

EDWARDS AQUIFER HABITAT CONSERVATION PLAN PROGRAM

INTERLOCAL CONTRACT

between the

Edwards Aquifer Authority and the San Antonio Water System

**for the Use of the Twin Oaks Aquifer Storage and Recovery Project
for Contribution to Springflow Protection**

Dated Effective: August 14, 2013

TABLE OF CONTENTS

1.	DEFINITIONS	2
2.	PURPOSE.....	7
3.	DROUGHT OF RECORD	8
4.	DOR FORBEARANCE PERIOD	9
5.	ADMINISTRATION OF FORBEARANCE.....	9
5.1	Duty to Forbear Making Withdrawals under the SAWS Edwards Groundwater Withdrawal Permits	9
5.2	Limitations on the Duty to Forbear	10
5.3	Determination of Forbearance Schedule	11
5.3.1	Variability of Forbearance Schedule.....	11
5.3.2	Forbearance Schedules.....	11
5.3.3	Staff Work Group Report.....	12
5.3.4	Notice of Forbearance Schedule	13
5.3.5	Adjustments to a Forbearance Schedule	15
5.3.6	Releases of Forbearance Amount.....	17
5.4	Transfer of Rights Subject to Forbearance	17
5.5	Aquifer Management Fees	17
5.6	No Effect on Non-Forborne Rights	18
5.7	Forbearance Compliance	19
5.7.1	In General.....	19
5.7.2	Groundwater Accounting - Forbearance Pump Stations.....	23
5.7.3	Groundwater Accounting – Master Forbearance Meters	25
6.	ADMINISTRATION OF HCP GROUNDWATER	26
6.1	Acquisition and Delivery of HCP Groundwater	26
6.2	Permitted Edwards Rights	26

6.3	Notice of Availability; Partial Assignment of Leases and Options to Lease; Credit of HCP Groundwater in Storage.....	27
6.4	Notices of Suspension.....	32
6.5	Failure to Obtain Leases and Options	34
6.6	Ownership of HCP Groundwater after Withdrawal.....	35
6.7	Recharge and Storage of HCP Groundwater in the ASR Project.....	35
6.8	Recovery and Delivery of HCP Groundwater from the ASR Project	36
6.9	Debiting of HCP Groundwater in Storage	36
7.	COSTS	37
7.1	Reimbursement of Allowable Costs	37
7.2	Initial Average Incremental Costs.....	37
7.3	Changes to Average Incremental Costs	38
7.4	Allowable Costs	40
7.5	Disallowed Costs.....	41
7.6	Requests for Payment	42
8.	ASR REGIONAL ADVISORY GROUP	43
8.1	Establishment of ASR Regional Advisory Group.....	43
8.2	Membership.....	43
8.3	Terms	44
8.4	Meetings	44
8.5	Procedures	44
9.	STAFF WORK GROUP	44
10.	ANNUAL REPORT	45
10.1	Timing and Content of Report.....	45
10.2	Comments on Draft Report.....	46
10.3	Cooperation	46

11.	GENERAL PROVISIONS	47
11.1	Term	47
11.1.1	In General	47
11.1.2	Early Termination	47
11.2	No Construction of Works by the EAA	48
11.3	Authority to Contract	48
11.4	Entire Agreement	49
11.5	Amendment	49
11.6	Officers and Agents	50
11.7	Multiple Original Counterparts	50
11.8	Faxed Signatures	50
11.9	Further Instruments	50
11.10	Contract Administrators	51
11.11	Notice	51
11.12	Response Times	52
11.13	Rights Regarding Books and Records	52
11.14	Disclosure of Materials	53
11.15	Access to Property	53
11.16	Interpretation	53
11.17	Exhibits	54
11.18	General Obligations of Parties	54
11.19	Severability	54
11.20	State or Federal Laws, Rules, Orders, or Regulations	55
11.21	No Partnership	55
11.22	Binding Effect; Successors and Assigns	56

11.23	Third-Party Beneficiaries.....	56
11.24	Remedies	56
11.25	Default – Notice and Opportunity to Cure.....	58
11.26	Applicable Law; Venue	58
11.27	Mediation	58
11.28	Waiver.....	59
11.29	Attorney Fees.....	60
11.30	Goods and Services	60
11.31	Force Majeure	61
11.32	Payment from Current Revenues; Limitations on Funding Sources.....	62
EXHIBIT A: Forbearance Pump Stations, Associated Forbearance Wells, and Master Forbearance Meters with Annual Baseline Withdrawal Amounts		
		A1
EXHIBIT B: Monthly Baseline Withdrawal Amount by Forbearance Pump Station		
		B1
EXHIBIT C: USGS Estimated Annual Recharge to the Edwards Aquifer Protocol.....		
		C1
EXHIBIT D: Master Recharge Meters and Associated Forbearance Wells Located Proximal to the Artesia, Randolph, and Seale Forbearance Pump Stations.....		
		D1
EXHIBIT E: Presumptive Forbearance Schedule for the DOR Forbearance Period		
		E1
EXHIBIT F: Forbearance Pump Station Priority Ranking with Associated Potential Forbearance Amounts		
		F1
EXHIBIT G: Initial Average Incremental Costs under Section 7.2		
		G1
EXHIBIT H: Examples of Average Incremental Cost Calculations under Subsections 7.3(b) and (c).....		
		H1
EXHIBIT I: Examples of Allowable Cost Calculations under Subsections 7.4(a) and (b) ...		
		I1



EDWARDS AQUIFER HABITAT CONSERVATION PLAN PROGRAM

INTERLOCAL CONTRACT

BETWEEN THE

EDWARDS AQUIFER AUTHORITY AND THE SAN ANTONIO WATER SYSTEM

**FOR THE USE OF THE TWIN OAKS AQUIFER STORAGE AND RECOVERY
PROJECT FOR CONTRIBUTION TO SPRINGFLOW PROTECTION**

THIS INTERLOCAL CONTRACT ("Contract") for the use of the Twin Oaks Aquifer Storage and Recovery Project for Contribution to Springflow Protection is entered into under the Interlocal Cooperation Act, Chapter 791, Texas Government Code, by and between the **EDWARDS AQUIFER AUTHORITY** ("EAA"), a conservation and reclamation district and political subdivision of the State of Texas, and the City of San Antonio, acting by and through its **SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES** ("SAWS"). Each of these entities is, at times, referred to individually as a "Party," and both are referred to collectively as "Parties."

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises and benefits contained herein, the sufficiency of which is hereby acknowledged, the EAA and SAWS agree as follows:

1. DEFINITIONS

The following terms as used in this Contract have the meanings provided in this section:

1.1 **“AF” means acre-feet, with one acre-foot being equal to 325,851 gallons.**

1.2 **“AMP”** means an iterative adaptive management process designed to develop information through monitoring and research, and the review and use of the results to confirm the efficacy of or to adjust the Conservation Measures (as defined at Subsection 1.1.13 of the FMA), all as described in Article Seven of the FMA and in Chapter 6 of the HCP.

1.3 **“Aquifer”** means the Southern (or San Antonio) Segment of the Edwards Aquifer within the boundaries of the EAA, which is that portion of an arcuate belt of porous, water-bearing, predominately carbonate rocks known as the Edwards and Associated Limestones in the Balcones Fault Zone extending from west to east to northeast from the hydrologic division near Brackettville in Kinney County that separates underground flow toward the Comal Springs and San Marcos Springs from underground flow to the Rio Grande Basin, through Uvalde, Medina, Atascosa, Bexar, Guadalupe, and Comal counties, and in Hays County south of the hydrologic division near Kyle that separates flow toward the San Marcos River from flow to the Colorado River Basin.

1.4 **“ASR Project”** means the Twin Oaks Aquifer Storage and Recovery Project owned, managed, operated, and maintained by SAWS, and those facilities and works associated therewith, located in southern Bexar County, which is for the purpose of storing groundwater withdrawn from the Aquifer for subsequent recovery for supply to the customers of SAWS.

1.5 **“ASR Program”** means the mitigation and minimization measures described in Section 5.5.1 of the HCP through the use of the ASR Project under the terms and conditions of this Contract.

1.6 **“ASR Regional Advisory Group” or “Advisory Group”** means the group

created pursuant to Section 8 to provide advice to SAWS on the operation of the ASR Project to accomplish the objectives of this Contract.

1.7 **“Baseline Withdrawal Amount”** means an estimate of the amount of Aquifer groundwater that could reasonably be expected to be withdrawn by SAWS at a Forbearance Pump Station under the SAWS Edwards Groundwater Withdrawal Permits during a DOR under current law as of the Effective Date of this Contract. This Baseline serves as the benchmark against which annual and monthly forbearance compliance is determined under Subsections 5.7.1(a)(2) and (3), respectively. The annual and monthly Baseline Withdrawal Amounts for each Forbearance Pump Station are identified in Exhibits A and B, respectively, attached hereto.

1.8 **“Calendar Year”** means January 1st through December 31st.

1.9 **“DOR”** means “drought of record” and is the period of time declared by the General Manager pursuant to Section 3 characterized as a period of lower than normal precipitation and recharge to the Aquifer resulting in a drought of record-like event as provided therein.

1.10 **“DOR Forbearance Period”** means the period of time declared by the General Manager pursuant to Section 4 characterized as a period of lower than normal precipitation, recharge to the Aquifer, and well levels at Well J-17 as provided therein, and during which the right to make withdrawals of groundwater from the Aquifer under the SAWS Edwards Groundwater Withdrawal Permits is subject to forbearance as provided in Section 5.

1.11 **“EAA”** means the Edwards Aquifer Authority.

1.12 **“EAA Act”** means the Edwards Aquifer Authority Act, Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended.

1.13 **“Effective Date”** means the date on which this Contract takes effect as provided

in Section 11.1.1.

1.14 **“Estimated Annual Recharge to the Aquifer”** means the amount of recharge occurring to the Aquifer during a Calendar Year as estimated by the USGS pursuant to the protocol in Exhibit C, attached hereto, or other methodology that may subsequently be agreed to by the Parties.

1.15 **“FMA”** means that certain Funding and Management Agreement, effective January 1, 2012, as may be amended, to which the EAA, the City of New Braunfels, the City of San Marcos, the City of San Antonio, acting by and through SAWS, and Texas State University – San Marcos are parties, and which provides for the funding and management of the HCP.

1.16 **“Forbearance Pump Station”** means a pump station identified in Exhibit A, consisting of a group of Forbearance Wells with integrated production and storage facilities designed for common high-service distribution within a designated pressure zone. For purposes of this definition, Exhibit A may be amended as provided in Subsection 11.5(b).

1.17 **“Forbearance Well”** means a well identified in Exhibit A that is an integral component part of a Forbearance Pump Station, subject to the duty to forbear under Section 5.1 under the SAWS Edwards Groundwater Withdrawal Permits and at which such forbearance shall occur and be enforced. For purposes of this definition, Exhibit A may be amended as provided in Subsection 11.5(b).

1.18 **“General Manager”** means the general manager of the EAA.

1.19 **“Groundwater Withdrawal Permit”** means a permit issued by the EAA under Subsection 1.15(b) of the EAA Act authorizing the withdrawal of groundwater from the Aquifer.

1.20 **“HCP”** means the conservation plan required by Section 10(a)(2)(A) (16 U.S.C. § 1539(a)(2)(A)) of the Endangered Species Act of 1973, entitled “Edwards Aquifer Recovery

Implementation Program Habitat Conservation Plan” which was approved by the Service on March 18, 2013, as part of the application for the ITP.

1.21 “**HCP Groundwater**” means groundwater available for withdrawal from the Aquifer, and recharge and storage in the ASR Project, pursuant to Permitted Edwards Rights acquired by the EAA and authorized for withdrawal by SAWS as provided in Section 6.

1.22 “**Implementing Committee**” means the committee as defined in Subsection 1.1.29 of the FMA and created pursuant to Section 7.7 thereof.

1.23 “**Initial Regular Permit**” means a Groundwater Withdrawal Permit issued by the EAA under Subsection 1.16(d) of the EAA Act.

1.24 “**ITP**” means Incidental Take Permit No. TE63663A-0 approved by the Service on March 18, 2013, pursuant to Section 10(a) (16 U.S.C. § 1539(a)) of the Endangered Species Act of 1973.

1.25 “**Master Recharge Meters**” means the flow meters as identified in Exhibit D, attached hereto, proximate to the SAWS Artesia Pump Station, Randolph Pump Station and Seale Pump Station, that collectively represent flow into the transmission pipeline for recharge and storage in the ASR Project. For purposes of this definition, Exhibit D may be amended as provided in Subsection 11.5(b).

1.26 “**Master Forbearance Meters**” means the automated real time meters installed on the Forbearance Wells identified in Exhibit A. For purposes of this definition, Exhibit A may be amended as provided in Subsection 11.5(b).

1.27 “**msl**” means mean sea level, measured in feet, of the surface of the water in a well.

1.28 “**Permitted Edwards Rights**” means Initial Regular Permits or Regular Permits

issued by the EAA.

1.29 “**Program Manager**” means the employee of the EAA as defined in Subsection 1.1.46 and described in Section 2.3 of the FMA, as that title may be changed by the EAA, and whose responsibility it is to administer the implementation of the HCP.

1.30 “**Recharge**” means the injection of HCP Groundwater into the ASR Project through wells for the purpose of increasing the amount of water in storage therein for subsequent recovery for a beneficial use.

1.31 “**Recovery**” means the withdrawal of HCP Groundwater in storage from the ASR Project for delivery to SAWS customers.

1.32 “**Regular Permit**” means a Groundwater Withdrawal Permit issued by the EAA after August 12, 2008, resulting from the sale or amendment of an Initial Regular Permit, or the consolidation of two or more such Permits.

1.33 “**SAWS**” means the San Antonio Water System of the City of San Antonio.

1.34 “**SAWS Edwards Groundwater Withdrawal Permits**” or “**the Permits**” means Initial Regular Permits or Regular Permits issued by the EAA for which SAWS is shown as the owner or lessee of record by the official permitting records of the EAA, as the Permits may be amended from time to time pursuant to Subchapter L of Chapter 711 of the EAA’s rules.

1.35 “**SAWS ASR Groundwater**” means all groundwater stored in the ASR Project, other than HCP Groundwater, for which SAWS is the owner, and that is not subject to administration under this Contract.

1.36 “**Service**” means the U.S. Fish and Wildlife Service.

1.37 “**Staff Work Group**” or “**Work Group**” means the group created pursuant to Section 9 composed of certain staff members from the EAA and SAWS to facilitate the

administration of this Contract to accomplish its objectives as may be specifically referred to as the Work Group in this Contract.

1.38 “**Storage**” or “**stored**” means the accumulating and holding of HCP Groundwater in the ASR Project for subsequent recovery and delivery to SAWS customers.

1.39 “**Ten-day Rolling Average**” means the unweighted arithmetic mean of the ten (10) most recent consecutive days at any given time.

1.40 “**Ten-year Rolling Average**” means the unweighted arithmetic mean of the ten (10) most recent consecutive years at any given time.

1.41 “**USGS**” means the United States Geological Survey.

1.42 “**Well J-17**” means State well number AY-68-37-203 located in Bexar County.

1.43 “**Withdraw**,” “**withdrawn**,” or “**withdrawal**” mean an act or a failure to act that results in taking groundwater from the Aquifer by or through man-made facilities, including pumping, withdrawing, or diversion.

2. PURPOSE

(a) The Service has issued the ITP to the EAA and SAWS, among others. The ITP authorizes the take of certain threatened and endangered species associated with the Aquifer incidental to the making of withdrawals from the Aquifer, and the management of such withdrawals, which are otherwise lawful activities under State law. The HCP was filed with and supports the ITP. The HCP provides for, among other things, the implementation of various Conservation Measures identified in Chapter 5 of the HCP which are intended to minimize or mitigate the impact of the use and management of the Aquifer on the authorized taking of protected species under the ITP, or contribute to the recovery of such species. The ASR Program is such a Conservation Measure. Subsection 5.5.1 of the HCP provides that the EAA and SAWS will implement the ASR Program. The purpose of this Contract is to provide the terms and

conditions for the implementation and administration of the ASR Program.

(b) Except as provided in this Contract, SAWS retains full and exclusive authority and control over the management, operation, and maintenance of the ASR Project and its water distribution system. The Parties, however, acknowledge and agree that the intent of this Contract is to place certain requirements on the EAA to acquire groundwater rights and on SAWS to manage and operate the ASR Project and its water production and distribution system to accomplish the objectives of this Contract. While the acquisition of groundwater rights and the management, operation, and maintenance of the SAWS water production and distribution system necessarily involve judgment and a considerable amount of flexibility in the making of the day-to-day operational decisions necessary to accomplish the objectives of this Contract, the Parties agree to confer with each other, both individually and through the Staff Work Group, as appropriate, and the ASR Regional Advisory Group, in their decision-making process as provided in this Contract.

3. DROUGHT OF RECORD

(a) Not later than June 1st of each Calendar Year during the term of this Contract, after the receipt of the Estimated Annual Recharge to the Aquifer from the USGS for the preceding year, the EAA shall calculate the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer. If the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer is equal to or less than 500,000 AF per annum, the General Manager shall promptly issue a notice of commencement of a Drought of Record for purposes of this Contract. A DOR commences on the date on which the General Manager issues such notice.

(b) If, on June 1st of any year during a DOR, the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer is greater than 500,000 AF per annum, the General Manager shall promptly issue a notice of expiration of a DOR. A DOR expires on the date on

which the General Manager issues such notice.

(c) Notice of the issuance of notices of commencement and expiration shall be promptly given to SAWS by email, U.S. certified mail, return-receipt requested, and by posting on the EAA's internet site.

4. DOR FORBEARANCE PERIOD

(a) Every day that a DOR is in effect under Section 3, the EAA shall record the maximum daily well level at Well J-17 and calculate the Ten-day Rolling Average of the well level. If the Ten-day Rolling Average of the well level at Well J-17 is less than 630 feet above msl, the General Manager shall promptly issue a notice of commencement of a DOR Forbearance Period. A DOR Forbearance Period commences on the date on which the General Manager issues such notice.

(b) If on any day during a DOR Forbearance Period the Ten-day Rolling Average of the well level at Well J-17 is equal to or greater than 630 feet above msl, the General Manager shall promptly issue a notice of expiration of a DOR Forbearance Period. A DOR Forbearance Period expires on the date and time specified in the notice of expiration. If the expiration date is not the date on which the General Manager issues the notice of expiration, the General Manager shall provide a reasoned explanation in the notice supporting the date so selected.

(c) Notice of the issuance of notices of commencement and expiration shall be promptly given to SAWS by email, U.S. certified mail, return-receipt requested, and by posting on the EAA's internet site.

5. ADMINISTRATION OF FORBEARANCE

5.1 Duty to Forbear Making Withdrawals under the SAWS Edwards Groundwater Withdrawal Permits

Subject to the limitations in Section 5.2, during a DOR Forbearance Period SAWS

hereby agrees to forbear making withdrawals from the Aquifer under the SAWS Edwards Groundwater Withdrawal Permits from the applicable Forbearance Pump Stations as provided in this Section 5. As provided in Subsection 5.3.4(f), the duty to forbear is effective on the date stated in the notice of forbearance schedule, which period shall be no less than ten (10) business days after the date of receipt by SAWS of the notice of forbearance schedule issued by the General Manager under Subsection 5.3.4(a), or notice of adjustment thereto issued under Subsection 5.3.5(b). The amount and pattern of forbearance shall be as provided in the General Manager's notice of forbearance schedule as determined under Section 5.3. Compliance with the duty to forbear shall be as determined according to Section 5.7. SAWS agrees and acknowledges that the amount of groundwater required to be forborne under this Section 5 is authorized and available for withdrawal from the Aquifer by SAWS under the SAWS Edwards Groundwater Withdrawal Permits, and that by virtue of SAWS' decision to enter into this Contract, SAWS will be unable to withdraw this amount from the Aquifer during a DOR Forbearance Period to the extent provided by this Contract.

5.2 Limitations on the Duty to Forbear

Notwithstanding any other provision of this Contract, SAWS shall never be required to forbear making withdrawals from the Aquifer under the SAWS Edwards Groundwater Withdrawal Permits in an amount greater than any of the following amounts as may be applicable:

- (A) 126,000 AF aggregate during the term of this Contract;
 - (B) 46,300 AF during any single Calendar Year during a DOR Forbearance Period;
- and
- (C) The amount of HCP Groundwater actually credited to the EAA under Subsections 6.3(b) and (c) and as reported under Subsection 6.3(f) as deemed to be in storage in the ASR

Project and available for recovery at the commencement of a DOR Forbearance Period, as may be adjusted from time to time to account for additional storage or forbearance during a DOR Forbearance Period.

5.3 Determination of Forbearance Schedule

5.3.1 Variability of Forbearance Schedule

(a) The Parties acknowledge that droughts vary as to their timing and pattern. For this reason, the amount and timing of withdrawals of Aquifer groundwater under the SAWS Edwards Groundwater Withdrawal Permits that are required to be forborne by SAWS under this Section 5 during a DOR Forbearance Period will likewise be variable as described in this Contract. Among the factors that bear on the variability is the nature and character of a particular DOR, including withdrawal patterns, Aquifer levels, springflow conditions at Comal Springs, the results of modeled conditions, the likelihood of further declines in springflow at Comal Springs, predictions as to near-term rainfall events, evidence that springflow or Aquifer levels are on an upward or downward trend, meteorological information, and other relevant data.

(b) The Parties shall regularly report to the ASR Regional Advisory Group and the Implementing Committee on the nature, extent, and characteristics of the DOR and the DOR Forbearance Period then in effect.

5.3.2 Forbearance Schedules

(a) If the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer is equal to or less than 500,000 AF per annum but greater than 320,000 AF per annum, during a DOR Forbearance Period SAWS shall forbear making withdrawals under the SAWS Edwards Groundwater Withdrawal Permits according to the intermittent forbearance schedule developed under Section 5.3.3 unless notified otherwise by the General Manager as provided in Sections 5.3.4 or 5.3.5.

(b) If the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer is equal to or less than 320,000 AF per annum, during a DOR Forbearance Period SAWS shall forbear making withdrawals under the SAWS Edwards Groundwater Withdrawal Permits according to the presumptive forbearance schedule set out in Exhibit E, attached hereto, unless notified otherwise by the General Manager as provided in Sections 5.3.4 or 5.3.5.

5.3.3 Staff Work Group Report

(a) The Staff Work Group shall meet during a DOR and a DOR Forbearance Period as provided in Subsection 9(c) to develop, evaluate, and make recommendations to the General Manager on:

(1) An intermittent forbearance schedule to be in effect under the conditions identified in Subsection 5.3.2(a) in the event of the commencement of a DOR Forbearance Period;

(2) Whether the presumptive forbearance schedule in Exhibit E should be followed under the conditions identified in Subsection 5.3.2(b) in the event of the commencement of a DOR Forbearance Period;

(3) Whether a forbearance schedule then in effect should continue to be followed for the next Calendar Year of an existing DOR Forbearance Period; and

(4) Whether a forbearance schedule then in effect should be adjusted during a Calendar Year of an existing DOR Forbearance Period after evaluating any trends in Well J-17 or springflows at Comal Springs.

(b) In making its recommendations under Subsection (a), the Staff Work Group will use the best available science and may utilize any appropriate models existing at that time to develop drought-risk projections. The Work Group will prepare a report to the General Manager and explain the basis for its recommendations and describe the science on which it relied.

(c) If, in attempting to make its recommendations under Subsection (a), the Staff Work Group is unable to reach consensus, the Work Group will prepare a report to the General Manager. The report shall include:

(1) An explanation of the reasons for the Work Group's inability to reach consensus;

(2) The range of all forbearance options considered by the Work Group;

(3) An agreed prediction, or in the absence of agreement, the conflicting predictions, of the rainfall pattern and associated drought year the region is expected to experience for the upcoming intermittent forbearance year on the basis of comparison to the DOR as modeled for the HCP; and

(4) The amount of HCP Groundwater then credited to the EAA and available for recovery.

(d) Prior to submitting a report to the General Manager under this section, the Staff Work Group will present the report to the ASR Regional Advisory Group for review and comment. The Advisory Group will have ten (10) business days after receipt to provide written comments on the draft report. After receipt of comments from the Advisory Group, the Work Group shall finalize its report and present it to the General Manager at its earliest opportunity.

5.3.4 Notice of Forbearance Schedule

(a) Upon issuance of a notice of commencement of a DOR Forbearance Period under Subsection 4(a), the General Manager shall also give notice to SAWS of the applicable forbearance schedule. The notice shall contain the following information:

(1) The forbearance schedule with the amount and pattern of forbearance on a monthly basis by Forbearance Pump Station in accordance with the priority ranking set out in Exhibit F and Subsection 5.7.2(b), attached hereto, which may be amended from time to time as

provided in Subsection 11.5(b);

(2) Any prorations of the beginning or ending monthly amount in light of the fact that the commencement of the duty to forbear may begin on a date other than the first day of a month, or that a DOR Forbearance Period may end on a date other than the last day of a month;

(3) The period of time, not to exceed one Calendar Year, for which the forbearance schedule is to remain in effect; and

(4) The specific Forbearance Pump Stations and associated Forbearance Wells at which the forbearance is to occur in accordance with the priority ranking set out in Exhibit F and Subsection 5.7.2(b), recognizing the discretion of SAWS to select the Forbearance Pump Stations and associated Forbearance Wells under Subsection 5.7.2(c).

(b) Upon receipt of the final Staff Work Group report making recommendations as provided for in Subsection 5.3.3(b), the General Manager will promptly review its findings and recommendations. The General Manager shall accept the forbearance schedule recommendations as stated in the final Work Group report when issuing a notice of forbearance schedule.

(c) Except as provided in Subsection (d), the notice of the forbearance schedule shall be included in the notice of commencement of a DOR Forbearance Period.

(d) Upon receipt of the final Staff Work Group report advising the General Manager of the lack of a consensus provided for in Subsection 5.3.3(c), the General Manager will promptly review its findings and consult with the Work Group. After consultation, and as soon as practicable after the issuance of the notice of commencement of DOR Forbearance Period issued under Subsection 4(a), the General Manager shall issue the notice of forbearance schedule as follows:

(1) For a report under Subsection 5.3.3(a)(1), designate an intermittent

forbearance schedule that is within the range of options identified in the Work Group report, subject to the following limitations:

(A) In no event shall the intermittent forbearance schedule require intermittent forbearance by SAWS in an amount greater than 7,500 AF per annum; and

(B) In no event shall the intermittent forbearance schedule require intermittent forbearance by SAWS for a period of more than five years beginning on the effective date of the General Manager's initial notice of commencement of a DOR Forbearance Period issued under Subsection 4(a);

(2) For a report under Subsection 5.3.3(a)(2), designate the presumptive forbearance schedule in Exhibit E as the applicable forbearance schedule; and

(3) For a report under Subsection 5.3.3(a)(3), designate the forbearance schedule then in effect as the applicable forbearance schedule which shall continue to be in effect unless and until the Work Group is able to reach consensus on this issue at a later time.

(e) Any notice of forbearance schedule issued by the General Manager is subject to and limited by Section 5.2.

(f) The duty to forbear under this Section 5, according to the schedule for which the General Manager gives notice, commences on the date stated in the notice of the forbearance schedule, which period shall be no less than ten (10) business days after the date of receipt of the notice by SAWS.

(g) Notice of the issuance of a notice of forbearance schedule shall be promptly given to SAWS by email, U.S. certified mail, return-receipt requested, and by posting on the EAA's internet site.

5.3.5 Adjustments to a Forbearance Schedule

(a) During a DOR Forbearance Period, the Staff Work Group shall monitor the

effectiveness of the forbearance schedule then in effect in assisting in the maintenance of springflows at Comal Springs.

(b) Upon receipt of a final Staff Work Group report prepared under Subsection 5.3.3(b) that makes recommendations that the forbearance schedule then in effect should be adjusted, the General Manager will promptly review its findings and recommendations, and adjust the forbearance schedule then in effect. When issuing a notice of adjustment, the General Manager shall accept the forbearance schedule recommendations as stated in the final Work Group report. Moreover, if the Work Group report makes recommendations that the forbearance schedule then in effect should be downwardly adjusted because such schedule is overly effective, the General Manager shall adjust the schedule and, in accordance with Section 5.3.6, release the appropriate portions of the SAWS Edwards Groundwater Withdrawal Permits then subject to forbearance. Recommendations to the General Manager on the over-effectiveness of a forbearance schedule shall be made by the Work Group on the basis of habitat conditions and endangered species populations in addition to springflows at Comal Springs. The duty to forbear under this Section 5 according to a schedule adjusted under this subsection commences on the date stated in the notice of adjustment, which period shall be no less than ten (10) business days after the date of receipt of the adjusted notice by SAWS.

(c) Upon receipt of the final Staff Work Group report advising the General Manager of the lack of a consensus provided for in Subsection 5.3.3(c) relative to a report under Subsection 5.3.3(a)(4), the General Manager will promptly review its findings and consult with the Work Group. After consultation, the General Manager shall issue the notice of forbearance schedule by designating the forbearance schedule then in effect as the applicable forbearance schedule, which schedule shall continue to be in effect unless and until the Work Group is able to

reach consensus on this issue at a later time.

(d) Notice of the issuance of a notice of adjustment of forbearance schedule shall be promptly given to SAWS by email, U.S. certified mail, return-receipt requested, and by posting on the EAA's internet site.

(e) Any notice of adjustment to a forbearance schedule issued by the General Manager is subject to and limited by Section 5.2.

5.3.6 Releases of Forbearance Amount

If a notice of forbearance schedule is adjusted under Subsection 5.3.5(b) to release a portion of the SAWS Edwards Groundwater Withdrawal Permits from the duty to forbear prior to the expiration of a DOR Forbearance Period, SAWS shall be free from the duty to forbear in the amount of the released portion and be entitled to make withdrawals from the Aquifer in the amount of the released portion during a DOR Forbearance Period, subject only to administration of such released amounts as provided for in Section 5.6. The EAA will give written notice to SAWS within five (5) business days of any rights released pursuant to this subsection.

5.4 Transfer of Rights Subject to Forbearance

SAWS will maintain unencumbered rights under the SAWS Edwards Groundwater Withdrawal Permits sufficient to fulfill its duty to forbear under this Section 5.

5.5 Aquifer Management Fees

(a) Subject to reimbursement under Subsection (b), for each Calendar Year during a DOR Forbearance Period, the EAA shall assess, bill, and collect aquifer management fees, including both aquifer management fees and program aquifer management fees as described in Subsection 709.18(a) of its rules, against the total volume of groundwater authorized to be withdrawn under the SAWS Edwards Groundwater Withdrawal Permits as of January 1st of the Calendar Year, irrespective of whether the groundwater is or may be actually withdrawn during

the Calendar Year.

(b) Except as provided in Subsection (c), the General Manager shall reimburse any aquifer management fees already paid by SAWS subject to the following conditions:

(1) Any reimbursement is limited to the extent of the withdrawals SAWS actually forbears making from the Aquifer under this Section 5; and

(2) There are no pending unresolved written notices of default given by the EAA in accordance with Section 11.25 of a SAWS forbearance obligation.

(c) The EAA shall calculate the amount of any reimbursement authorized by Subsection (b) as follows:

amount of reimbursement = (aquifer management fees in effect during the reimbursement Calendar Year during a DOR Forbearance Period) x (total authorized groundwater withdrawal amount of the SAWS Edwards Groundwater Withdrawal Permits actually forborne during the reimbursement Calendar Year as confirmed by the EAA under Subsection 5.7.1(a)).

(d) The EAA shall make any reimbursement payment calculated under Subsection (c) no later than March 15th of the Calendar Year immediately following the reimbursement Calendar Year.

5.6 No Effect on Non-Forborne Rights

(a) Except as provided in this Section 5, rights under the SAWS Edwards Groundwater Withdrawal Permits shall not be subject to the terms and conditions of this Contract, and shall be administered subject only to terms and conditions of the Permit, and the requirements of the EAA Act and the EAA's rules.

(b) During any time other than a DOR Forbearance Period, all rights under the SAWS

Edwards Groundwater Withdrawal Permits shall be administered subject only to terms and conditions of such Permit, and the requirements of the EAA Act and the EAA's rules.

(c) SAWS ASR Groundwater is not subject to the terms and conditions of this Contract in any manner.

5.7 Forbearance Compliance

5.7.1 In General

(a) After each Calendar Year during a DOR Forbearance Period, the EAA will determine the total groundwater withdrawal amount that was authorized to be withdrawn for that year under the SAWS Edwards Groundwater Withdrawal Permits, the required forbearance amount, and the pump stations and wells at which the forbearance was to occur. The EAA will then make a determination of compliance with this Section 5 for the prior Calendar Year no later than March 1st of the following Calendar Year. The calculations for making the forbearance compliance determination under this section are as follows:

(1) **System-wide under the SAWS Edwards Groundwater Withdrawal Permits – Annual:**

authorized annual groundwater withdrawal amount in AF during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits = [(total annual authorized groundwater withdrawal amount in AF under the SAWS Edwards Groundwater Withdrawal Permits) – ((total critical period management reductions in AF under Section 715.218 of the EAA's rules for the DOR Forbearance Period Calendar Year based on the unadjusted total authorized groundwater withdrawal amount under the SAWS Edwards Groundwater Withdrawal Permits) + (total

Section 5.3 amount required to be forborne during the DOR Forbearance Period Calendar Year))].

EXAMPLE (ANNUAL SAWS SYSTEM-WIDE)

* Hypothetical SAWS Edwards Groundwater Withdrawal Permits = 1,000 AF

* Total Critical Period Reductions for the year = 300 AF (@ 30% for the year)

* Total Forbearance Reductions for the year = 200 AF

* Authorized annual groundwater withdrawal amount during the DOR Forbearance Period Calendar Year = 500 AF

CALCULATION: 500 AF = [(1,000) – ((300) + (200))].

COMPLIANCE NOTE: Compliance with the Subsection (a)(1) calculation is demonstrated if the aggregate metered withdrawals from all points of withdrawal authorized in the SAWS Edwards Groundwater Withdrawal Permits for the DOR Forbearance Period Calendar Year are equal to or less than the “authorized annual groundwater withdrawal amount in AF during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits.”

(2) Forbearance Pump Stations – Annual:

aggregate authorized annual groundwater withdrawal amount in AF during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations as prioritized and ranked under Exhibit F and Subsection 5.7.2(b) = [((total aggregate annual Baseline Withdrawal Amount for the applicable Forbearance Pump Stations) – (total Section 5.3 amount required to be forborne during the DOR Forbearance Period Calendar Year)) + (total

authorized Subsection 5.7.2(e)(2) withdrawals made during the DOR Forbearance Period Calendar Year)].

EXAMPLE (ANNUAL FORBEARANCE PUMP STATIONS)

* Hypothetical aggregate annual Baseline Withdrawal Amount = 15,000 AF

* Total Forbearance Reductions for the year = 12,000 AF

* Total Subsection 5.7.2(e)(2) withdrawals for the year = 50 AF

* Aggregate authorized annual groundwater withdrawal amount in AF during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations = 3,050 AF

CALCULATION: 3,050 AF = $[((15,000) - (12,000)) + (50)]$.

COMPLIANCE NOTE: Compliance with the Subsection (a)(2) calculation is demonstrated if the aggregate metered withdrawals from the applicable Forbearance Wells associated with the Forbearance Pump stations designated in the General Manager's notice of forbearance schedule as measured at the applicable Master Forbearance Meters for the DOR Forbearance Period Calendar Year are equal to or less than the "aggregate authorized annual groundwater withdrawal amount in AF during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations as prioritized and ranked under Exhibit F and Subsection 5.7.2(b)."

(3) Forbearance Pump Stations – Monthly:

aggregate authorized monthly groundwater withdrawal amount in AF during the applicable month during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations as prioritized and ranked under Exhibit F and Subsection 5.7.2(b)

= [(((total aggregate monthly Baseline Withdrawal Amount for the applicable Forbearance Pump Stations) – (total Section 5.3 amount required to be forborne by month during the DOR Forbearance Period Calendar Year, as prorated, if necessary, based on the number of days in the month remaining after the effective date of the General Manager’s notice of commencement or expiration of DOR Forbearance Period, as applicable)) + (total authorized Subsection 5.7.2(e)(2) withdrawals made by month during the DOR Forbearance Period Calendar Year)].

EXAMPLE (MONTHLY FORBEARANCE PUMP STATIONS)

* Hypothetical aggregate monthly Baseline Withdrawal Amount = 2,500 AF

* Total Forbearance Reductions for the month = 1,000 AF

* Total Subsection 5.7.2(e)(2) withdrawals for the month = 1 AF

* Aggregate authorized monthly groundwater withdrawal amount in AF during the applicable month during a DOR Forbearance Period Calendar Year under the SAWS Edwards Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations = 1,501 AF

CALCULATION: 1,501 AF = [((2,500) – (1,000)) + (1)].

COMPLIANCE NOTE: Compliance with the Subsection (a)(3) calculation is demonstrated if the aggregate metered withdrawals from the applicable Forbearance Wells associated with the Forbearance Pump stations designated in the General Manager’s notice of forbearance schedule as measured at the applicable Master Forbearance Meters for the applicable months during a DOR Forbearance Period Calendar Year are equal to or less than the “aggregate authorized monthly groundwater withdrawal amount in AF during the applicable month during a DOR Forbearance Period Calendar Year under the SAWS Edwards

Groundwater Withdrawal Permits at the applicable Forbearance Pump Stations as prioritized and ranked under Exhibit F and Subsection 5.7.2(b).”

(b) In order for SAWS to be in compliance with its forbearance obligation under this Section 5 for a Calendar Year during a DOR Forbearance Period, all of the calculations in Subsection (a) must be satisfied. The groundwater accounting for purposes of determining compliance under Subsection (a) shall be conducted as provided in Sections 5.7.2 and 5.7.3.

5.7.2 Groundwater Accounting - Forbearance Pump Stations

(a) The forbearance of the right to make withdrawals of groundwater from the Aquifer under the SAWS Edwards Groundwater Withdrawal Permits in the amount required by Section 5.3 shall occur and be enforced at the Forbearance Pump Stations and associated Forbearance Wells identified in the notice of forbearance schedule, and any adjustments thereto, issued by the General Manager under Sections 5.3.4 and 5.3.5. The General Manager shall identify the Forbearance Pump Stations and associated Forbearance Wells in accordance with the priority ranking established in Subsection (b) and Exhibit F.

(b) Except as provided in Subsection 5.7.2(e)(2), any required forbearance will first be achieved from the Forbearance Pump Stations and their associated Forbearance Wells, all as identified in Exhibit F, in the following numerical order:

- (1) Well Nos. 1 through 3 at the Artesia Pump Station;
- (2) Well Nos. 4 through 6 at the Randolph Pump Station;
- (3) Well Nos. 7 through 9 at the Seale Pump Station; and
- (4) Well Nos. 10 through 33 at the Basin, Brackenridge, Klaus, Northwood, Walzem, Woodlake, Naco, and Maltsberger Pump Stations.

(c) If required by a notice of forbearance schedule, any forbearance required to be achieved in addition to that which can be achieved from the Forbearance Pump Stations

identified in Subsections (b)(1)-(3) will be achieved through a combination of the Forbearance Pump Stations and associated Forbearance Wells identified in Subsection (b)(4) as determined by SAWS at its sole discretion. Because of the complexity of the SAWS water distribution system and necessity to maintain pressure for public health and safety, the Forbearance Pump Stations and associated Forbearance Well Nos. 10 through 33 identified in Exhibits A and F will be considered as a block of pump stations and wells at which additional available forbearance will occur and be managed at the sole discretion of SAWS. The aggregate annual and monthly forbearance at these additional Forbearance Pump Stations will be measured as provided in Subsections 5.7.1(a)(2) and (3).

(d) Except as provided in Subsection (e)(2), during a DOR Forbearance Period, SAWS shall forbear withdrawal of groundwater from the Forbearance Wells associated with a Forbearance Pump Station that is designated in a notice of forbearance schedule, or any adjustment thereto, issued by the General Manager under Sections 5.3.4 or 5.3.5 in the amount that is required to be forborne by Section 5.3.

(e) During a DOR Forbearance Period, SAWS may withdraw from the Forbearance Wells associated with a Forbearance Pump Station identified in a notice of forbearance schedule, or any adjustment thereto, issued by the General Manager under Sections 5.3.4 and 5.3.5:

(1) Any amount of a SAWS Edwards Groundwater Withdrawal Permit not required to be forborne; and

(2) Notwithstanding any notice of forbearance, an amount not to exceed the amount necessary for the maintenance and testing of the Forbearance Wells and their associated water distribution system.

(f) For all withdrawals made under Subsection (e)(2), SAWS shall document and

record routine testing and maintenance events for the monthly record keeping as provisional data as required under Subsection 5.7.3(c). Final records and accounting for these purposes will be included in the annual report required to be prepared under Section 10.1.

5.7.3 Groundwater Accounting – Master Forbearance Meters

(a) During a DOR Forbearance Period, the determination of the amount of Aquifer groundwater withdrawn from the Forbearance Wells associated with a Forbearance Pump Station identified in a notice of forbearance schedule, or any adjustment thereto, issued by the General Manager under Sections 5.3.4 and 5.3.5 will be based on the withdrawals measured and recorded as provided in this section at the Master Forbearance Meters installed on the Forbearance Wells.

(b) SAWS will own, design, purchase, install, operate, and maintain all Master Forbearance Meters at its expense in accordance with Subchapter M of Chapter 711 of the EAA's rules. The EAA shall determine if the Master Forbearance Meters are in good operational condition consistent with these rules.

(c) During a DOR Forbearance Period, SAWS shall make and record meter readings the first and last day of every month. Additionally, SAWS shall prepare, maintain, and report monthly groundwater withdrawal accounting records for all withdrawals from the applicable Forbearance Wells as may be necessary to determine the amount of Aquifer groundwater withdrawn under the SAWS Edwards Groundwater Withdrawal Permits, and the amount of groundwater required to have been forborne from withdrawal at each Forbearance Pump Station. Within five (5) business days after the end of each month, SAWS agrees to file with the EAA a provisional report on a form prescribed by the EAA showing the reporting period, the total amount of groundwater withdrawn from the applicable Forbearance Wells during the reporting period and year-to-date, the total amount of groundwater forborne from withdrawal during the reporting period and year-to-date, and providing a self-assessment of compliance with its

forbearance obligation. Final records and accounting for these purposes will be included in the annual report required to be prepared under Section 10.1.

6. ADMINISTRATION OF HCP GROUNDWATER

6.1 Acquisition and Delivery of HCP Groundwater

In consideration of the agreement by SAWS to forbear the exercise of certain rights to make withdrawals from the Aquifer under the SAWS Edwards Groundwater Withdrawal Permits as provided in Section 5, the EAA agrees to acquire Permitted Edwards Rights and authorize SAWS to withdraw HCP Groundwater under such Permits for recharge and storage in and recovery from the SAWS ASR Project as provided in this Section 6.

6.2 Permitted Edwards Rights

(a) The EAA shall be solely responsible to acquire and maintain Permitted Edwards Rights necessary to provide HCP Groundwater to SAWS. The EAA may acquire the rights itself or, after consultation with the Implementing Committee, engage a third party to act as its agent.

(b) The EAA shall use reasonable efforts to acquire and maintain as soon as practicable leases and options to lease of Permitted Edwards Rights in an amount not to exceed 50,000 AF per annum as follows:

(1) Leases in an amount of no less than 16,667 AF per annum that may be exercised on or after January 1, 2013;

(2) Options to lease in the amount of 16,667 AF per annum, less the amount of any leases obtained under Subsection (b)(1) that are in excess of 16,667 AF per annum (to compensate for critical period reductions that may be imposed by the EAA under Subchapter E of Chapter 715 of its rules), that may be exercised in any year in which the EAA determines that the Ten-year Rolling Average of the Estimated Annual Recharge to the Aquifer is equal to or less than 572,000 AF per annum; and

(3) Options to lease in an amount not to exceed 16,667 AF per annum that may be exercised in any year in which the EAA determines that the Ten-Year Rolling Average of the Estimated Annual Recharge to the Aquifer is equal to or less than 472,000 AF per annum.

(c) The EAA may not transfer to a third party the leases or the options to lease, unless SAWS certifies that the amount of HCP Groundwater required to be in storage in the ASR Project under Subsection 6.7(c) has been satisfied. If SAWS makes this certification, the EAA may transfer to a third party, including to SAWS, the right to make withdrawals of groundwater from the Aquifer under the leases or options to lease. SAWS shall have rights of first refusal of any transfers proposed to be made by the EAA under this subsection. The EAA shall condition any such transfers upon a right of recall in the event such leases or options to lease are needed to accomplish the objectives of this Contract.

(d) Until an option to lease is activated under the terms and conditions of the option, the EAA shall authorize the grantor of the option to continue to make withdrawals from the Permitted Edwards Rights encumbered by the option.

6.3 Notice of Availability; Partial Assignment of Leases and Options to Lease; Credit of HCP Groundwater in Storage

(a) No later than five (5) business days after the EAA has completed an acquisition of Permitted Edwards Rights as provided in Section 6.2, the General Manager shall give written notice to SAWS that HCP Groundwater is available for withdrawal for recharge and storage in the ASR Project. No later than January 5th of each Calendar Year during the term of this Contract, the EAA shall give notice of availability to SAWS of the total aggregate amount acquired as of December 31st of the preceding Calendar Year that is available for withdrawal in the year in which the aggregate notice is received by SAWS. The EAA may amend a notice, or issue a new notice, from time to time throughout a year in light of additional acquisitions of

Permitted Edwards Rights.

(b) After receipt of a notice of availability, SAWS shall, during the Calendar Year in which the notice is received by SAWS, use reasonable efforts to withdraw HCP Groundwater from the Aquifer in accordance with this Section 6 in the amounts and under the terms and conditions as stated in the notice and store it in the ASR Project. However, subject to end-of-year adjustments in accordance with Section 6.4, groundwater that is available for withdrawal for recharge and storage based on a notice of availability received by SAWS prior to July 1st of a Calendar Year during the term of this Contract shall be deemed withdrawn and stored by SAWS, and credited to the EAA as HCP Groundwater in storage in the ASR Project and available for storage, in equal daily increments over the number of days remaining in the Calendar Year after notice is received. This credit must be given by SAWS regardless of whether it has actually withdrawn, recharged and stored all or part of the HCP Groundwater authorized for withdrawal, recharge and storage by the notice of availability during the Calendar Year in which the notice was received by SAWS. Moreover, for HCP Groundwater for which SAWS has received a notice of availability prior to July 1st, at its sole discretion, SAWS may elect to withdraw and store HCP Groundwater on an accelerated schedule as determined by SAWS and give written notice to EAA of the accelerated storage and credit.

(c) Except as provided in Section 6.4, for notices received by SAWS in Calendar Year 2013, or on or after July 1st of any subsequent Calendar Year during the term of this Contract, SAWS shall be required to give credit to the EAA for HCP Groundwater that is in storage in the ASR Project and available for recovery only if the HCP Groundwater is actually withdrawn and measured at the Master Recharge Meters, and only in the amounts so measured. However, SAWS shall use reasonable efforts to withdraw, recharge and store the HCP

Groundwater covered by the notice in the same Calendar Year in which the notice was given.

(d) SAWS shall not withdraw more HCP Groundwater from the Aquifer than is authorized in the notice of availability then in effect. In this regard, Permitted Edwards Rights acquired by the EAA under Section 6.2 are subject to the EAA's critical period program in Subchapter E of Chapter 715 of the EAA's rules. When issuing a notice of availability, the EAA shall advise SAWS of the total amount of HCP Groundwater acquired and the total amount of groundwater authorized to be withdrawn under the notice. In preparing a notice of availability, the EAA shall advise SAWS of any adjustments the EAA has made to the total authorized groundwater withdrawal amount of HCP Groundwater in light of the EAA's estimate of the withdrawal reductions that are expected to result from the application of the EAA's critical period reductions imposed by the EAA under Subchapter E of Chapter 715 of its rules during the year in which the notice of availability was received by SAWS. The EAA shall assume and be solely responsible for compliance with its critical period rules and shall keep SAWS regularly informed of developments in this regard. SAWS shall have no liability under a notice of availability that has been subsequently reduced due to increased critical period reductions imposed by the EAA under Subchapter E of Chapter 715 of its rules for the withdrawal of HCP Groundwater SAWS has already made prior to SAWS' receipt of the notice of availability for the Calendar Year in which the notice was given. However, if a notice of availability is subsequently reduced due to increased critical period reductions, and SAWS has not yet made withdrawals of HCP Groundwater in the amount previously authorized prior to the reduction, SAWS must limit its withdrawals of HCP Groundwater to the reduced amount in the adjusted notice of availability for the Calendar Year in which the adjusted notice was given.

(e) Through the Staff Work Group, SAWS and the EAA shall cooperate in

monitoring withdrawals made by SAWS under the notice of availability and the impact of the EAA's critical period program rules on such withdrawals throughout the course of a year in which a critical period is or may be in effect. The purpose of this cooperation is to ensure that the SAWS Edwards Groundwater Withdrawal Permits is not improperly debited by the EAA to reflect withdrawal of HCP Groundwater and also to ensure that withdrawals under the notice of availability do not exceed the total amount of HCP Groundwater that is authorized to be withdrawn as calculated by the EAA on December 31st of the year for which the notice of availability was received by SAWS. The EAA may amend a notice of availability, or issue a new notice, from time to time throughout a year to account for increases or decreases in Aquifer water levels or springflows that may thereby increase or decrease the amount of the authorized withdrawals under the notice due to the application of the EAA's critical period program rules.

(f) The determination of the amount of HCP Groundwater withdrawn from the Forbearance Wells identified in Exhibit D for purposes of recharge and storage in the ASR Project will be based on the withdrawals measured and recorded as provided in this section at the Master Recharge Meters identified in Exhibit D. SAWS will own, design, purchase, install, operate, and maintain all Master Recharge Meters at its expense. During any period in which SAWS is making withdrawals from the Forbearance Wells identified in Exhibit D for the purpose of recharge and storage in the ASR Project from the Master Recharge Meters identified in Exhibit D, SAWS shall make and record meter readings the first and last day of every month. Additionally, SAWS will prepare, maintain, and report monthly groundwater withdrawal accounting records for all withdrawals of HCP Groundwater from the applicable Forbearance Wells for the purpose of recharge and storage in the ASR Project as may be necessary to determine the amount of HCP Groundwater withdrawn under the General Manager's notice of

availability as measured at the Master Recharge Meters that is in storage in the ASR Project and available for recovery. Within ten (10) business days after the end of each month, SAWS agrees to file with the EAA a provisional report on a form prescribed by the EAA showing the reporting period, the total amount of HCP Groundwater withdrawn from the applicable Forbearance Wells and credited to the EAA as in storage in the ASR Project and available for recovery during the reporting period and year-to-date, and the total amount of HCP groundwater debited from HCP Groundwater in storage in and available for recovery from the ASR Project based on forbearance amounts under Section 6.9 during the reporting month and year-to-date. Final records and accounting for these purposes will be included in the annual report required to be prepared under Section 10.1.

(g) The EAA desires for SAWS to use, and SAWS desires to use, HCP Groundwater according to the terms and conditions of this Contract. Therefore, as consideration for the duty to forbear under Section 5, through the notice of availability issued under this Section 6, the EAA grants to SAWS the right to withdraw HCP Groundwater from the Aquifer as provided in the notice and transmit such groundwater to the ASR Project for recharge, storage, and recovery under the terms and conditions of this Contract. The notice of availability is to be considered by the Parties to be a transfer and assignment to SAWS of the EAA's rights to make withdrawals from the Aquifer under the Permitted Edwards Rights which have been leased, or options to lease that have been activated, that have been acquired by the EAA under Section 6.2 for the remaining term thereof. This transfer and assignment shall not include any other rights, duties or obligation of the EAA under the leases, or options to lease, nor does SAWS agree to assume any such other rights, duties or obligations. The EAA agrees to continue to keep, perform and fulfill or cause to be performed all of the other rights, duties or obligations contained in the leases, or

options to lease, which, by the terms or conditions thereof, are imposed upon the EAA. This transfer and assignment is intended by the Parties to be self-implementing under the terms and conditions of the notice and to apply to any leases, or options to lease, that are in effect on the Effective Date of this Contract, and any such leases or options that may become effective thereafter during its term, without the need of the Parties having to execute any documents other than the notice of availability to effectuate this transfer and assignment.

(h) SAWS shall not be assessed aquifer management fees on HCP Groundwater withdrawn and stored by SAWS under this Contract.

(i) HCP Groundwater withdrawn and stored by SAWS pursuant to this Contract shall not be deemed by the Parties as part of or related in any way to the SAWS Edwards Groundwater Withdrawal Permits. For purposes of compliance determinations made regarding unauthorized withdrawals, the EAA shall not debit any withdrawals of HCP Groundwater withdrawn by SAWS under this Section 6 pursuant to a notice of availability against the total authorized annual groundwater withdrawal amount under the SAWS Edwards Groundwater Withdrawal Permits.

6.4 Notices of Suspension

(a) To develop, evaluate, and make recommendations to the General Manager on whether withdrawals by SAWS of HCP Groundwater under a notice of availability previously issued by the General Manager under Section 6.3 should be suspended, the Staff Work Group:

(1) May meet during each Calendar Year during this Contract as provided in Subsection 9(c) to consider a suspension for any reason; and

(2) Shall meet as soon as practicable to consider a suspension in light of Aquifer water levels or springflow levels at Comal Springs, if the General Manager has issued a notice that the Aquifer level is equal to or below 635 feet above msl at Well J-17 on or before March 31st of a Calendar Year during the term of this Contract.

(b) In making recommendations under Subsection (a), the Staff Work Group will use the best available science and may utilize existing or new models to develop drought-risk projections. The Work Group will explain the basis for its recommendations and describe the science on which it relied. Prior to submitting its final recommendations to the General Manager, the Work Group will present the draft recommendations to the ASR Regional Advisory Group for review and comment. The Advisory Group will have ten (10) business days to provide written comments on the draft recommendations. After receipt of comments from the Advisory Group, the Work Group shall finalize its recommendations and present them to the General Manager at its earliest opportunity.

(c) If the Staff Work Group cannot reach consensus on whether to recommend a suspension, the Work Group shall prepare a report to the General Manager stating the reasons why consensus has been unable to be reached, including the range of all suspension options considered by the Work Group.

(d) After review of the report issued by the Staff Work Group under either Subsections (b) or (c), and after consultation with the Work Group, the General Manager may issue a written notice of suspension of availability and provide a reasoned technical justification for the decision. The General Manager shall issue his decision as soon as practicable after the Work Group has issued its report. If issued, a notice of suspension is effective ten (10) business days after the date of issuance, and shall remain in effect until the General Manager issues a written rescission of the notice of suspension which may be based on any reason that in the sole judgment of the General Manager warrants rescission. A rescission of a notice of suspension is effective immediately upon issuance.

(e) If the General Manager issues a notice of suspension, for so long as the

suspension is in effect, SAWS may not make withdrawals of HCP Groundwater under a notice of availability previously issued under Section 6.3 for the period and in and to the extent provided for in the notice of suspension. While a notice of suspension is in effect, SAWS may recover SAWS ASR Groundwater from the ASR Project in the amount and timing that, in its sole discretion, is most appropriate for the operation and management of the ASR Project and its water distribution system. Moreover, until SAWS is in receipt of a written rescission of a notice of suspension issued by the General Manager, SAWS is relieved of its duties under this Subsections 6.3(b) and (c) to credit the EAA with HCP Groundwater in storage, and its duty to use reasonable efforts to withdraw HCP Groundwater. However, a notice of suspension shall have no effect on any HCP Groundwater previously credited to the EAA as being in storage and available for recovery.

(f) If a notice of suspension is not issued by the General Manager, the withdrawal and crediting process of HCP Groundwater in storage and available for recovery under Subsections 6.3(b) and (c) shall be deemed to continue to be in effect unless and until the General Manager may issue a notice of suspension.

6.5 Failure to Obtain Leases and Options

(a) SAWS acknowledges that the acquisition by the EAA of the leases and options to lease as provided for in Section 6.2 is dependent on the availability of Permitted Edwards Rights through transactions based on willing buyers and sellers. Therefore, as long as the EAA, or its agent, is using reasonable efforts, SAWS shall not have a right of action against the EAA, or its agent, in the event that the EAA is unable to fulfill its obligations to timely obtain leases or options to lease in the amounts required under Subsection 6.2(b).

(b) If, on or after December 31, 2018, the EAA has not acquired the amounts of leases and options to lease required under Subsection 6.2(b), the EAA shall advise the Program

Manager and the Implementing Committee and request that the Committee refer the matter to the AMP process under Article 7 of the FMA for review and recommendations on what adjustments, if any, to the ASR Program, or other Conservation Measure in Chapter 5 of the HCP, are reasonable and appropriate under the circumstances. In no event, however, shall SAWS be required to utilize the ASR Project or forbear in any manner other than as described in Section 5 of this Contract.

6.6 Ownership of HCP Groundwater after Withdrawal

After HCP Groundwater has been withdrawn and measured by SAWS from the Aquifer pursuant to Section 6.3, title to and ownership of the HCP Groundwater vests in SAWS, and the EAA relinquishes any and all of its right, title, and ownership interest in this groundwater.

6.7 Recharge and Storage of HCP Groundwater in the ASR Project

(a) Except as limited by Sections 6.3 and 6.4, SAWS may withdraw HCP Groundwater from the Forbearance Wells identified in Exhibit D for recharge and storage pursuant to a notice of availability issued under Subsection 6.3(a), at the times and in the amounts that SAWS, at its sole discretion, determines is most appropriate for the operation and management of the ASR Project and its water distribution system. However, SAWS shall make all such withdrawals for recharge and storage authorized in a notice of availability only from the Forbearance Wells identified in Exhibit D. The general purpose of the recharge and storage is to provide an alternative water source for SAWS to access for delivery to its customers during a DOR Forbearance Period in order to offset the effect of the duty to forbear under Section 5. It is the intent of the Parties to provide the maximum possible flexibility to SAWS for management of its water distribution system and water resources, including HCP Groundwater, consistent with this Contract and the ASR Program.

(b) SAWS shall measure, record, and calculate the total amount of HCP Groundwater

in storage in the ASR Project and available for recovery as provided for in Subsections 6.3(b), and (c) and as reported in Subsection 6.3(f). SAWS shall not assign against the EAA any transmission losses between the Master Recharge Meters and the point of recharge into the ASR Project, nor any losses while HCP Groundwater is in storage in the ASR Project. The total amount of HCP Groundwater credited to the EAA as HCP Groundwater in storage and available for recovery at any particular time shall be the amount deemed to be in storage under Subsections 6.3(b) and (c) and as reported in Subsection 6.3(f), less the total amount of forbearance required under the forbearance schedule established under Section 5.3 for a Calendar Year all or part of which occurs during a DOR Forbearance Period.

(c) In the event that 95,000 AF of HCP Groundwater has not been deemed to be in storage and available for recovery on December 31, 2018, either Party may request that the Implementing Committee refer the matter to the AMP process as provided in Subsection 6.5(b).

6.8 Recovery and Delivery of HCP Groundwater from the ASR Project

SAWS may recover HCP Groundwater during a DOR Forbearance Period for delivery to its customers at the times and in the amounts that SAWS, at its sole discretion, determines is most appropriate for the operation and management of the ASR Project and its water distribution system. The general purpose of the recovery is to help offset the impact on its water supply available for delivery to its customers during a DOR Forbearance Period.

6.9 Debiting of HCP Groundwater in Storage

SAWS shall measure, record, and calculate the total amount of HCP Groundwater in storage in the ASR Project available for recovery and keep such records up to date on a monthly basis during the term of this Contract as provided for in Subsections 6.3(b) and (c) and as reported in Subsection 6.3(f). The total amount of forbearance required and actually forborne under the forbearance schedule established under Section 5.3 for a Calendar Year all or part of which

occurs during a DOR Forbearance Period shall, on December 31st of such year be debited from the EAA as HCP Groundwater in storage and will no longer be deemed to be available for recovery from the ASR Project. This debit process shall occur independent of whether SAWS actually makes withdrawals of HCP Groundwater from the ASR Project pursuant to Section 6.8.

7. COSTS

7.1 Reimbursement of Allowable Costs

(a) EAA shall reimburse SAWS for its actual costs as are normal, ordinary, and reasonably necessary as allowed under this Section 7. In calculating allowable costs under Section 7.4 for which SAWS may request reimbursement, SAWS may only include the costs incurred in the Calendar Year for which reimbursement is sought, and it may base its request only on the average incremental costs then in effect.

(b) Average incremental costs will be based on SAWS' cost to perform the following activities:

(1) Withdraw Aquifer groundwater, including HCP Groundwater, from the Forbearance Wells identified in Exhibit D and to transport such groundwater either to SAWS distribution system or to the ASR Project and recharge such groundwater into the ASR Project through injection wells, as appropriate; and

(2) Recover and treat groundwater from the ASR Project, including SAWS ASR Groundwater, HCP Groundwater, and Carrizo Aquifer groundwater from the ASR Project, and transport such groundwater to the SAWS storage tanks located proximate to the Artesia, Randolph and Seale Pump Stations.

7.2 Initial Average Incremental Costs

On the Effective Date of this Contract, the initial average incremental costs that may be used to calculate allowable costs under Section 7.4 for which SAWS may request reimbursement

are those identified in Exhibit G, attached hereto. These initial average incremental costs shall remain in effect unless amended as provided in Sections 7.3.

7.3 Changes to Average Incremental Costs

(a) From time to time, SAWS may change the average incremental costs then in effect. To provide the justification for such change, SAWS may, at its sole discretion, establish a 12-month base period during which the total incremental costs will be tracked, calculated, and fixed. The base period utilized must be within eighteen months of a notice to change the average incremental costs and should include at least three months of activity for each of the activities identified in Subsection 7.1(b). If an activity has not been performed during the eighteen months preceding a notice to change the average incremental costs, no change may be made to the average incremental costs currently in effect for that activity.

(b) To calculate the average incremental cost for withdrawal of HCP Groundwater, SAWS shall divide the sum total of the costs for the activities performed under Subsection 7.1(b)(1) during the 12-month base period by the total amount of Aquifer groundwater withdrawn, including HCP Groundwater, from the Forbearance Wells identified in Exhibit D during the 12-month base period, as measured at the Master Forbearance Meters installed on such Forbearance Wells.

(c) To calculate the average incremental net cost for recovery of HCP Groundwater, SAWS shall divide the sum total of the costs for the activities performed under Subsection 7.1(b)(2) during the 12-month base period by the total amount of groundwater recovered as measured by meters installed at the wells at the ASR Project, including SAWS ASR Groundwater, HCP Groundwater, and Carrizo Aquifer groundwater recovered from the ASR Project during the 12-month base period and subtract the average incremental cost for withdrawal determined in Subsection (b).

(d) The only costs that may be included in the calculation of average incremental costs are limited to energy, chemicals, other operating supplies, and maintenance costs that are demonstrated by SAWS to be necessitated and occasioned by the duties and obligations imposed on it under this Contract.

(e) The calculations performed by SAWS under Subsections (b) and (c) shall be performed consistent with the examples shown in Exhibit H, attached hereto.

(f) In order to change the average incremental costs then in effect, SAWS shall file with the EAA a notice of changed costs. Notices shall be filed no later than July 1st of the year preceding the year in which the cost change is proposed to take effect. A cost change becomes effective on the January 1st of the year succeeding the year in which the notice is filed.

(g) A notice of cost change shall be filed on a form prescribed by the EAA and must contain the following information:

- (1) Current allowable costs computed on a per AF basis;
- (2) Proposed allowable costs computed on a per AF basis;
- (3) Background data and methodology for calculating the proposed cost change; and
- (4) A reasoned explanation justifying the need for the proposed cost change.

(h) Upon receipt of the notice, the EAA will conduct a review thereof and may request additional information as it deems is reasonably related for its review. SAWS shall provide the requested information within fifteen (15) business days of receipt of the notice, unless a different time is agreed to in writing by the Parties.

(i) Exhibit G shall be deemed to be amended pursuant to the process identified in this Section 7 for notices of changed costs. Each notice of changed cost shall be accepted, signed,

and dated by a representative from each Party. Each Party shall place an original of notice of changed costs in the official contract file records for this Contract. The most recent notice of changed costs, if any, shall be considered by the Parties to be in full force and effect for purposes of the administration and implementation of this Contract.

7.4 Allowable Costs

(a) SAWS will assess withdrawal costs for the following allowable costs based on withdrawals of HCP Groundwater measured in AF at the Master Recharge Meters identified in Exhibit D:

(1) Withdrawing HCP Groundwater at the Forbearance Wells identified in Exhibit D for recharge, storage, and credit to the EAA as being in storage in the ASR Project and available for recovery under Section 6.3;

(2) Transporting HCP Groundwater from the Forbearance Wells to the injection wells at the ASR Project; and

(3) Recharging HCP Groundwater into the ASR Project through injection wells.

(b) Irrespective of whether any HCP Groundwater is recovered during a Calendar Year during a DOR Forbearance Period, SAWS will assess net recovery costs based on groundwater actually forborne from withdrawal from the Aquifer in AF under the SAWS Edwards Groundwater Withdrawal Permits under Section 5.3 in a Calendar Year during a DOR Forbearance Period as determined by the EAA.

(c) The calculations performed by SAWS under Subsections (a) and (b) shall be performed consistent with the examples shown in Exhibit I, attached hereto.

7.5 Disallowed Costs

SAWS may not assess against the EAA any costs that are not provided for in Section 7.4, including, but not limited to, the following:

(A) Rent, fees, charges, or other costs to store in situ HCP Groundwater in the ASR Project;

(B) Production, treatment, and distribution costs of any other alternative water source, other than the cost to recover and treat groundwater from the ASR Project as described in Subsection 7.1(b)(2) and the authority to assess the net recovery costs thereof under Subsection 7.4(b), that SAWS may deliver to its customers during a DOR Forbearance Period in order to offset the effect of the duty to forbear under Section 5;

(C) Design or construction costs;

(D) Operation or maintenance costs not associated with or attributed to the performance of the functions in Section 7.4;

(E) Depreciation;

(F) Fees, costs, charges, expenses, assessments, levies, or any other contributions or payments to the City of San Antonio, or any other political subdivision;

(G) Public education, public relations, advertising, and outreach costs;

(H) Employee salaries or benefits;

(I) Outside consultant fees for legal, engineering, geologic, or hydrogeologic, auditing, legislative advocacy or other professional services costs;

(J) Enforcement or compliance penalties or fines;

(K) Any costs or expenses to obtain permits, licenses, or other form of approval from a federal, state, or local administrative agency; or

(L) Debt service.

7.6 Requests for Payment

(a) SAWS shall submit invoice packets for reimbursement under this Section 7 on the following schedule:

(1) Allowable costs under Subsection 7.4(a), on a quarterly basis no later than the fifteenth day of the month following the quarter for which reimbursement is sought; and

(2) Allowable costs under Subsection 7.4(b), on an annual basis no later than January 15th of the year following the Calendar Year for which reimbursement is sought.

(b) Invoice packets must contain all supporting documentation and be on the forms prescribed by the EAA, and contain the following information:

(1) An identification of all reports required to be filed under this Contract during the billing cycle and a statement that such reports have been timely filed;

(2) A description of the withdrawal and forbearance activities performed under this Contract during the billing cycle;

(3) A discussion of any issues or problems encountered during the billing cycle; and

(4) An invoice summary sheet, containing a signed affidavit by an authorized SAWS representative that such invoices have been approved for payment by SAWS.

(c) SAWS shall submit the invoice packet electronically in Adobe Acrobat (pdf) format, or other format as may be directed by the EAA, via email to the Senior HCP Coordinator. Invoice packets will also be “cc’d” to the HCP Administrative Assistant. The EAA will promptly provide written notice to SAWS of any changes in this contact information.

(d) Upon receipt of an invoice packet, the EAA will conduct a review thereof for completeness. If necessary, the EAA may request additional information as it deems reasonably related for its review. SAWS shall provide that information within twenty (20) business days of

receipt of the notice, unless a different time is agreed to in writing by the Parties. EAA approval of the invoice packet will be given within ten (10) business days of SAWS providing the additional information to EAA. Upon approval of the invoice packet, the EAA shall reimburse and pay to SAWS the approved allowable costs within thirty (30) business days of approval.

8. ASR REGIONAL ADVISORY GROUP

8.1 Establishment of ASR Regional Advisory Group

The Parties hereby establish the ASR Regional Advisory Group to provide advice to SAWS on the ASR Program as may be expressly provided for in this Contract. SAWS has the responsibility for the organization, administrative support, and overall facilitation of the Advisory Group at its sole cost.

8.2 Membership

The Advisory Group will be comprised of twelve (12) members and operate as provided in this Section 8. Four members will be SAWS employees appointed by SAWS. One member will be an EAA employee appointed by the EAA. One member will be the Program Manager. Six members will be appointed by the EAA subject to approval by SAWS with one each representing the following categories:

- (1) Holder of a Groundwater Withdrawal Permit for irrigation use;
- (2) Holder of a Groundwater Withdrawal Permit for municipal use to a small municipality (population under 50,000);
- (3) Holder of a Groundwater Withdrawal Permit for industrial use;
- (4) Representative from a retail public utility in whose service area Comal Springs or San Marcos Springs is located;
- (5) Representative from an environmental interest, or the Texas Parks and Wildlife Department; and

- (6) Representative with a downstream interest in the Guadalupe River Basin.

8.3 Terms

A designated representative of the Advisory Group shall serve at the pleasure of the Party making the appointment.

8.4 Meetings

The Advisory Group will meet no less than quarterly, and at any other time upon the agreement of the Parties. Meetings will be conducted at the official offices of SAWS. SAWS will provide reasonable advance notice of the meetings via email to the members of the Advisory Group. Meetings of the Advisory Group are not subject to the Texas Open Meetings Act, Chapter 551, Texas Government Code, nor are they otherwise generally open to the public.

8.5 Procedures

There shall be no quorum requirement for meetings of the Advisory Group. The Advisory Group may not take votes on any matters. Individual members may express their views and provide comment, advice, or recommendations to SAWS as they may see fit. The Advisory Group may not adopt any procedural by-laws or policies governing the conduct of its business or meetings.

9. STAFF WORK GROUP

(a) The Parties hereby establish the Staff Work Group to facilitate the implementation of the terms and conditions of this Contract. SAWS has the responsibility for the organization, administrative support, and overall facilitation of the Work Group. Each Party will bear its own costs and expense in participating in the Work Group.

(b) The Staff Work Group will be composed of eight (8) members, four each from SAWS and the EAA. The appointed members shall have expertise in evaluating drought conditions, factors affecting Aquifer levels and springflows at Comal Springs, meteorology,

Aquifer and springflow modeling, or related expertise as may be determined appropriate by the Parties. The Parties will appoint their respective members to the Work Group at their sole discretion. Persons appointed to the Work Group serve at the pleasure of the Party making the appointment.

(c) Unless a meeting is requested by one of the Parties, the Staff Work Group shall meet as follows:

- (1) During a period other than a DOR, no less than quarterly;
- (2) During a DOR, no less than monthly; and
- (3) During a DOR Forbearance Period, no less than weekly.

(d) Meetings will be conducted at the official offices of SAWS or the EAA, but upon agreement of the Parties, may be at any other suitable and convenient location. SAWS will provide reasonable advance notice of the meetings via email to the members of the Staff Work Group and the Program Manager. Meetings of the Work Group are not subject to the Texas Open Meetings Act, Chapter 551, Texas Government Code, nor are they otherwise generally open to the public or members of the Advisory Group.

10. ANNUAL REPORT

10.1 Timing and Content of Report

No later than January 31st of the year following the reporting period, the Parties, acting through the Staff Work Group, will prepare and submit to the Program Manager an annual report of activities under this Contract. This report is for the purpose of assisting the Program Manager in the preparation and submission of an annual report to the Service on or before March 31st and to assist the EAA in its compliance determination under Subsection 5.7.1(a). The Parties' annual report of activities under this Contract shall contain the following information:

- (A) A description of the Parties' activities under this Contract for the reporting year;

(B) A description and reconciled quantification of groundwater acquisition, withdrawal, recharge, storage and recovery, and forbearance activities by the Parties under this Contract;

(C) A description of the terms and conditions under this Contract that were required to be met during the reporting period, and a self-evaluation of whether such terms and conditions were met;

(D) A description of the terms, conditions, goals, and objectives under the HCP relevant to the ASR Program that were required to be met during the reporting period, and a self-evaluation of whether such terms, conditions, goals, and objectives were met; and

(E) Any other data or information that in the mutual judgment of the Parties is reasonably relevant and necessary to review and assess the efficacy of the implementation of the ASR Program as provided for in this Contract.

10.2 Comments on Draft Report

(a) The Parties will provide a draft annual report to the ASR Regional Advisory Group no later than December 31st of the year for the reporting period for review and comment. The Advisory Group will have ten (10) business days to review and comment on the draft report.

(b) After the Parties receive the Advisory Group's comments, the Parties will review such comments and incorporate any changes that, in the sole discretion of the Parties, are reasonable and appropriate. The Parties will provide a written response to any comments that are not incorporated, and the reasons therefore, after which the annual report may be finalized and the report filed with the Program Manager and the Implementing Committee.

10.3 Cooperation

The Parties agree to fully cooperate with one another by sharing administrative records and such other documents, data, or information relating to the preparation, development, and

submission of the annual report under this Section 10. The Parties further agree to furnish all required periodic reports and any special reports or information pertaining to this Contract as may be reasonably requested in writing by the other Party.

11. GENERAL PROVISIONS

11.1 Term

11.1.1 In General

This Contract is effective and commences on August 14, 2013 (the Effective Date), and terminates on March 31, 2028, subject only to the provisions of Section 11.1.2.

11.1.2 Early Termination

This Contract may be terminated prior to the termination date stated in Section 11.1.1 due to decisions made pursuant to the AMP process of the FMA only as follows:

(A) If it is determined that the ASR Program be discontinued as a Conservation Measure by the Implementing Committee of the Edwards Aquifer Habitat Conservation Plan Program under Section 7.12.4.f. of the FMA, the EAA may terminate this Contract, in its sole discretion, by providing advance written notice of termination to SAWS by July 1st of any year during the term of this Contract, in which case this Contract terminates on December 31st of the same year in which the notice is timely given; or

(B) If the ASR Program is modified and such modification results in a material conflict with this Contract, and the Parties are unable in good faith to renegotiate a modification to this Contract to be consistent with the modified ASR Program within 60 business days from the date the EAA gives notice to SAWS that the ASR Program has been modified, either Party may terminate this Contract by providing advance written notice of termination to the other Party by July 1st of any year during the term of this Contract, in which case this Contract terminates on December 31st of the same year in which timely notice is given.

11.2 No Construction of Works by the EAA

The EAA shall not ever be required to install or construct any facilities or works to implement this Contract unless authorized by the Implementing Committee and funded pursuant to the HCP.

11.3 Authority to Contract

(a) This Contract is entered into pursuant to the Interlocal Cooperation Act, Chapter 791, Texas Government Code, and other applicable law. Each Party represents and warrants for the benefit of the other Party that:

- (1) It has the legal authority to enter into this Contract;
- (2) This Contract has been duly approved;
- (3) This Contract has been duly executed as authorized by its respective governing body as required by Subsection 791.011(d)(1), Texas Government Code, and pursuant to other applicable law, including but not limited to, the Texas Open Meetings Act, Chapter 551, Texas Government Code;
- (4) No other authorization or approval, whether of a governmental body or otherwise, is or will be necessary in order to approve this Contract and to enable that Party to enter into and comply with the terms and conditions of this Contract;
- (5) The person executing this Contract on behalf of each Party has the authority to bind that Party; and
- (6) It is empowered by law to execute any other agreement or documents and to give such other approvals, in writing or otherwise, as are or may hereafter be required to implement and comply with this Contract.

(b) Within ten (10) business days after its adoption, each Party agrees to furnish the other Party a certified copy of the resolution and order duly adopted by their respective

governing bodies approving this Contract and authorizing the appropriate representatives to execute it.

11.4 Entire Agreement

This Contract, together with the exhibits attached hereto, constitutes the entire agreement between the Parties (other than other documents specifically referred to herein, such as the HCP, FMA, and ITP) related to the rights granted and the obligations assumed herein. This Contract supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter herein and contains all of the covenants and agreements among them with respect to said matters. There are no representations, warranties, agreements, or commitments between the Parties except as set forth herein. Any oral representations, modifications, or amendments concerning this Contract shall be of no force or effect unless contained in a subsequent writing, and signed by both Parties. Each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

11.5 Amendment

(a) Except as provided in Subsection (b), this Contract may be amended only by written agreement of the Parties. No change, amendment, or modification of this Contract will be made or be effective that will cause this Contract to diverge from or create an inconsistency with the HCP, or affect adversely the prompt payment when due of all money required to be paid by the EAA under the terms and conditions of this Contract.

(b) Exhibits A, D, and F may be amended from time to time by agreement of the Staff Work Group to reflect the fact that a listed Forbearance Pump Station, Forbearance Well, Master Recharge Meter, or Master Forbearance Meter may have been modified, taken out of service, or replaced, or that a new pump station, well, or meter may have been added. Each amendment to

these Exhibits shall be accepted, signed, and dated by a single representative of each Party on the Work Group. Each Party shall maintain an original of each amendment to these Exhibits in the official records of each of the Parties. The most recent amendment to these Exhibits approved and executed under this subsection shall be considered by the Parties to be in full force and effect for purposes of the administration and implementation of this Contract.

11.6 Officers and Agents

No officer or agent of the Parties is authorized to waive or modify any provision of this Contract. No modifications to or rescission of this Contract may be made except by a written document signed by the Parties' authorized representatives.

11.7 Multiple Original Counterparts

This Contract may be executed in multiple counterparts, and each will be deemed an original but all of which together shall constitute one and the same instrument. A complete original of this Contract will be maintained in the official records of each of the Parties.

11.8 Faxed Signatures

A Party may deliver its signed duplicate of this Contract to the other Party by facsimile transmission, and such delivery will be deemed made and completed upon receipt of such facsimile transmission by the other Party. A Party delivering a signed duplicate by facsimile transmission will promptly send the duplicate original bearing its original signature to the other Party, provided that a delay or failure to do so will not negate the effectiveness of the delivery made by the facsimile transmission.

11.9 Further Instruments

Each of the Parties will, promptly upon the request of another Party, execute, acknowledge, and deliver to the other Party any and all further instruments as are reasonably requested or appropriate to evidence or give effect to the provisions of this Contract.

11.10 Contract Administrators

The Parties appoint the persons below as their Contract Administrator to coordinate their respective activities hereunder. The contact information for the Contract Administrators is as follows:

For the EAA:

Roland Ruiz
General Manager
Edwards Aquifer Authority
900 East Quincy
San Antonio, Texas 78215
(210) 222-2204
rruiz@edwardsaquifer.org

For SAWS:

Robert R. Puente
President/Chief Executive Officer
San Antonio Water System
2800 U.S. Highway 281 North
San Antonio, Texas 78212
(210) 233-3848
rpunte@saws.org

A Party will give written notice within thirty (30) business days to the other Party of any change in their respective Contact Administrator or their contact information.

11.11 Notice

Any notice or other communication provided in this Contract to be given by a Party to the other Party will be in writing and may be given by depositing the same in the United States mail, certified with return-receipt requested, properly stamped and addressed to the Contract Administrator of the Party to be notified. Notice may also be given by personal hand delivery, overnight delivery service, or facsimile. Notice deposited in the mail in the manner hereinabove described will be conclusively deemed to be effective, from and after the expiration of three (3) business days after it is so deposited. Notice given by personal or overnight deliver or facsimile

will be deemed to be effective upon the day of delivery. Notice may also be given by electronic communication but is effective only upon the effective date of one of the other forms of delivery discussed above.

11.12 Response Times

The Parties will use reasonable efforts to respond to written requests from the other Party within thirty (30) business days.

11.13 Rights Regarding Books and Records

(a) Upon reasonable prior written notice, each Party will permit the other Party's authorized representatives to examine and copy all the books and records kept by the Party pertaining to this Contract.

(b) Upon reasonable prior written notice, a Party may conduct a complete audit of all books, accounts, meter charts, and records of any kind kept by the other Party pertaining to this Contract, or any payments made hereunder, as well as the information and documentation used to prepare the books and records. Any such audit will be at the requesting Party's sole expense and will be prepared by a certified public accounting firm and/or registered professional engineer, as may be appropriate. If the audit report discloses actual errors in the books and records such that the charges assessed to, or the water accounting data entries made by, the other Party are in error, then such error will be corrected for the period up to four years after the erroneous charge was paid, or the erroneous water accounting data entries were made, and all payments, or water accounting data entries will be reconciled during the subsequent twelve month period after the date of completion of the audit. If the error identified in the audit is greater than the cost of the audit, the audited Party will reimburse the requesting Party the cost of the audit.

11.14 Disclosure of Materials

The information, documents, property and materials produced, created or supplied under this Contract may be subject to disclosure to any third party pursuant to the Texas Public Information Act, Chapter 552, Texas Government Code. Each Party shall promptly advise the other Party of any requests for any document by a third party.

11.15 Access to Property

Upon reasonable prior written notice, SAWS agrees to allow the employees and duly authorized agents of the EAA to enter the property and any other works or facilities of SAWS associated with the implementation of this Contract, at any reasonable time for the purpose of inspecting and investigating conditions relating to the implementation of or compliance with the terms and conditions of this Contract. EAA employees or agents while on the property, works, or facilities of SAWS shall observe SAWS' rules, policies, or procedures concerning safety, internal security, and fire protection and shall notify SAWS of their presence and shall exhibit proper credentials.

11.16 Interpretation

The section headings used in this Contract are for the convenience of the Parties and descriptive purposes only and shall not be used to interpret or construe its provisions, nor alter or affect the terms and conditions of this Contract. Neither this Contract, nor any portion thereof, shall be interpreted by a court of law to the detriment of a Party based solely upon that Party's authorship of this Contract or any portion thereof, but rather as if both Parties had jointly prepared this Contract. Unless the context otherwise requires, words of the masculine gender will be construed to include correlative words of the feminine and neuter genders and vice versa. This Contract and all the terms, conditions, and provisions will be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Contract. This Contract is not intended

to, and shall not be construed, to change, amend, or otherwise alter the terms and conditions of the HCP.

11.17 Exhibits

The Exhibits attached hereto and referred to herein, are incorporated herein and made a part of this Contract for all purposes. As used herein, the word "Contract" means the body of this Contract and such Exhibits, and the expressions "herein," "hereof," and "hereunder" and other words of similar import refer to this Contract and such Exhibits as a whole and not to any particular part or subdivision thereof.

11.18 General Obligations of Parties

Each Party will fully and faithfully perform all obligations undertaken or assigned to such Party pursuant to this Contract.

11.19 Severability

The Parties specifically agree that in case any one or more of the sections, subsections, provisions, clauses, or words of this Contract, or the application of such sections, subsections, provisions, clauses, or words to any situation or circumstance should be held to be, for any reason, invalid or unconstitutional, under the laws or constitutions of the State of Texas or the United States of America, or in contravention with any such laws or constitutions, such invalidity, unconstitutionality, or contravention will not affect any other sections, subsections, provisions, clauses, or words of this Contract or the application of such actions, subsections, provisions, clauses, or words to any other situation or circumstance. It is intended that this Contract will be severable and will be construed and applied as if any such invalid, unconstitutional, or in contravention with section, subsection, provision, clause, or word had not been included herein, and the rights and obligations of the Parties will be construed and remain in force accordingly.

11.20 State or Federal Laws, Rules, Orders, or Regulations

(a) Except as provided herein, this Contract is subject to all applicable federal, state, and local laws and any applicable permits, ordinances, rules, regulations, and orders of any federal, state, or local governmental authority having jurisdiction. However, nothing contained herein will be construed as a waiver of any right to question or contest any such law, ordinance, rule, regulation, or order in any forum having jurisdiction.

(b) Ordinances, rules, regulations, and orders adopted by either Party shall not and shall never be construed to preempt, preclude, override or interfere with the provisions of this Contract.

(c) Each Party represents that, to the best of its knowledge, no provisions of any applicable federal, state, or local law, nor any applicable permit, ordinance, rule, regulation, or order of any federal, state, or local governmental authority having jurisdiction will limit or restrict the ability of each Party to carry out its respective obligations under or contemplated by this Contract.

(d) Each Party warrants and represents that it will comply with all applicable federal, state, and local law when performing any activities under this Contract. Moreover, in its performance of any activities under this Contract, each Party warrants and represents that, to the best of its knowledge, it is or will be in compliance with all applicable federal, state, or local law, including any applicable permit, ordinance, rule, regulation, or order, and that it has obtained any and all permits, licenses, or other approvals as may be required by law to perform such activities to accomplish the objectives of this Contract.

11.21 No Partnership

The relationship of the Parties under this Contract is not and will not be construed or interpreted to be a partnership, joint venture or agency for any purpose whatsoever. The

relationship of the Parties will be an independent contractor relationship responsible for its own actions. No Party will have the authority to make any statements, representations or commitments of any kind, or to take any action, which will be binding on the other Party.

11.22 Binding Effect; Successors and Assigns

This Contract shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Unless expressly provided herein, neither this Contract, nor any part thereof, may be assigned by a Party without prior written notice to and approval by the other Party, which consent may be withheld without cause.

11.23 Third-Party Beneficiaries

This Contract is intended to confer any rights, privileges or causes of action only upon the Parties, and not upon any other third party.

11.24 Remedies

(a) The Parties recognize that failure in the performance of any Party's obligations hereunder may not be measurable solely in money damages. Each Party therefore agrees in the event of any default on its part that each Party will have available to it, in addition to all other legal remedies, the equitable remedy of injunction, mandamus and/or specific performance, and, except as provided by Subsection (e), not termination, as long as the ITP is outstanding. It is the intent of the Parties that any default may be subject to the remedy of injunction, mandamus and/or specific performance to the extent that injunction, mandamus and/or specific performance is possible under the existing circumstances.

(b) In the event that, during any DOR Forbearance Period, SAWS withdraws Aquifer groundwater in excess of the amounts authorized under Subsections 5.7.1(a)(1), (2), or (3), cumulatively, and such withdrawal is deemed by a final judgment of a court of competent jurisdiction to be a breach of this Contract, in addition to the attorney fees and other costs

authorized in Section 11.30, SAWS shall pay to the EAA, as the balance due and owed by SAWS under this Contract, liquidated money damages for each AF of Aquifer groundwater withdrawn in excess of the amounts authorized under Subsections 5.7.1(a)(1), (2), or (3), cumulatively, equal to the following amounts per AF then in effect at the time of the unauthorized withdrawals:

(1) The EAA's aquifer management fees, which will not be reimbursed under Section 5.5;

(2) 1.0 times the number of AF of unauthorized withdrawals as determined by the court in its final judgment x average HCP Groundwater annual lease cost for leases acquired and maintained by the EAA under Section 6, as additional reimbursement for the lease payment that the EAA pays to acquire and lease HCP Groundwater under Section 6, and the EAA's administrative costs in acquiring and maintaining such leases;

(c) Each Party agrees that the actual natural resources damages to the Comal Springs and River ecosystem and the San Marcos Springs and River ecosystem in the event of a particular occurrence of unauthorized withdrawals resulting in noncompliance with Subsections 5.7.1(a)(1), (2), or (3) would be difficult or impossible to ascertain, and that the liquidated damages provided for herein are intended to place the EAA in the same economic position in which it would have been had the particular occurrence of unauthorized withdrawals not occurred. Such liquidated damages shall constitute the only money damages payable by SAWS to the EAA to compensate the EAA for the damages occasioned by and associated with the specific circumstance of unauthorized withdrawals, regardless of legal theory.

(d) The EAA agrees that it has voluntarily entered into this Contract as a Party in furtherance of the HCP. In the event that the EAA elects to invoke its regulatory enforcement

authority against SAWS for any action or failure to act related to this Contract, such election shall be deemed to be an election of remedies and the EAA's right to pursue any other remedies shall be deemed forfeited and terminated.

(e) If either Party fails to appropriate funds necessary to discharge that Party's obligations under this Contract and a court of competent jurisdiction fails to enforce that obligation, then this Contract will terminate, and the other Party will have the right to petition the Service to terminate the ITP with regard to that Party.

11.25 Default – Notice and Opportunity to Cure

If any Party fails to perform any obligation or make any payment in the required amount when due under this Contract, the other Party shall provide written notice of default to the nonperforming Party. A copy of such notice will also be provided to the Program Manager and the Implementing Committee. The nonperforming Party has five (5) business days to reply to the notice, and sixty (60) days from receipt of the notice within which to remedy the default, unless another time frame is agreed to by the Parties.

11.26 Applicable Law; Venue

This Contract will be governed by and construed in accordance with the laws of the State of Texas, and the obligations, rights, and remedies of the Parties hereunder will be determined in accordance with such laws without reference to the laws of any other state or jurisdiction, except for applicable federal laws, rules, and regulations. It is specifically agreed among the Parties that in the event that any legal proceeding is brought to enforce this Contract or any provision hereof, the same will be brought in Bexar County, Texas, being the county in which the principal administrative offices of the Parties are located.

11.27 Mediation

(a) Either Party may request informal consultation with the other Party at any time to

resolve a current or anticipated controversy arising under this Contract. Any such request will not be unreasonably refused by the other Party. The consultation shall be undertaken by both Parties in good faith and with due diligence to effect the purpose of this Contract.

(b) In the event any current or anticipated controversy arising under this Contract is not resolved by informal consultations between the Parties within thirty (30) business days after any Party requests consultations, or within five (5) business days for potential noncompliance with Subsection 5.7.1(a)(3), then, upon the request of any Party, the controversy will be referred to mediation, which process will be governed by the Texas Civil Practice and Remedies Code, Chapter 154, as may be amended, or its successor statute. Failing identification of a mutually acceptable mediator, the mediation will be conducted by the University of Texas School of Law Center for Public Policy Dispute Resolution. The mediation process will continue until the sooner of: (i) no more than thirty (30) business days from the designation of the mediator; (ii) until the controversy is resolved; (iii) the mediator makes a finding that there is no possibility of settlement through mediation; or (iv) either Party chooses not to continue the mediation further. All costs and expenses of the mediation (including the mediator's fees) will be shared equally by the Parties, provided however, that costs incurred individually by each Party will be costs solely of such Party.

11.28 Waiver

Notwithstanding anything to the contrary contained in this Contract, any right or remedy or any default under this Contract, except the right of SAWS to receive payments from the EAA as may be required under the terms and conditions of this Contract, which will never be determined to be waived, will be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within four (4) years after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by any Party or of the

performance by the other Party of any duty or obligation hereunder will be deemed a waiver thereof in the future, nor will any such waiver or waivers be deemed or construed to be a waiver of subsequent breaches or defaults of any kind, character or description, under any circumstances. All remedies, either under this Contract or at law or in equity or otherwise available to a Party, are cumulative and not alternative and may be exercised or pursued separately or collectively in any order, sequence or combination. In addition, to these provisions, applicable provisions of this Contract shall survive any termination of this Contract.

11.29 Attorney Fees

If any action at law or in equity, arbitration, or other proceeding is brought to enforce or interpret a provision of this Contract, or because of an alleged breach or default relating to this Contract, the prevailing Party shall be entitled to recover from the other Party reasonable attorney's fees, costs, and other necessary litigation disbursements, in addition to any other legal or equitable relief to which it may be entitled. It is the intent of the Parties that the Contract be construed to be a written agreement that expressly authorizes the prevailing Party in an adjudication under Subchapter I of Chapter 271, Texas Local Government Code, as may be amended, or its successor statute, to recover its reasonable and necessary attorney fees by specific reference to Section 271.159, Texas Local Government Code.

11.30 Goods and Services

The Parties agree that the mutual commitments stated in this Contract to provide operational and implementation services in execution of the HCP constitute an agreement by each Party for providing goods and services to the other Party, that payments due from the EAA, the damages provided for in Subsection 11.24(b), and the mutual provision of goods and services, are amounts due and owing under this Contract, and that this Contract is subject to Chapter 271, Subchapter I, Texas Local Government Code, as may be amended, or its successor

statute.

11.31 Force Majeure

If by reason of Force Majeure any Party will be rendered unable wholly or in part to carry out its obligations under this Contract, such Party will give notice and full particulars of such Force Majeure in writing to the other Party within a reasonable time after the occurrence of the event or cause relied on. After providing such notice, the obligation of the Party giving such notice, so far as its performance is prevented by such Force Majeure, will be suspended during the continuance of the inability then claimed, but for no longer period, and any such Party will endeavor to remove or overcome such inability with reasonable dispatch. The term "Force Majeure" as used herein will mean those situations or conditions which are beyond the control of the Party and which, after the exercise of due diligence to remedy such situation or condition, render the Party unable, wholly or in part, to carry out the covenants in this Contract. Such Force Majeure events are limited to: Acts of God other than drought, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government of the United States or the State of Texas, regulatory restrictions imposed on the EAA by the Texas Legislature, regulatory restrictions imposed on the recharge of or injection into, recovery from, or use of the ASR Facility and related infrastructure by any groundwater conservation district or other governmental authority of any nature, any civil or military authority, insurrection, war, terrorism, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, tornados, storms, floods, washouts, restraint of government and people, civil disturbances, explosions, extraordinary breakage or accidents to machinery, wells, pipelines or canals, partial or entire failure of water supply, or water production infrastructure, emergency demand for withdrawal from the Forbearance Wells to protect public health and safety that cannot reasonably be supplied within the affected service area and pressure zones that are supplied by the Forbearance

Pump Stations and their associated Forbearance Wells identified in Exhibit A by sources of water other than Aquifer groundwater withdrawn under the SAWS Edwards Groundwater Withdrawal Permits, or on account of any other causes insofar as any of the foregoing are beyond the reasonable control of the Party claiming such inability, or its employees, agents, contractors or subcontractors. Neither Party shall be deemed in default hereunder for any failure to perform due to any Force Majeure event.

11.32 Payment from Current Revenues; Limitations on Funding Sources

(a) The Parties acknowledge that pursuant to Subsection 791.011(d)(3), Texas Government Code, the EAA, which is required under Section 7 to pay SAWS for the performance of governmental functions or services, must make such payments from current revenues available to EAA. Pursuant to Subsection 271.903(a), Texas Local Government Code, this Contract is conditioned upon the EAA agreeing, and the EAA so agrees, to use its best efforts to obtain and appropriate funds for the payment of all payments and obligations due under the terms and conditions of this Contract.

(b) SAWS will not have the right to demand payment by the EAA from any funds raised or to be raised by taxation (other than revenues from a regional sales tax as an alternative funding source under Subsection 6.4.1 of the FMA), and the EAA's obligation under this Contract will never be construed to be a debt of the EAA of such kind as to require it under the Constitution and laws of the State to levy and collect an ad valorem tax to discharge such obligation. Moreover, SAWS agrees and understands that the cost of implementation of this Contract will be paid solely from Program Aquifer Management Fees, or funding contributions from third-parties, as provided by Sections 5.1, 5.3, 5.4, 5.5, and 5.6 of the FMA, and that the EAA will not be obligated to provide funding from any other sources.

IN WITNESS WHEREOF, the Parties, acting under authority of their respective governing bodies, have executed this Contract to be effective as provided in Section 11.1.

FOR THE EDWARDS AQUIFER AUTHORITY:

Roland Ruiz
General Manager

Date

ATTEST:

APPROVED AS TO FORM:

Jennifer Wong-Esparza
Assistant to Board Secretary

Darcy Alan Frownfelter
General Counsel

FOR THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH ITS SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

Robert R. Puente
President/CEO

Date

ATTEST:

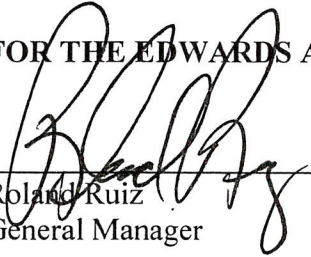
APPROVED AS TO FORM:

Becky Gonzalez
Executive Administrative Assistant

Phil Steven Kosub
Senior Water Resources Counsel

IN WITNESS WHEREOF, the Parties, acting under authority of their respective governing bodies, have executed this Contract to be effective as provided in Section 11.1.

FOR THE EDWARDS AQUIFER AUTHORITY:

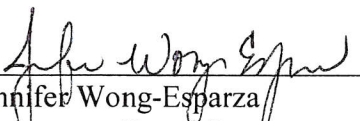


Roland Ruiz
General Manager

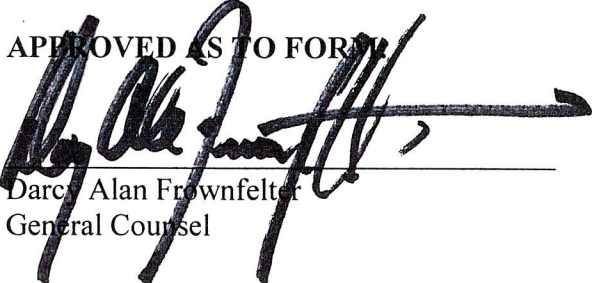
August 15, 2013

Date

ATTEST:




Jennifer Wong-Esparza
Assistant to Board Secretary

APPROVED AS TO FORM:


Darcy Alan Frownfelter
General Counsel

FOR THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH ITS SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES:

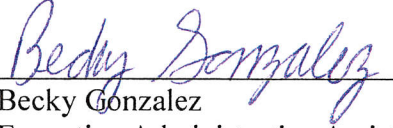


Robert R. Puente
President/CEO

08-21-13

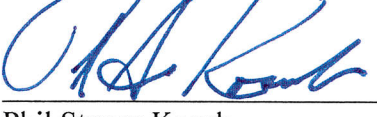
Date

ATTEST:



Becky Gonzalez
Executive Administrative Assistant

APPROVED AS TO FORM:



Phil Steven Kosub
Senior Water Resources Counsel

EXHIBIT A

Forbearance Pump Stations, Associated Forbearance Wells, and Master Forbearance Meters with Annual Baseline Withdrawal Amounts

NO.	FORBEARANCE PUMP STATION	FORBEARANCE WELL NUMBER	GIS COORDINATES	MASTER FORBEARANCE METERS	ANNUAL BASELINE WITHDRAWAL AMOUNT
1	Artesia	BE00269-12 W100 -537	29-25.00-57.19 / 98-26.00-13.64	F50D2116000	8.00MGD 8,935 AFY
2	Artesia	BE00269-13 W100 -538	29-25.00-57.10 / 98-26.00-17.53	D3034616000	
3	Artesia	BE00269-14 W100 -539	29-25.00-58.58 / 98-26.00-27.99	C705C016000	
4	Randolph	BE00269-75 W100 -600	29-31.00-49.77 / 98-22.00-45.29	D3032E16000	16.56 MGD 18,552 AFY
5	Randolph	BE00269-76 W100-601	29-31.00-51.28 / 98-22.00-42.40	D3032F16000	
6	Randolph	BE00269-77 W100 -602	29-31.00-45.27 / 98-22.00-42.34	D3033016000	
7	Seale	BE00269-81 W100-606	29-26.00-43.27 / 98-24.00-19.35	066020413	6.58MGD 7,375 AFY
8	Seale	BE00269-82 W100-607	29-26.00-42.14 / 98-24.00-21.11	C5015A16000	
9	Seale	BE00269-104 W100-629	29-26.00-43.09 / 98-24.00-20.96	174902	
Aggregate Annual Baseline Withdrawal Amount for the following Forbearance Pump Stations:					62.19MGD 69,656 AFY
10	Basin	BE00269-020 W100-545	29-29.00-50.97 / 98-29.00-15.55	D3002F16000	16.95 MGD 18,990 AFY
11	Basin	BE00269-021 W100-546	29-29.00-59.88 / 98-29.00-11.84	D3002016000	
12	Basin	BE00269-022 W100-547	29-29.00-45.67 / 98-29.00-15.88	D3003016000	
13	Basin	BE00269-024 W100-549	29-29.00-44.15 / 98-29.00-22.92	D3003116000	
14	Basin	BE00269-025 W100-550	29-29.00-54.34 / 98-29.00-18.31	D3002116000	
15	Basin	BE00269-102 W100-627	29-29.00-46.60 / 98-29.00-12.90	D3003216000	

No.	FORBEARANCE PUMP STATION	FORBEARANCE WELL NUMBER	GIS COORDINATES	MASTER FORBEARANCE METERS	ANNUAL BASELINE WITHDRAWAL AMOUNT
16	Brackenridge	BE00269-027 W100-552	29-26.00-51.47 / 98-28.00-32.95	D3031A16000	2.74 MGD 3,073 AFY
17	Brackenridge	BE00269-028 W100-553	29-26.00-50.74 / 98-28.00-35.40	D403BD16000	
18	Klaus	BE00269-080 W100-605	29-29-43.38 / 98-26-53.23	D403CC16000	0.82 MGD 915 AFY
19	Northwood	BE00269-072 W100-597	29-30.00-48.83 / 98-26.00-51.42	D403BE16000	1.76 MGD 1,969 AFY
20	Walzem	BE00269-089 W100-614	29-30.00-26.81 / 98-24.00-13.67	D403CB16000	0.60 MGD 667 AFY
21	Woodlake	BE00269-107 W100-632	29-29.00-31.23 / 98-20.00-52.44	D3031B16000	0.65 MGD 723 AFY
22	Naco	BE00269-066 W100-591	29-33.00-52.91 / 98-22.00-59.82	D3034C16000	12.26 MGD 13,733 AFY
23	Naco	BE00269-067 W100-592	29-33.00-59.63 / 98-23.00-9.33	D3033A16000	
24	Naco	BE00269-068 W100-593	29-33.00-57.42 / 98-23.00-9.63	D3033B16000	
25	Naco	BE00269-070 W100-595	29-33.00-52.58 / 98-23.00-6.93	D3034A16000	
26	Naco	BE00269-071 W100-596	29-33.00-50.46 / 98-23.00-4.40	D3034B16000	
27	Naco	BE00269-108 W100-633	29-33.00-54.31 / 98-23.00-8.90	D3034016000	
28	Maltsberger	BE00269-045 W100-570	29-31.00-23.23 / 98-29.00-2.77	D3003B16000	26.41 MGD 29,587 AFY
29	Maltsberger	BE00269-046 W100-571	29-31.00-20.30 / 98-28.00-58.93	D3003A16000	
30	Maltsberger	BE00269-101 W100-626	29-31.00-22.67 / 98-28.00-58.76	D3003D16000	
31	Maltsberger	BE00269-047 W100-572	29-31.00-20.36 / 98-29.00-1.38	D3004016000	
32	Maltsberger	BE00269-048 W100-573	29-31.00-23.14 / 98-28.00-57.11	D3003E16000	
33	Maltsberger	BE00269-105 W100-630	29-31.00-20.25 / 98-28.00-57.57	D3003F16000	

EXHIBIT B

Monthly Baseline Withdrawal Amount by Forbearance Pump Station

No.	FORBEARANCE PUMP STATION	MONTHLY BASELINE WITHDRAWAL AMOUNT
1	Artesia	Jan: 671 AF
		Feb: 568 AF
		Mar: 589 AF
		Apr: 484 AF
		May: 621 AF
		June: 677 AF
		July: 1,073 AF
		Aug: 1,061 AF
		Sept: 910 AF
		Oct: 824 AF
		Nov: 874 AF
		Dec: 582 AF
2	Randolph	Jan: 1,780 AF
		Feb: 1,439 AF
		Mar: 1,350 AF
		Apr: 1,736 AF
		May: 1,688 AF
		June: 1,483 AF
		July: 1,757 AF
		Aug: 1,630 AF
		Sept: 1,189 AF
		Oct: 1,535 AF
		Nov: 1,676 AF
		Dec: 1,289 AF
3	Seale	Jan: 587 AF
		Feb: 382 AF
		Mar: 471 AF
		Apr: 630 AF
		May: 654 AF
		June: 660 AF
		July: 729 AF
		Aug: 626AF
		Sept: 630 AF
		Oct: 811 AF
		Nov: 634 AF

No.	FORBEARANCE PUMP STATION	MONTHLY BASELINE WITHDRAWAL AMOUNT
		Dec: 561 AF
4	Basin Brackenridge Klaus Maltsberger Naco Northwood Walzem Woodlake	Jan: 5,051 AF
		Feb: 4,594 AF
		Mar: 5,491 AF
		Apr: 5,847 AF
		May: 6,202 AF
		June: 6,708 AF
		July: 6,295 AF
		Aug: 7,209 AF
		Sept: 5,998 AF
		Oct: 5,836 AF
		Nov: 5,325 AF
		Dec: 5,100 AF

EXHIBIT C

USGS Estimated Annual Recharge to the Edwards Aquifer Protocol

The EAA shall require the USGS to estimate the annual recharge to the Edwards Aquifer ("Aquifer") as follows:

1. The method to be used by the USGS shall estimate the amount of annual recharge occurring to the Aquifer through streambeds and interbasin areas using a water-balance method that: (1) relies on precipitation and streamflow measurements in the nine (9) drainage basins indicated in "Method of Estimating Natural Recharge to the Edwards Aquifer in the San Antonio Area, Texas," 1978, USGS WRI-7810, by Celso Puente; (2) consider only precipitation and stream flow that originates over the Contributing Zone and Recharge Zone of the Aquifer as presented in the USGS method referenced above; and (3) excludes interformational flows from adjacent aquifers.
2. The USGS will be required to collect and compile data to compute recharge to the Aquifer from the nine basins in the Aquifer recharge and drainage area as indicated in the Puente method referenced above.
3. The USGS will be required to collect and compile springflow data for Comal Springs and San Marcos Springs.
4. The USGS will be required to collect and compile rainfall data collected by the EAA, the National Oceanic and Atmospheric Administration, and other rainfall observers.
5. The USGS will be required to compile water-level data collected by the EAA.
6. The USGS will be required to compute recharge to the Aquifer using the Puente method referenced above.
7. Annually, the USGS will be required to transmit to the EAA a compilation of estimated monthly and annual recharge to the Aquifer by basin.

EXHIBIT D

Master Recharge Meters and Associated Forbearance Wells Located Proximal to the Artesia, Randolph, and Seale Forbearance Pump Stations

No.	FORBEARANCE PUMP STATIONS	MASTER RECHARGE METERS	EQUIPMENT (METER) ID No.	FORBEARANCE WELLS DISCHARGING INTO THE MASTER RECHARGE METERS
1	Artesia	Artesia Flowmeter-1	PROD003FI902	BE00269-12 W100-537
				BE00269-13 W100-538
				BE00269-14 W100-539
2	Randolph	Randolph Flowmeter-1	PROD012FI901	BE00269-75 W100-600
				BE00269-76 W100-601
				BE00269-77 W100-602
3	Seale	Seale Flowmeter-1	PROD014FI904	BE00269-81 W100-606
				BE00269-82 W100-607
				BE00269-104 W100-629
4	Seale	Seale Flowmeter-2	PROD014FI902	BE00269-81 W100-606
				BE00269-82 W100-607
				BE00269-104 W100-629

EXHIBIT E

Presumptive Forbearance Schedule for the DOR Forbearance Period

MONTH OF DOR FORBEARANCE PERIOD	FORBEARANCE AMOUNT ACRE-FEET PER MONTH
1 - June start (month in which a notice of commencement of DOR Forbearance Period is issued)	700
2 - July	2,600
3 - August	3,800
4 - September	3,800
5 - October	2,600
6 - November	1,200
7 - December	700
8 - January	400
9 - February	200
10 - March	200
11 - April	400
12 - May	2,200
13 - June	3,800
14 - July	5,600
15 - August	5,600
16 - September	5,600
17 - October	4,200
18 - November	3,200
19 - December	2,300
20 - January	1,700
21 - February	1,400
22 - March	1,100
23 - April	2,200
24 - May	3,800
25 - June	5,600

MONTH OF DOR FORBEARANCE PERIOD	FORBEARANCE AMOUNT ACRE-FEET PER MONTH
26 - July	5,600
27 - August	5,600
28 - September	5,600
29 - October	5,200
30 - November	4,700
31 - December	3,800
32 - January	3,400
33 - February	3,000
34 - March	2,600
35 - April	2,200
36 - May	1,700
37 - June	800
38 - July	600
39 - August	400
40 - September	200
41 - October (month in which a notice of expiration of DOR Forbearance Period becomes effective)	200

EXHIBIT F

Forbearance Pump Station Priority Ranking with Associated Potential Forbearance Amounts

FORBEARANCE PUMP STATION AND WELLS	MAXIMUM POTENTIAL FORBEARANCE AMOUNT*
Artesia Pump Station/Wells Well No. 1: BE00269-12 (W100-537) Well No. 2: BE00269-13 (W100-538) Well No. 3: BE00269-14 (W100-539)	$\leq 8,950 \text{ AF}$
In addition to the Forbearance Wells identified in the above rows Randolph Pump Station/Wells Well No. 4: BE00269-75 (W100-600) Well No. 5: BE00269-76 (W100-601) Well No. 6: BE00269-77 (W100-602)	$> 8,950 \text{ AF} \leq 27,500 \text{ AF}$
In addition to the Forbearance Wells identified in the above rows Seale Pump Station/Wells Well No. 7: BE00269-81 (W100-606) Well No. 8: BE00269-82 (W100-607) Well No. 9: BE00269-104 (W100-629)	$> 27,500 \leq 34,875 \text{ AF}$

FORBEARANCE PUMP STATION AND WELLS	MAXIMUM POTENTIAL FORBEARANCE AMOUNT*
<p>In addition to the Forbearance Wells identified in the above rows, partial forbearance within the ranges listed to left column will be provided from the block of following Pump Stations/Wells</p> <p>Basin Pump Station/Wells</p> <p>Well No. 10: BE00269-020 (W100-545) Well No. 11: BE00269-021 (W100-546) Well No. 12: BE00269-022 (W100-547) Well No. 13: BE00269-024 (W100-549) Well No. 14: BE00269-025 (W100-550) Well No. 15: BE00269-102 (W100-627)</p>	<p>$> 34,875 \leq 104,550$ AF</p>

FORBEARANCE PUMP STATION AND WELLS	MAXIMUM POTENTIAL FORBEARANCE AMOUNT*
Brackenridge Pump Station/Wells Well No. 16: BE00269-027 (W100-552) Well No. 17: BE00269-028 (W100-553)	
Klaus Pump Station/Well Well No. 18: BE00269-080 (W100-605)	
Maltsberger Pump Station/Wells Well No. 28: BE00269-045 (W100-570) Well No. 29: BE00269-046 (W100-571) Well No. 30: BE00269-101 (W100-626) Well No. 31: BE00269-047 (W100-572) Well No. 32: BE00269-048 (W100-573) Well No. 33: BE00269-105 (W100-630)	
Naco Pump Station/Wells Well No. 22: BE00269-066 (W100-591) #1 Well No. 23: BE00269-067 (W100-592) #2 Well No. 24: BE00269-068 (W100-593) #3 Well No. 25: BE00269-070 (W100-595) #6 Well No. 26: BE00269-071 (W100-596) NACO 7 Well No. 27: BE00269-108 (W100-633) #5	continued from previous page $> 34,875 \leq 104,550$ AF *may need to add in well #4
Northwood Pump Station/Well Well No. 19: BE00269-072 (W100-597)	
Walzem Pump Station/Well Well No. 20: B00269-089 (W100-614)	
Woodlake Pump Station/Well Well No. 21: BE00269-107 (W100-632)	

* Based on the initial aggregate of the Baseline Withdrawal Amount as defined in Section 1.7 for all wells located at the referenced Forbearance Pump Stations.

EXHIBIT G

Initial Average Incremental Costs under Section 7.2

AQUIFER/HCP GROUNDWATER WITHDRAWAL COSTS (Sec. 7.3(b))

\$37 per Acre Foot

HCP GROUNDWATER NET RECOVERY COSTS (Sec. 7.3(c))

\$110 per acre foot

EXHIBIT H

Examples of Average Incremental Cost Calculations under Subsections 7.3(b) and (c)

EXAMPLE – WITHDRAWAL COST

* Hypothetical 12-month base period = Calendar Year 2015

* Total chemical costs and other operating supplies = \$40,000

* Total energy costs = \$900,000

* Total maintenance costs = \$200,000

CALCULATION: $\$40,000 + \$900,000 + \$200,000 = \$1,140,000$

* Total variable costs (i.e., total incremental costs for withdrawal and transport) = \$1,140,000

* Total Aquifer groundwater withdrawn = 30,000 AF

CALCULATION: $\$1,140,000,000 \div 30,000 \text{ AF} = \$38/\text{AF}$

* Average incremental costs = \$38/AF

EXAMPLE – NET RECOVERY COST

* Hypothetical 12-month base period = Calendar Year 2015

* Total chemical costs and other operating supplies = \$300,000

* Total energy costs = \$800,000

* Total maintenance costs = \$100,000

CALCULATION: $\$300,000 + \$800,000 + \$100,000 = \$1,200,000$

* Total variable costs (i.e., total incremental costs for recovery, treatment, and transport) = \$1,200,000

* Total SAWS ASR Groundwater recovered = 8,000 AF

CALCULATION: $\$1,200,000 \div 8,000 \text{ AF} = \$150/\text{AF}$

* Average incremental costs = \$150/AF

* Less average incremental withdrawal cost = \$38 AF

CALCULATION: $\$150 \text{ AF} - \$38 \text{ AF} = \$112/\text{AF}$

* Average incremental net recovery cost = \$112 AF

EXHIBIT I

Examples of Allowable Cost Calculations under Subsections 7.4(a) and (b)

EXAMPLE

- * Hypothetical Calendar Year in which Recharge Occurs = 2016
- * Total HCP Groundwater metered withdrawals = 10,000 AF
- * Average incremental cost (based on 2015 Base Year) = \$38/AF

CALCULATION: 10,000 AF x \$38/AF = \$380,000

- * Total Allowable Cost = \$380,000

EXAMPLE

- * Hypothetical Calendar Year During a DOR Forbearance Period = 2020
- * Total Aquifer groundwater Forborne under the SAWS Edwards Groundwater Withdrawal Permits = 5,000 AF
- * Average incremental recovery cost (based on 2019 Base Year) = \$125/AF

CALCULATION: 5,000 AF x \$125/AF = \$625,000

- * Gross Total Allowable Cost = \$625,000

