water for outdoor purposes such as lawns, gardens, car washing, etc. may be restricted according to one or more of the following schedules, except that Aqua may allow irrigation by hand-held hoses, hand-held buckets, drip irrigation or permanently installed automatic irrigation sprinkler system only.
 - a. Landscape Watering Schedule: Members with even numbered addresses or rural delivery numbers can use water outdoors on Monday and Thursday and members with odd numbered addresses or rural delivery numbers can use water outdoors on Tuesday and Friday. For members having rural delivery numbers, the last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.
 - b. Weekday Use Only: No outside watering allowed on Saturdays, Sundays, or official Federal holidays.
 - c. Landscape Watering Schedule: Aqua will provide a calendar noting the respective watering days. For members having rural delivery numbers, the



last numerical digit of the rural delivery number, whether route or box number, shall be used to determine watering days.

2. Hand Watering Restriction: Aqua may require that only a hand-held hose or a hand-held bucket be used for watering of lawns, gardens, trees, and shrubs.
3. Vehicle Washing Restriction: Aqua may prohibit or limit the times for washing of automobiles, trucks, trailers, boats, airplanes, and other types of mobile equipment.

Stage III (Moderate Rationing Conditions)

All outdoor water usage is prohibited; however, usage for livestock is exempt.

Stage IV (Severe Rationing Conditions)

All outdoor water usage is prohibited; usage for livestock is exempt. All consumption shall be limited to each member in one of the following ways:

1. A fixed percentage of each member's average use in the prior month, the percentage to be uniformly applied on a system wide basis, each member being notified of this percentage amount, OR
2. A maximum number of gallons per meter (member), per week, with notice to each member of this number.

All meters shall be read as often as necessary to insure compliance with this program for the benefit of all the members.

