

MINUTES

MEETING OF THE BOARD OF DIRECTORS' OPERATIONS COMMITTEE

SAN ANTONIO RIVER AUTHORITY

November 8, 2010, 2:00 p.m.



GENERAL AND CEREMONIAL ITEMS:

1. **CALL TO ORDER WAS MADE BY THE CHAIRMAN, MR. H. B. RUCKMAN III, AT 2:02 P.M.**
2. **PLEDGE OF ALLEGIANCE WAS RECITED**
3. **THE COMMITTEE SECRETARY, NÁZIRITE RUBÉN PÉREZ, CALLED THE ROLL AND REPORTED THE FOLLOWING COMMITTEE MEMBERS PRESENT:**

- John J. Flieller**
- Michael W. Lackey, P.E.**
- Názirite Rubén Pérez**
- H. B. Ruckman III**
- Adair R. Sutherland**
- Thomas G. Weaver**

4. **CERTIFICATION OF A QUORUM BY THE SECRETARY, MR. PÉREZ**
5. **INTRODUCTION OF VISITORS**

Ms. Sanchez announced the visitors who were present in the audience.

6. **CITIZENS TO BE HEARD**

Ms. Sanchez announced a citizen, Victor Andonie, who signed up to speak regarding the sewer reimbursement agreements between the San Antonio River Authority and Martinez IV.

7. APPROVAL OF THE MINUTES OF THE OPERATIONS COMMITTEE MEETING HELD ON OCTOBER 11, 2010

Staff recommended a motion that the minutes for the Operations Committee meeting held on October 11, 2010 be passed and approved, as presented.

Motion made by Michael W. Lackey, P.E.

Seconded by Thomas G. Weaver

Motion passed unanimously

8. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING A RESOLUTION TO CONVEY A PERMANENT EASEMENT TO SAN ANTONIO WATER SYSTEM UNDER AND ACROSS THE ALAZAN CREEK IN BEXAR COUNTY, TEXAS

At staff's request, this item was pulled from the agenda until further notice; therefore, Mr. Ruckman called for Agenda Item 9.

9. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING A RESOLUTION TO CONVEY A PERMANENT EASEMENT TO CPS ENERGY UNDER AND ACROSS THE ALAZAN CREEK IN BEXAR COUNTY, TEXAS

Staff recommended a motion indicating Operations Committee support for presenting to the San Antonio River Authority Board of Directors a recommendation to authorize the General Manager to convey a permanent easement under and across Alazan Creek in Bexar County, Texas, to CPS Energy for the purpose of installation, operation and maintenance of a gas pipeline.

Motion made by Thomas G. Weaver

Seconded by Michael W. Lackey, P.E.

Motion passed unanimously

Attachment: [Easement](#)

10. DISCUSSION AND APPROPRIATE ACTION ON INTERLOCAL AGREEMENT WITH SAN ANTONIO WATER SYSTEM FOR THIRD PARTY BILLING

Staff recommended a motion indicating Operations Committee support for presenting the San Antonio Water System Interlocal Agreement, as presented, to the San Antonio River Authority Board of Directors for approval.

Motion made by Thomas G. Weaver

Seconded by Michael W. Lackey, P.E.

Motion passed unanimously with Mr. Pérez abstaining.

Attachment: [SAWS ILA](#)

11. DISCUSSION AND APPROPRIATE ACTION ON INTERLOCAL AGREEMENT WITH BEXAR METROPOLITAN WATER DISTRICT FOR THIRD PARTY BILLING

Staff recommended a motion indicating Operations Committee support for presenting the Bexar Met Interlocal Agreement, as presented, to the San Antonio River Authority Board of Directors.

Motion made by Michael W. Lackey, P.E.

Seconded by John J. Flieller

Motion passed unanimously

Attachment: [Bexar Met ILA](#)

To accommodate visitors in the audience and with no objections from the Committee members, Mr. Ruckman called for Agenda Item 15.

15. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING MARTINEZ IV SEWER PLANT, LTD

Victor Andonie addressed the Committee regarding the sewer reimbursement agreements between the San Antonio River Authority and Martinez IV. In consideration of Mr. Andonie's comments and concerns, Mr. Ruckman called for Agenda Item 13 for further discussion with the Committee members in Executive Session.

13. EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING A MATTER IN WHICH THE DUTY OF THE ATTORNEY FOR SAN ANTONIO RIVER AUTHORITY UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT CONCERNING MARTINEZ IV SEWER PLANT, LTD

After appropriate disclosure in accordance with Chapter 551 of the Texas Government Code, the Open Meetings Act, Section 551.071, Mr. Ruckman then recessed to meet in Executive Session at 3:02 p.m. for consultation with attorney regarding a matter in which the duty of the attorney for the San Antonio River Authority under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Open Meetings Act concerning Martinez IV Sewer Plant, Ltd. The Executive Session having concluded, the Operations Committee meeting resumed into Open Session at 3:45 p.m.

Mr. Ruckman then returned to Agenda Item 15.

15. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION REGARDING MARTINEZ IV SEWER PLANT, LTD

There being no action taken on this item, Mr. Ruckman called for Agenda Item 12. Due to a conflict of interest, Mr. Ruckman then excused himself from the meeting and passed the gavel over to the Vice Chair, Mr. Flieller, who finished chairing the rest of the meeting.

12. EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071 FOR CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 2010-CI-18075 SAN ANTONIO RIVER AUTHORITY V. KILOWATT PARK LAND, LLC IN THE 438TH DISTRICT COURT, BEXAR COUNTY, TEXAS

After appropriate disclosure in accordance with Chapter 551 of the Texas Government Code, the Open Meetings Act, Section 551.071, Mr. Ruckman then recessed to meet in Executive Session at 3:57 p.m. for consultation with attorney regarding Cause No. 2010-CI-18075, San Antonio River Authority vs. Kilowatt Park Lane, LLC., in the 438th District Court, Bexar County, Texas. The Executive Session having concluded, the Operations Committee meeting resumed into Open Session at 4:02 p.m.

Mr. Flieller then called for Agenda Item 14.

14. PRESENTATION, DISCUSSION AND APPROPRIATE ACTION CONCERNING CAUSE NO. 2010-CI-18075 SAN ANTONIO RIVER AUTHORITY V. KILOWATT PARK LAND, LLC IN THE 438TH DISTRICT COURT, BEXAR COUNTY, TEXAS

There being no action taken on this item, Mr. Flieller then returned to the regular order of business and called for Agenda Item 16.

16. STATUS REPORT ON THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT

There being no action taken on this item, Mr. Flieller called for Agenda Item 17.

17. GENERAL MANAGER'S REPORT CONCERNING THE FOLLOWING:

- **UPCOMING EVENTS CALENDAR,**
- **FUTURE BOARD AND/OR COMMITTEE MEETINGS, AND**
- **MEETINGS INVOLVING THE ATTENDANCE OF ONE OR MORE BOARD MEMBERS**

There being no action taken on this item, Mr. Flieller called for Agenda Item 18.

18. ITEMS FOR FUTURE CONSIDERATION

There being no action taken on this item, Mr. Flieller called for Agenda Item 19.

19. NEXT MEETING DATE

The next Operations Committee meeting will be Monday, December 6, 2010, at 2:00 p.m.

20. ADJOURN

There being nothing further to report, Ms. Sutherland moved to adjourn. The meeting adjourned at 4:09 p.m.

**PREPARED AND RECOMMENDED FOR COMMITTEE APPROVAL BY THE
MANAGER.**

SUZANNE B. SCOTT, General Manager

**APPROVED BY THE BOARD OF DIRECTORS AT THE OPERATIONS COMMITTEE
HELD ON DECEMBER 8, 2010.**

H. B. RUCKMAN III, Committee Chairman

ATTEST:

NÁZIRITE RUBÉN PÉREZ, Committee Secretary

PERMANENT EASEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BEXAR §

The San Antonio River Authority, a political subdivision of the State of Texas, domiciled in Bexar County, Texas acting by its General Manager, hereunto duly authorized by Resolution No. 1417, passed and approved on November 17, 2010, hereinafter called GRANTOR, for and in consideration of the sum of Three Thousand, Seventy-two and 75/100 Dollars-----(\$3,072.75) cash in hand paid by CPS Energy , hereafter called GRANTEE, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, sell and convey unto said GRANTEE, its successors and assigns, a permanent right-of-way easement for the construction, reconstruction, repair, operation, maintenance, inspection, patrolling and/or removing of natural gas pipeline and with all necessary or desirable appurtenances, under and across Alazan Creek, San Antonio in Bexar County, Texas, said locations being more specifically described on the plat attached hereto as "Exhibit A".

GRANTEE shall have the right of ingress and egress across the surface of the land within the limits of the easement. GRANTEE shall have the right to remove brush, undergrowth, of other obstructions which could injure, endanger or interfere with GRANTEE’s use of the easement area. GRANTEE shall not damage, destroy or remove any trees within the easement area with a trunk diameter greater than twenty-four (24) inches at a point thirty-six (36) inches above the natural ground surface. GRANTEE shall have the right to assign the easement in whole or in part in accordance with the terms and conditions contained herein.

The right-of-way easement hereby granted is made and accepted under the condition that the construction, operation and maintenance of the utility pipeline shall be in accordance with applicable rules as issued by the Department of Transportation in the Code of Federal Regulations.

The installation, use and maintenance of the pipeline shall be in accordance with the best operating procedures used by a prudent person engaged in the utility industry. GRANTEE shall use the highest degree of care and all proper safeguards to prevent any unauthorized discharges into the waters of the Alazan Creek, San Antonio, Bexar County, Texas. In the event of such discharges, GRANTEE shall be responsible for all damage to public and private property.

GRANTEE shall notify the GRANTOR of any future installations within this easement. Any and all future pipeline installations within this easement shall be subject to the review and approval of the San Antonio River Authority.

This consent shall not constitute a conveyance or release of any right, title or interest held by the San Antonio River Authority in said parcel. In the event of future modifications to flood control or project improvements within Alazan Creek, then CPS Energy or their assigns will be required at their own expense to adjust its utilities to accommodate the modifications.

GRANTOR reserves the right to inspect this and any future installations within this easement.

TO HAVE AND TO HOLD the above described Easement and rights unto the GRANTEE, its successors and assigns, until the use of said easement by GRANTEE shall be permanently abandoned or relocated as hereinabove provided.

EXECUTED this _____ day of November, 2010.

SAN ANTONIO RIVER AUTHORITY

By _____
Suzanne B. Scott
General Manager

ATTEST:

By _____
Stephen T. Graham, P.E. CFM

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the _____ day of November, 2010 by Suzanne B. Scott, General Manager of the San Antonio River Authority, a political subdivision of the State of Texas.

Notary Public, State of Texas

EXHIBIT "A"



LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

FIELD NOTES FOR VARIABLE WIDTH GAS AND ELECTRIC EASEMENT

0.094 of an acre, or 4,097 square feet, more or less, located in the City of San Antonio, Bexar County, Texas and being out of the Alazan Creek Flood Control Channel Easement conveyed to the San Antonio River Authority by ordinance recorded in Volume 4751, Pages 299-312 of the Deed Records of Bexar County, Texas. Said 0.094 of an acre tract being more fully described as follows, with bearings based on the North American Datum of 1983 (CORS 1996), from the Texas Coordinate System established for the South Central Zone;

COMMENCING: at a found San Antonio River Authority monument at the north most corner of a 0.743 of an acre tract recorded in Volume 8454, Pages 1631-1633 of the Official Public Records of Real Property of Bexar County, Texas, an angle point in the west line of said Alazan Creek Flood Control Channel Easement;

THENCE: with the east line of said 0.743 of an acre tract, the west line of said Flood Control Channel Easement, the following courses and distances:

South 39°39'24" East a distance of 95.99 feet to a point,

South 29°29'51" East a distance of 100.00 feet to a point,

South 08°54'35" East a distance of 75.67 feet to a point,

South 01°17'13" East a distance of 55.15 feet to the POINT OF BEGINNING;

THENCE: departing said west line of said Flood Control Channel Easement, South 85°01'56" East a distance of 289.61 feet to a point on the east line of said Flood Control Channel easement;

THENCE: along the east line of said Flood Control Channel Easement, South 02°26'08" West a distance of 14.01 feet to a point;

THENCE: departing the east line of said Flood Control Channel Easement, North 85°01'56" West a distance of 277.73 feet to a point;

THENCE: South 51°38'02" West a distance of 10.67 feet to a point on the north right-of-way line of South Laredo Street;

THENCE: along said north right-of-way line of South Laredo Street, North 84°31'24" West a distance of 2.41 feet to a point, the southeast corner of said 0.743 of an acre tract;

Page 1 of 2

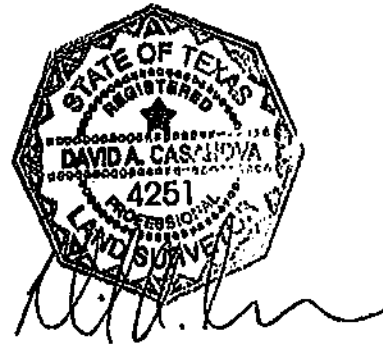
SAN ANTONIO / AUSTIN / HOUSTON

555 East Ramsey San Antonio, Texas 78216
P 210.375.9000 F 210.375.9010 www.pape-dawson.com

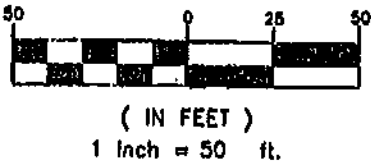
0.094 of an Acre
Job No. 9112-10
Page 2 of 2

THENCE: along the east line of said 0.743 of an acre tract, the west line of said Flood Control Channel Easement, North 01°17'13" West a distance of 21.43 feet to the POINT OF BEGINNING, and containing 0.094 of an acres in the City of San Antonio, Bexar County, Texas, Said tract being described in accordance with a survey made on the ground and a survey map prepared by Pape-Dawson Engineers, Inc.

PREPARED BY: PAPE DAWSON ENGINEERS, INC.
DATE: July 28, 2010
JOB No.: 9112-10
FILE: N:\Survey10\10-9100\9112-10\WORD\0.094 Ac.doc



**PAPE-DAWSON
ENGINEERS**



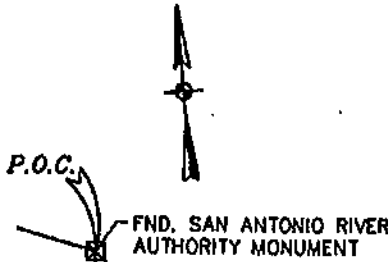
DEED/PLAT REFERENCE

O.R. DEED RECORDS OF BEXAR COUNTY, TEXAS
 O.P.R. DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS
 O.P.R. OFFICIAL PUBLIC RECORDS (OFFICIAL PUBLIC RECORDS OF REAL PROPERTY) OF BEXAR COUNTY, TEXAS

LINE	BEARING	LENGTH
L1	S02°28'08"W	14.01'
L2	S51°38'02"W	10.87'
L3	N84°31'24"W	2.41'
L4	N01°17'13"W	21.43'



LOCATION MAP
K.T.S.



P.O.C.
 FND. SAN ANTONIO RIVER AUTHORITY MONUMENT

FLOOD CONTROL CHANNEL EASEMENT
 VOLUME 4751, PAGE 299, D.R.



0.743 OF AN ACRE
 N.C.B. 895
 VOLUME 8454,
 PAGE 1631, O.P.R.

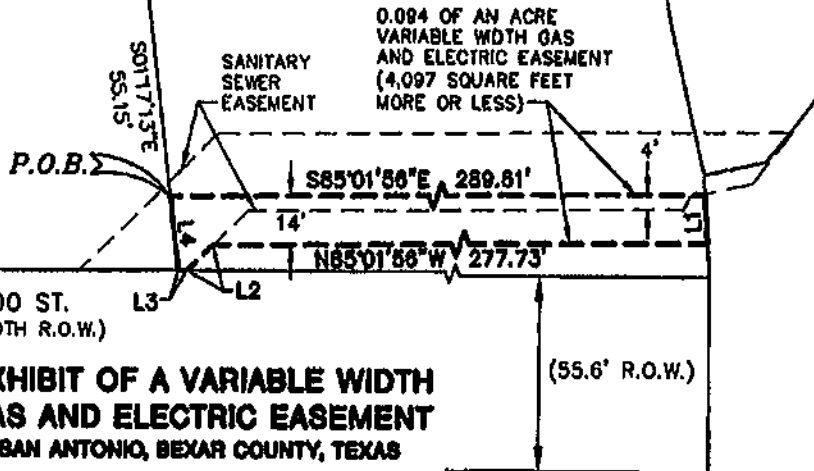
ALAZAN CREEK

0.4376 OF AN ACRE
 N.C.B. 3551
 VOLUME 14287,
 PAGE 694, O.P.R.

FND. 1/2" IRON ROD (BENT) #

NOTES:

- 1) THE BEARINGS FOR THIS SURVEY ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (CORS 1996), FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE SOUTH CENTRAL ZONE.
- 2) THE PROFESSIONAL SERVICES PROVIDED HERewith INCLUDE THE PREPARATION OF A FIELD NOTE DESCRIPTION.



S. LAREDO ST.
 (VARIABLE WIDTH R.O.W.)

**EXHIBIT OF A VARIABLE WIDTH
 GAS AND ELECTRIC EASEMENT**
 SAN ANTONIO, BEXAR COUNTY, TEXAS

(55.6' R.O.W.)



648 EAST DAWNEY | SAN ANTONIO TEXAS 78216 | PHONE: 210.228.9002
 FAX: 210.228.9003

MEMBER BOARD OF PROFESSIONAL ENGINEERS AND ARCHITECTS OF TEXAS
 TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS, FIRM REGISTRATION # 100898-00
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Date: Jul 29, 2010, 7:56am User: D: D:\pape\dw\10\ACAD\VE_911210_CPS_ESMT_B.dwg
 File: K:\Survey\10-9100\9112-10\ACAD\VE_911210_CPS_ESMT_B.dwg

**INTERLOCAL AGREEMENT BETWEEN
SAWS AND THE SAN ANTONIO RIVER AUTHORITY**

This Interlocal Agreement (the “Agreement”) is entered into, in duplicate originals, and effective on this ____ day of _____, 2010, by and between the San Antonio Water System, a wholly owned municipal water and sewer utility of the City of San Antonio, (“SAWS”), as authorized by SAWS Board Resolution No. _____, which was passed on _____, 2010, and the San Antonio River Authority (“SARA”), a political subdivision of the State of Texas as authorized by the Texas Constitution, As authorized by SARA’s Board Resolution No. _____, which was passed on _____, 2010, together the “Parties.”

RECITALS

WHEREAS, both parties intend this Agreement to be in compliance with Chapter 791 of the Government Code, cited as the Interlocal Cooperation Act (the “Act”), as a contract for the provision of facilities to provide wastewater billing services by SAWS on behalf of SARA; and

WHEREAS, SAWS owns and operates a water distribution system and provides water service to some of the same customers which are served by SARA’s sanitary sewer system; and

WHEREAS, SARA is a political subdivision of the State of Texas with operations in the San Antonio area which are adjacent to SAWS’ water and/or wastewater service areas; and

WHEREAS, the parties have specific authority under the Act to enter into an interlocal contract to provide the services contemplated hereunder; and

WHEREAS, SARA has offered to pay SAWS to provide SARA with billing services for sewer service charges to its customers; and

WHEREAS, SAWS has accepted the offer of SARA to perform such services on a year-to-year basis for up to a total term of five (5) years with a provision that service may continue to be provided after this term until a successor agreement is executed between the parties; and

WHEREAS, the functions and services specified in this Agreement are governmental functions or services that either party to the contract is authorized to perform individually;

NOW THEREFORE:

The Parties hereto agree as follows:

1.00 Purpose and Scope of Services.

1.01 Purpose. The Parties acknowledge that the intent of this Agreement is for SAWS to provide SARA with retail billing services for sewer service charges to SARA’s customers.

1.02 Scope of Services

(a) SAWS shall only bill customers of SARA who also receive SAWS' retail water service. SARA will be responsible for initially providing SAWS with the current geographical boundary for SARA's service area as well as any changes to that boundary. Each month SAWS shall bill such customers within that geographical boundary for SARA's sewer service charges at rates determined by the parties for each customer for each service and shall receive the payments made for such charges. The sewer rates are to be determined at the discretion of SARA's Board of Directors, and may be amended from time to time.

(b) Residential customers shall be billed for sewer services based on (1) their Winter Average (as defined by SAWS), (2) the unaveraged rate as determined by SARA, or (3) the interim average (as defined by SAWS), as applicable. Commercial customers shall be billed for sewer services based on the current month's water consumption.

(c) In addition to notifying SAWS of the initial rates to be used for billing for sewer services to each customer by SAWS, SARA shall notify its customers and SAWS in writing of any changes in the rates for sewer service charges including the dates such rates are to become effective not less than thirty (30) days prior to the effective billing date. Furthermore, if SARA establishes a sewer services rate in terms of a cost per hundred cubic feet, SARA shall provide SAWS a converted sewer service rate amount in terms of a cost per hundred gallons for use by SAWS for customer billing purposes.

(d) SAWS shall provide SARA with the names and addresses of all water connections being billed within the SARA sewer service area on a monthly basis. In addition, SAWS shall provide a list of all vacant and/or inactive addresses within the SARA sewer service area on a monthly basis. Accounts will be coded to distinguish those being billed for SARA sewer services from those billed only for water services (septic, irrigation, etc.). It is the responsibility of SARA to notify SAWS of any accounts within SARA's service area that are not properly being billed for sewer service.

(e) Within 30 days of the end of each Winter Average period, SAWS shall provide SARA a list of all residential accounts with their water consumption for each of the three months plus the proposed winter average consumption. Within 30 days prior to implementation of the new winter averages on customer billing, SAWS shall provide to SARA the final version of the list for review and approval.

(f) The first billing made under this Agreement shall be made as determined by agreement between the management of SARA and the management of SAWS. SAWS shall bill SARA's customers thereafter at the same periods and on the same cycle of approximately 30 days' duration for which SAWS bills for its own water service to said customers. SAWS shall utilize its standard billing and collection procedures which may be subject to change.

(g) SAWS shall adjust SARA customer sewer billings in accordance with SAWS procedures and guidelines when customers have experienced a leak during the winter

average period (residential) or for the affected months (commercial). If customers dispute the adjustment provided, they can appeal to a SARA contact. Should SARA determine that further adjustment should be provided, that request should be sent to SAWS Billing Manager and Customer Service Director for implementation.

2.0 Term and Expiration of Services

2.01 The effective date of this Agreement shall be on the date of execution by both parties and after the final approval by both the SAWS Board and SARA's Board of Directors. SAWS shall begin to provide services identified in this Agreement upon receipt of SARA's written authorization to proceed.

2.02 The term of this Agreement shall be renewed on a year-to-year basis for up to five (5) years after the effective date. The terms of this Agreement may remain in effect after the expiration date until a successor agreement is executed between the parties so long as neither party notifies the other party in writing of its intent to terminate this Agreement.

3.00 Payment for Services

3.01 Fees. SARA shall pay SAWS the following fees for its services related to billing and collection of charges:

- (a) \$0.78 per customer per billing period.
- (b) 0.715% of gross billings per billing period to cover uncollectible billings.
- (c) Such Fees are subject to change on January 1 of each year. The Fees will be based upon an allocation of SAWS' actual cost of providing customer service and billing functions. At least thirty (30) days prior to January 1 of each year, SAWS will notify SARA of any such adjustment in Fees.

3.02 Remittance and Reporting.

- (a) By the 15th day of the month immediately after the month in which the last applicable billing cycle ended, SAWS shall furnish to SARA a Sewer Accounts Billable Consumption Report and a Billing Summary Report for sewer accounts.
- (b) After deducting (1) applicable per customer billing charges described in Section 3.01 (a) above; (2) 0.715% of gross billings to cover uncollectible billings; (3) all applicable customer late penalty fees; and (4) all applicable adjustments to sewer billings made as a result of customer inquiry according to SAWS' standard adjustment guidelines or at the request of SARA, SAWS shall remit the net amount to SARA by the 15th day of the month immediately after the month in which the last applicable billing cycle ended.
- (c) Any adjustments or corrections needed to the above remittance to SARA shall be made by SAWS in the next month following the remittance.

(d) The Sewer Accounts Billable Consumption Report and the Billing Summary Report to be provided to SARA by SAWS under Section 3.02(a) above (the "Reports") and the Winter Average reports will be submitted in an electronic format mutually acceptable to both parties. SARA will designate in writing the name and contact information of the SARA employee to receive the Reports. Fields to be included in all reports will be mutually acceptable to both parties. The Reports will be provided in a structured format and/or database system mutually acceptable to both parties. Programming changes necessitated to produce these reports will be accomplished as quickly as possible, but may not be completed before execution of this agreement.

3.03 Other Fees.

SARA shall be responsible for all costs if any, associated with requested research and modifications to the automated billing system of SAWS to accommodate any billing or reporting enhancements requested by SARA. SAWS shall provide to SARA an estimate of the cost for the requested research or modification in advance of making any changes to the billing system. After the research or modifications to the billing system have been made, an invoice of the lesser of the estimated or actual cost of the modification will be sent to SARA. Within 30 days of the delivery by SAWS of the invoice of costs to SARA, SARA shall remit to SAWS an amount equal to SAWS' lesser costs. After 30 days any costs remaining unpaid will be deducted by SAWS from amounts owed to SARA under Section 3.02 of this agreement.

4.00 Liability, Indemnity and Insurance.

4.01 SAWS shall not be responsible for any consequential or incidental damages of any kind or nature that result from or are related to SAWS' conduct under this Agreement.

4.02 To the extent allowed by law, each party agrees to indemnify and hold harmless the other party, its officers, agents, and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorneys' fees, for injury to or death of any person, or for damage to any property, arising out of, or in connection with, SAWS' provision of the water, or water facilities and services, contemplated under this Agreement, where such injuries, death or damages are caused by the joint negligence of each party, its employees, contractors, or agents. It is the EXPRESSED INTENTION of both parties to this Agreement that the indemnity provided for in this paragraph is INDEMNITY BY each party TO INDEMNIFY AND PROTECT the other party from the consequences of its own comparative share of negligence. Since SAWS shall be performing governmental functions on behalf of SARA, SARA shall further assist SAWS in asserting any and all sovereign governmental immunity rights or limitations in defending any claims made against SAWS related to any work performed on behalf of SARA.

4.03 Both parties shall name the other party as an additional insured under its current Commercial General Liability insurance policy, maintain the additional insured requirement throughout the term of this Agreement, and furnish certificates of coverage to the other party upon request, including, a Certificate of Insurance coverage indicating the Commercial General

Liability policy data and the Additional Insured endorsement.

4.04 Billing errors. SAWS shall not be responsible to SARA or its customers for any over billings or under billings of SARA's sewer customers due to incorrect account codes, misclassifications, or issues not related to customer consumption inquiries. Any refunds for overbillings will be paid for by, and be the responsibility of SARA, and SARA shall have the authority to decide whether to back bill customers who were under billed. SAWS will retroactively bill customers on behalf of SARA for two years only.

4.05 Release of liability. SAWS has agreed to pay SARA a settlement of \$595,068.74 relating to SARA customers improperly classified as SAWS sewer customers less \$10,880.51 for research, analysis, and reconciliation services and \$23,797.88 for billing services. In exchange for this settlement amount of \$560,390.35, SARA agrees to release SAWS from any additional liability relating to billing errors or misclassification of customers prior to the date of this agreement.

5.00 Alterations to Agreement and Scope of Work

No amendments to this Agreement shall be considered valid by either Party unless they are in writing and approved by each Party's respective governing body.

6.00 Default and Termination

6.01 If either Party breaches any term, or terms, of this Agreement, then the breaching party shall have thirty (30) days from the date that it receives written notification of the breach from the other Party to commence good faith efforts to cure such breach. If the breach has not been cured within a reasonable period of time, then the non-breaching Party may terminate this Agreement by providing thirty (30) days written notice of its intent to terminate.

6.02 This Agreement may be terminated at will by either party upon written notice by certified mail ninety (90) days in advance of the desired effective date of termination.

6.03 If this Agreement is terminated for any reason prior to the expiration of the year term, SARA shall pay SAWS for all of SAWS' costs incurred prior to the date of termination, including, any and all capital, operation and maintenance expenditures. The calculation of capital costs shall take into account the amount of costs that have been recovered by SAWS up to the date of termination.

7.00 Miscellaneous Provisions.

7.01 Assignment. No assignment of this Agreement, in whole or in part for any purpose shall be made by either SARA or SAWS without the prior written consent of the other Party. Subject to this limitation, this Agreement shall bind and inure to the benefit of the successors and assigns of the Parties.

7.02 Notices. All written notices required by the terms of this Agreement shall be in writing and deposited in the United States mail addressed to such Party at the address set forth below:

If to SARA:

San Antonio River Authority
Suzanne B. Scott, General Manager
100 East Guenther St.
San Antonio, TX 78204

If to SAWS:

San Antonio Water System
Robert R. Puente, President/Chief Executive Officer
P.O. Box 2449
San Antonio, Texas 78298-2449

These addressees and addresses may be changed by either Party by notice in writing to the other Party.

7.03 Interpretation of Agreement. This Agreement or any portion thereof shall not be interpreted by a court of law to the detriment of a Party based solely upon that Party's authorship of the Agreement or any portion thereof.

7.04 Severability. If for any reason, any one or more paragraphs of this Agreement are held legally invalid, such judgment shall not prejudice, affect, impair or invalidate the remaining paragraphs of the Agreement as a whole, but shall not be confined to the specific paragraphs, clauses, or paragraphs of this Agreement held legally invalid.

7.05 Entire Agreement. This Agreement constitutes the entire Agreement between the Parties hereto and supersedes all prior Agreements, understandings and arrangements, oral or written, between the parties thereto with respect to the subject matter hereof.

7.06 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas and the venue for any cause of action shall be brought in Bexar County, Texas.

7.07 Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to one and the same instrument.

7.08 No Waivers. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

7.09 Current Revenues Available and No Tax Revenue. Both parties agree that any payments that are made under this Agreement for governmental functions or services will be made from current revenues available to the paying party. Tax revenue may not be pledged to the payment of amounts agreed to be paid under this Agreement.

7.10 Authority to Agreement. SARA hereby affirms that it has the authority to enter into this Agreement pursuant to a duly adopted resolution and/or ordinance of its Board of Directors and that its General Manger has the authority to execute this Agreement. SAWS hereby affirms that it has the authority to enter into this Agreement pursuant to a duly adopted resolution of its Board of Trustees and that its President/Chief Executive Officer has the authority to execute this Agreement. Each party certifies that the services specified above are necessary and essential for activities that are properly within the statutory functions of each party and serve the interest of efficient and economical administration of each entity.

7.11 No Third Party Beneficiaries. Nothing in this Agreement shall entitle any third party to any claim, cause of action, remedy, or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third party beneficiary contract.

7.12 Force Majeure. If by reason of Force Majeure, SAWS shall be rendered unable in whole or in part to carry out its obligations under this Agreement in accordance with the terms and conditions of this Agreement, it shall not be considered a breach of this Agreement. The term "Force Majeure" as used in this Agreement shall mean acts of God, strikes, lock-outs, or other industrial disturbances, acts of the public enemy, orders of any kind of the federal or state government, or any civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, the partial or entire failure of SAWS, or any other causes not reasonably within the control of SAWS.

7.13 Fair Compensation. Both parties find that all payments described in this Agreement are in an amount that fairly compensates the performing party for the services or functions performed under this Agreement.

SAN ANTONIO RIVER AUTHORITY:

By: _____

Name: Suzanne B. Scott

Title: General Manager

SAN ANTONIO WATER SYSTEM:

By: _____

Name: Robert R. Puente

Title: President/Chief Executive Officer

ACKNOWLEDGMENTS

STATE OF TEXAS §

§

COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2010, by Suzanne B. Scott, General Manager of the San Antonio River Authority, a political subdivision of the State of Texas.

Notary Public, State of Texas

ACKNOWLEDGMENTS

STATE OF TEXAS §

§

COUNTY OF BEXAR §

This instrument was acknowledged before me on _____, 2010, by Robert R. Puente, President/Chief Executive Officer of the San Antonio Water System, a Texas municipal corporation, on behalf of said corporation.

Notary Public, State of Texas

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT
BETWEEN
BEXAR METROPOLITAN WATER DISTRICT
AND
SAN ANTONIO RIVER AUTHORITY**

THIS AMENDMENT shall amend the Interlocal Agreement effective February 23, 1994, by and between Bexar Metropolitan Water District (the "District") and the San Antonio River Authority (the "Authority") (the "Agreement"). Unless otherwise indicated herein, all terms initially capitalized herein shall have the same meaning attributed to such terms in the Agreement and references to section numbers are to sections of the Agreement.

The Agreement is hereby amended as follows, effective November 1, 2010. All other terms and conditions of the Agreement shall remain in force.

Section 2 c is deleted in its entirety and replaced with the following:

Provide revised and updated guidelines to District for sewerage service charge adjustments which are generally consistent with adjustment practices by other public providers of sanitary sewage service in Bexar County and which will relieve District staff of time spent on intensive customer service research and making judgment calls.

Section 3a is deleted in its entirety and replaced with the following:

As full compensation for services provided pursuant hereto, District may retain each month a collection fee in the amount eight percent (8%) of the gross collections of sewer charges, late penalties and regulatory assessments for Authority.

AGREED AND ACKNOWLEDGED:

BEXAR METROPOLITAN WATER DISTRICT

By: _____
Name: Victor M. Mercado
Title: General Manager
Date: _____

SAN ANTONIO RIVER AUTHORITY

By: _____
Name: Suzanne Scott
Title: General Manager
Date: _____