



Control Number: 44992



Item Number: 16

Addendum StartPage: 0

November 16, 2015

Attention: Filing Clerk,
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

2015 NOV 23 AM 10:04
PUBLIC UTILITY COMMISSION
FILING CLERK

Re: Docket No. 44992

Dear Ms. Switzer,

We recently received from your office the following inquiries:

- 1) Commission Staff's First Request for Information to Riverbend Water Resources District Question Nos. Staff 1-1 through Staff 1-6, and *
- 2) Commission Staff's First Request for Information to TexAmerica's Center Question Nos. Staff 1-1 through Staff 1-4.

These inquiries appear to have duplicate questions and will be responded to separately by each entity, but will be combined here for filing purposes

Also, please note a change in the contact for Riverbend Water Resources District. The new contact is Elizabeth Fazio, Chief Operating Officer, at lizfazio@rwr.com, 3930 Galleria Oaks, Texarkana, Texas 75503.

Sincerely,



Elizabeth A. Fazio, J.D., LL.M.
Riverbend Water Resources District
Chief Operating Officer



Scott Norton
TexAmerica's Center
Executive Director/CEO

* Extension requested to provide information for 1-3
on or before December 4, 2015.

DOCKET NO. 44992

**RWRD RESONSES TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO
RIVERBEND WATER RESOURCES DISTRICT
QUESTION NOS. STAFF 1-1 THROUGH STAFF 1-6**

STAFF 1-1 Please refer to Application at page 6, Item No. 12. Please clarify the total purchase price. In particular, clarify the type if debt that Riverbend plans to discharge and how Riverbend plans to discharge the debt. Please provide all supporting documents.

RWRD 1-1 The purchase price for the transfer of wet utilities is \$10,000. See Attachment A. Currently, TexAmerica's Center holds the following debt:

*2014 Series A Bonds in the amount of \$4,080,000 held by BVNT, and
2014 Series B Bonds in the amount of \$6,375,000 held by Regions Bank.*

This debt will be discharged through the issuance of bonds by Riverbend Water Resources District, as follows:

Series A Bonds in the amount of \$5,000,000 held by TWDB, and
Series B Bonds in the amount of \$8,060,000 held by Regions Bank.*

**TWDB is set to review the Series A Bonds issuance at the December 7, 2015 Board Meeting.*

Information supported by Attachment A and provide by Scott Norton and Elizabeth Fazio.

STAFF 1-2 If the debt to be discharged is related to revenue bonds that will remain with the TexAmerica's Center, please explain how assets could be transferred separate from the revenue bonds.

RWRD 1-2 No debt will remain with TexAmerica's Center. All debt will be discharged through the issuance of new bonds.

Information supported by Attachment A and provide by Scott Norton and Elizabeth Fazio.

STAFF 1-3 Please refer to the Application at pages 12-15, Projected Information. Provide five-year projected financial statements for Riverbend, as follows:
a) Statement of Net Position
b) Statement of Revenues, Expenses, and Changes in Net Position
c) Statement of Cash Flows

RWRD 1-3 Please see Attachment B.

** Extension Requested to provide this
information on or before December 4, 2015.*

Information provided by TAC Accountant and RWRD Auditor, Rhonda Jones, and reviewed by Elizabeth Fazio.

STAFF 1-4 Please refer to the Application at page 16, Item No. C Provide details of each required major capital improvement to correct the deficiencies and meet the TCEQ or PUC standards.

RWRD 1-4 An agreed order does exist on a portion of the wet utilities to be transferred. Since the order was entered into, a new system has been added. No further capital improvements are needed tat this time to correct the deficiencies. A mere change in the process control and chemical treatments are correcting the issue.

Information provided by Eli Hunt, Operation Manager, and reviewed by Scott Norton and Elizabeth Fazio.

STAFF 1-5 **Question 1-5: Please refer to the Application at page 17, Item No. 23 Provide a list of the name, class, and license number of operator(s) that will be responsible for the system (the list was not attached to the original filing).**

RWRD 1-5

Name	Class	License No.
Eli Hunt	Wastewater & Water	WW0048362 & WD0012464
Rickie Henderson	Wastewater & Water	WW013966 & WD0002859
Juanita Coleman	Wastewater	WW0035712
Austin Robnett	Wastewater & Water	WW0049988 & WD0012463
Clifford Lee	Water	WW0012338
Keith Adams	Water	WD0010965
Dave Matthews	Wastewater & Water	WW0048364 & WD0009829

Information provided by Eli Hunt, Operation Manager, and reviewed by Scott Norton and Elizabeth Fazio.

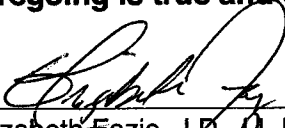
STAFF 1-6

Please provide a copy of the draft or proposed deed of sale or sale of contract between TexAmerica Center and Riverbend.

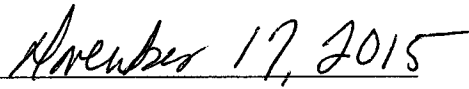
RWRD 1-6

See Attachment A.

"I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct."

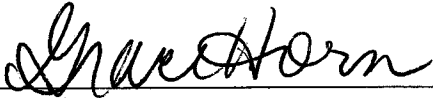


Elizabeth Fazio, J.D., Q.L.M.
Riverbend Water Resources District
Chief Operating Officer

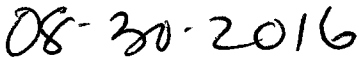
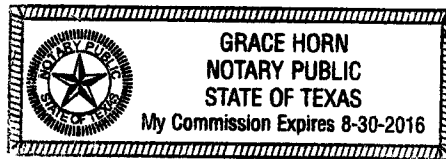


Date

Subscribed and affirmed before me in the county of Bowie, State of Texas,
this 17 day of November, 2015.



Public Notary



Commission Expiration

DOCKET NO. 44992

**TAC RESONSES TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO
TEXAMERICAS CENTER
QUESTION NOS. STAFF 1-1 THROUGH STAFF 1-4**

STAFF 1-1 Please refer to the Application at page 3, Item No. 5. Confirm whether there are customers affected by this transaction who have deposits held by the transferor or seller utility. If there are such customers:

a) Please use the spreadsheet copied below... N/A

b) Please provide information regarding... N/A

TAC 1-1 *There are no deposits held by current customers that will be affected by this transaction.*

Information provided by Eli Hunt, Operations Manager, and reviewed by Scott Norton and Elizabeth Fazio.

STAFF 1-2 Please refer to the Application at page 16, Item No. C Provide details of each required major capital improvement to correct the deficiencies and meet the TCEQ or PUC standards.

TAC 1-2 *An agreed order does exist on a portion of the wet utilities to be transferred. Since the order was issued, a new system has been added. No further capital improvements are needed tat this time to correct the deficiencies. A mere change in the process control and chemical treatments are correcting the issue.*

Information provided by Eli Hunt, Operation Manager, and reviewed by Scott Norton and Elizabeth Fazio.

STAFF 1-3 Please refer to the Application at page 6, Item No. 12. Please clarify the total purchase price. In particular, clarify the type of debt that Riverbend plans to discharge and how Riverbend plans to discharge the debt. Please provide all supporting documents.

TAC 1-3 *The purchase price for the transfer of wet utilities is \$10,000. See Attachment A.*

Currently, TexAmerica's Center holds the following debt:

*2014 Series A Bonds in the amount of \$4,080,000 held by BVNT, and
2014 Series B Bonds in the amount of \$6,375,000 held by Regions Bank.*

This debt will be discharged through the issuance of bonds by Riverbend Water Resources District, as follows:

Series A Bonds in the amount of \$5,000,000 held by TWDB, and*

Series B Bonds in the amount of **\$8,060,000** held by Regions Bank.

*TWDB is set to review the Series A Bonds issuance at the December 7, 2015 Board Meeting.

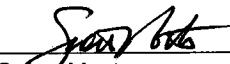
Information supported by Attachment A and provide by Scott Norton and Elizabeth Fazio.

STAFF 1-4 If the debt to be discharged is related to revenue bonds that will remain with the TexAmerica Center, please explain how assets could be transferred separate from the revenue bonds.

No debt will remain with TexAmerica's Center. All debt will be discharged through the issuance of new bonds.

Information supported by Attachment A and provide by Scott Norton and Elizabeth Fazio.

"I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct."




Scott Norton
TexAmerica's Center
Executive Director/CEO

11/17/15

Date

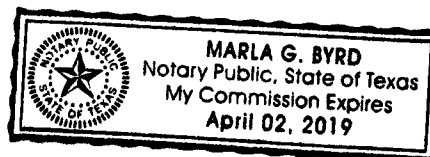
Subscribed and affirmed before me in the county of Bowie, State of Texas,
this 17th day of November, 2015.



Public Notary

4-2-19

Commission Expiration



**DOCKET NO. 44992
RWRD/TAC RESONSES TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

ATTACHMENT A

**RWRD/TAC
AGREEMENT FOR PURCHASE AND SALE OF ASSETS AND
ASSIGNMENT AND ASSUMPTION OF CONTRACT RIGHTS**

**DOCKET NO. 44992
RWRD/TAC RESONSES TO
COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION**

ATTACHMENT B

CASHFLOWS TO BE PROVIDED BY RWRD, FORTHCOMING.



RESOLUTION NO. 20150526-09

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT
FOR PURCHASE AND SALE OF ASSETS AND ASSIGNMENT AND
ASSUMPTION OF CONTRACT RIGHTS BY AND BETWEEN
TEXAMERICAS CENTER AND RIVERBEND WATER RESOURCES
DISTRICT**

WHEREAS, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, Riverbend Water Resources District is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 9601 of the Special District Local Laws Code of the State of Texas; and

WHEREAS, TexAmericas Center and Riverbend Water Resources District have entered into negotiations for the sale by TexAmericas Center and purchase by Riverbend Water Resources District of portions of the Water Utility System, Wastewater Utility System, and Industrial Wastewater Treatment Utility System currently owned and operated by TexAmericas Center; and

WHEREAS, the Board of Directors of TexAmericas Center finds that the transfer of the Wet Utility Systems to Riverbend Water Resources District is in the best interests of TexAmericas Center and is both incidental to, and necessary for, the development, redevelopment, maintenance and expansion of new and existing businesses located on TexAmericas Center, and for future development of the property owned by TexAmericas Center.

WHEREAS, the parties have reached agreement upon substantially all of the terms and conditions of the proposed transaction; and

WHEREAS, the parties desire to enter into a written agreement with regard to the transactions;

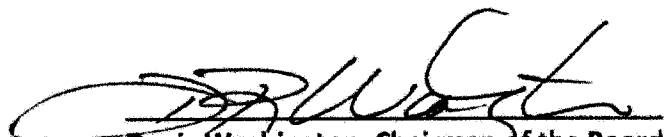
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of TexAmericas Center that it enter into a Agreement for Purchase and Sale of Assets and Assignment and Assumption of Contract Rights with Riverbend Water Resources District in substantially the form of the

Agreement for Purchase and Sale of Assets and Assignment and Assumption of Contract Rights attached to this Resolution as Exhibit "A" and incorporated herein for all purposes; and

BE IT FURTHER RESOLVED that Scott Norton, Executive Director/CEO of TexAmericas Center shall be and he is hereby authorized to undertake such actions and activities as may be necessary to consummate the transaction including but not limited to making minor variations of the terms of the agreement should said actions be necessary prior to its execution; and

BE IT FURTHER RESOLVED that Denis Washington, Chairman of the Board of Directors of TexAmericas Center shall be and he is hereby authorized to execute the Agreement for Purchase and Sale of Assets and Assignment and Assumption of Contracts in substantially the form attached to this Resolution.

PASSED and APPROVED this 26th day of May, 2015.


Denis Washington, Chairman of the Board

ATTEST:


Boyd Sartin, Secretary/Treasurer

Attached: Exhibit "A"

AGREEMENT FOR PURCHASE AND SALE OF ASSETS
AND
ASSIGNMENT AND ASSUMPTION OF CONTRACT RIGHTS

This *Agreement for Purchase and Sale of Assets and Assignment and Assumption of Contract Rights* is made by and between TexAmericas Center, a political subdivision of the state of Texas, acting by and through its duly authorized Chairman of the Board, Denis Washington (hereinafter called "TAC"), and the Riverbend Water Resources District, a conservation and reclamation district of the State of Texas, acting by and through its duly authorized President and Chairman of the Board, Kelly Mitchell (hereinafter referred to as "Riverbend"), and is effective as of the date set opposite the signature of the last party to execute this agreement below.

RECITALS

WHEREAS, TAC is a governmental agency and political subdivision of the state of Texas, existing pursuant to and having the power set forth in Chapter 3503 of the Special District Local Laws Code of the State of Texas;

WHEREAS, Riverbend is a conservation and reclamation district created under and essential to accomplish the purposes of Section 59 Article XVI, Texas Constitution, existing pursuant to and having the powers set forth in Chapter 9601 of the Special District Local Laws Code of the State of Texas;

WHEREAS, TAC is or has been the fee simple absolute owner of the tracts of property received from the United States of America (either directly or through one or more of its constituent agencies or departments) as reflected in the records of the office of the County Clerk of Bowie County, Texas (hereinafter called the "Real Property");

WHEREAS, TAC is the owner and holder of certain easement and property access rights relating to the location of and operation of potable water, waste water and industrial waste water systems on the current and former footprints of the Red River Army Depot and Lone Star Army Ammunition Plant in Bowie County, Texas, which are more particularly described in the records of the office of the County Clerk of Bowie County, Texas (hereinafter called the "Existing Easements");

WHEREAS, on or about April 15, 2002, TAC, f/k/a Red River Redevelopment Authority entered into a solicitation, offer and award with Red River Army Depot providing for the provision of water, wastewater treatment, and industrial wastewater treatment, under Solicitation Number DAAE32-00-R-7016, Contract Number DAAE32-02-D-0008. On or about September 24, 2013, said solicitation, offer and award was amended by execution of that certain Amendment of Solicitation/Modification of Contract which has been assigned Amendments/Modification Number P00016 (hereinafter collectively referred to as the "Army Wet Utilities Contract");

WHEREAS, pursuant to the Army Wet Utilities Contract and certain of the Army Title Conveyance Documents, Red River Army Depot (and/or the United States of America and/or the Department of the Army) transferred ownership of portions of the potable water system,

domestic waste water system, and industrial waste water systems, together with related intake structures, pump stations, water treatment storage and distribution facilities and the easement for transmission and distribution lines in place to TAC, and certain parcels of real property related thereto, either by deed conveyances, by leases in furtherance of conveyance, and by bills of sale;

WHEREAS, TAC is presently the operator/permittee under those certain water, wastewater, and industrial wastewater permits which are described in Schedule C-1 (hereinafter the "Water Permits") and those certain certificates of convenience and necessity, more particularly described in Schedule C-2 (hereinafter called the "CCNs"), which exhibits are attached hereto and incorporated herein for all purposes;

WHEREAS, TAC is the issuer of those certain outstanding revenue refunding bonds and revenue improvement bonds, which are more particularly described on Schedule D-1, which is attached hereto and incorporated herein for all purposes (hereinafter called the "Outstanding Bonds");

WHEREAS, in addition to the Army Wet Utilities Contract, TAC has entered into contracts providing for the delivery of potable water and for domestic wastewater treatment with third parties which are more particularly described on Schedule E-1, which are incorporated herein for all purposes (hereinafter called the "Utility Supply Contracts");

WHEREAS, TAC entered into that certain agreement for wastewater treatment with Day & Zimmermann Lonestar, LLC, (hereinafter called "D&Z") dated September 1, 2010 (hereinafter referred to as the "D&Z Contract");

WHEREAS, TAC and the City of Texarkana, Texas have entered into the following agreements relating to portions of the Wet Utility Systems:

- A. *Water Supply Contract* effective on or about July 28, 2011, as subsequently amended by that certain *Amendment Number One to Water Supply Contract*, effective July 9, 2012 (jointly the "Texarkana Water Supply Contract");
- B. *Economic Development Water System Transfer Contract* effective on or about July 28, 2011, as subsequently amended by that certain *Amendment Number One to Economic Development Water System Transfer Contract* (jointly the "Texarkana EDC Agreement");
- C. *Bill of Sale* effective July 27, 2012, giving effect to the transfers contemplated by the foregoing, as subsequently amended by that certain *Amendment Number One to Bill of Sale Between TexAmericas Center and City of Texarkana, Texas*, dated December 11, 2012 (jointly the "Texarkana Bill of Sale").

(the Texarkana Water Supply Contract, Texarkana EDC Agreement, and the Texarkana Bill of Sale are collectively referred to herein as the "Texarkana Contracts").

WHEREAS, TAC owns and operates facilities constituting portions of the potable "Water System", the "Wastewater Treatment System", and the "Industrial Wastewater Treatment System") on portions of the current and former Red River Army Depot and the former Lone Star Army Ammunition Plants (which systems that are presently owned by TAC are collectively hereinafter referred to as the "Wet Utility Systems" and/or "Wet Utilities Systems"); provided, however, all portions of the facilities known as Elliott Lake, Caney Lake, and the 16" water line connecting the same to the remainder of the Water Systems are specifically excluded from said defined terms;

WHEREAS, TAC's ownership and operation of the Wet Utility Systems and the ownership and use of the property associated therewith are governed by certain of the terms and conditions contained in some or all of the following documents and agreements, to-wit:

- A. That certain *Memorandum of Agreement No. DACA63-9-99-0539*, dated 4 May 1999, as subsequently amended on or about 18 May 1999, 22 May 2000, 11 January 2002, and 1 May 2002 (hereinafter called the "RRAD 1999 MOA");
- B. That certain *Department of the Army Easement for Water, Sanitary Sewer and industrial Wastewater Utility Systems located on Red River Army Depot, Bowie County, Texas, No. DACA63-2-02-0534*, recorded in Volume 3931, Page 6, of the Official Records of Real Property of Bowie County, Texas, as the same may have been subsequently amended (hereinafter the "Army 2002 Express Easement")
- C. That certain *Bill of Sale (Water, Sanitary Sewer and Industrial Wastewater) for Personal Property at Red River Army Depot, Bowie County, Texas*, dated 1 May 2002, recorded in Volume 3931, Page 1, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "Army 2002 Bill of Sale");
- D. That certain *Deed Without Warranty (Water)* between the United States of America, acting by and through the Secretary of the Army and Red River Redevelopment Authority, dated 1 May 2002, recorded in Volume 3930, Page 327, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "2002 Water Plant Deed");
- E. That certain *Deed Without Warranty* between the United States of America, acting by and through the Secretary of the Army and Red River Redevelopment Authority, recorded in Volume 3072, Page 161, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "Army 1999 Master Deed");
- F. The following additional instruments:
 - i. *Deed Without Warranty* recorded in Volume 4569, Page 1, of the Official Records of Real Property of Bowie County, Texas;
 - ii. *Deed Without Warranty* recorded in Volume 3072, Page 237, of the Official Records of Real Property of Bowie County, Texas;

iii. *Deed Without Warranty* recorded in Volume 3632, Page 89, of the Official Records of Real Property of Bowie County, Texas; (hereinafter called the "1999 Army Excepted Tract Deeds")

- G. That certain *Department of the Army Economic Development Conveyance Memorandum of Agreement with Red River Redevelopment Authority*, dated 1 September 2010, as the same may have been subsequently amended;
- H. That certain *Deed Without Warranty* recorded in Volume 5898, Page 1, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "Army LSAAP 2010 Deed");
- I. That certain *Bill of Sale for Personal Property*, between the United States of America, acting by and through the Secretary of the Army, and the Red River Redevelopment Authority, dated 1 September 2010 (hereinafter called the "Army 2010 LSAAP Bill of Sale");
- J. That certain *Department of the Army Easement for Utility Rights-of-Way located on Lonestar Army Ammunition Plant (Area U) Bowie County, Texas*, No. DACA63-2-10-0590, recorded in Volume 5898, Page 140, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "LSAAP Area U Deed");
- K. That certain *Department of the Army Easement for Utility Rights-of-Way located on Lonestar Army Ammunition Plant (Area W) Bowie County, Texas*, No. DACA63-2-10-0539, recorded in Volume 5898, Page 154, of the Official Records of Real Property of Bowie County, Texas (hereinafter called the "LSAAP Area W Deed");
- L. That certain *Deed without Warranty, Red River Army Depot Installation, Bowie County, Texas*, recorded in Volume 6114, Page 1, of the Official Records of Real Property of Bowie County;
- M. That certain *Supplemental Agreement No 2 to Department of the Army Easement for Water, Sanitary Sewer and Industrial Wastewater Utility Systems located on Red River Depot, Bowie County, Texas* No. DACA63-2-02-0534, recorded in Volume 5898, Page 172, of the Official Records of Real Property of Bowie County, Texas;
- N. All *Memoranda of Understanding* or *Memoranda of Agreement* relating to historical preservation on any of the properties owned by TAC, or over and across which TAC has easement rights.
- O. All other documents and agreements executed between the United States of America and TAC (or its predecessor Red River Development Authority) relating to the Wet Utility Systems or the property which are the subjects of this Agreement;
- P. All Leases in Furtherance of Conveyance executed in connection with any of the foregoing documents, to the extent they are still in effect, including but not limited to that certain Lease in Furtherance of Conveyance for the property upon which the industrial wastewater treatment plant is located.

(hereinafter collectively referred to as the "Army Title Conveyance Documents").

WHEREAS, TAC wishes to sell and assign to Riverbend, and Riverbend wishes to purchase from TAC, certain of the assets and contractual rights of TAC, and to assume certain of the terms and conditions hereinafter set forth;

NOW, WHEREFORE, PREMISES CONSIDERED, for and in consideration of the mutual covenants, warranties, and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by all parties, TAC and Riverbend hereby agree as follows:

ARTICLE 1. PURCHASE AND SALE OF ASSETS

TAC agrees to sell and/or assign to Riverbend, and Riverbend agrees to purchase, accept and assume from TAC, upon the terms and conditions hereinafter detailed, the assets as described in this Article 1 consisting of the following:

1.01 PHYSICAL PLANT PERSONAL PROPERTY

- A. RRAD Water, Wastewater and Industrial Wastewater Systems.** All of TAC's interest in and to the potable water, wastewater, and industrial wastewater systems located on real property owned by the United States of America, that is associated with the Red River Army Depot, Bowie County, Texas, including those as set forth in Army Title Conveyance Documents and such other related systems as may have been constructed thereon subsequent thereto, which lie within the boundaries of the aforementioned property, and any such systems which TAC may acquire from the United States of America in the future, with the exception of the property and facilities associated therewith commonly known as Caney Lake and Elliott Lake, which TAC may retain or convey in its sole discretion.
- B. TAC-East Campus, TAC-Central Campus and TAC-West Campus Water, Wastewater and Industrial Wastewater Systems.** All of TAC's interest in and to the potable water, wastewater, and industrial wastewater systems located on real property owned by TAC (formerly known as Red River Development Authority), that was formerly associated with the Red River Army Depot, Bowie County, Texas, and/or the Lone Star Army Ammunition Plant, Bowie County, Texas, including those as set forth in the applicable provisions of the Army Title Conveyance Documents, and such other related systems as may have been constructed thereon subsequent thereto, including, but not limited to those systems which lie within the boundaries of the aforementioned property, but subject to and excluding any prior conveyances by TAC of any of the same, and specifically excluding any portions thereof previously conveyed to the City of Texarkana, Texas under the Texarkana EDC

Agreement and the Texarkana Bill of Sale.

- C. Utility Interconnect Jumper. Utility Interconnection Jumper between the TAC-East Campus and the Red River Army Depot parcels adjacent thereto, which is more particularly described on Schedule F-4 hereto;
- D. D&Z Wastewater System. All of the wastewater collection, transmission, and treatment facilities owned by TAC which are located on property owned by D&Z which is adjacent to the TAC East Campus.
- E. Million Gallon Water Storage Tank. The on-ground water storage tank currently under development on the Red River Army Depot property, together with any other Capital Improvement Program projects that are in development or under construction.

1.02 PHYSICAL PLANT REAL PROPERTY.

- A. All of those certain tracts or parcels of land more particularly described on Schedule G-1, attached hereto and incorporated herein for all purposes.
- B. Assignment of TAC's right to that portion of the Real Property held by TAC under a Lease in Furtherance of Conveyance upon which sits the Industrial Wastewater Treatment plant.

1.03 EASEMENT RIGHTS

- A. Existing Utility Easements on US Government Property. All of TAC's rights under the Existing Easements for the location of the Utility System, \ and for access thereto, on, over, or across real property owned by the United States of America, but specifically excluding the licenses, easements and rights-of-way for access contained therein that are on, over and across adjoining parcels now or previously owned by TAC, which are reserved by TAC, and are excluded from this paragraph. This paragraph shall not apply to any access, roadway or other easements over such properties that are not related to the location and operation of the Wet Utility Systems, including easements for access to non-contiguous TAC properties.
- B. New Easement over TAC-owned Property for existing system. A nonexclusive, perpetual easement for the location of the existing functional potable water, sanitary sewer and industrial wastewater treatment facilities, including all pipes, lines pipelines, distribution systems, pump stations, valves, manholes, equipment, appurtenances and related facilities (above-ground and underground) as required for the operation of the Wet Utility Systems, over, across, in, through and upon the lands now owned by TAC.

The easement shall extend fifteen (15) feet on either side of all presently existing functional water and sewer lines, pipes, pipelines, appurtenances, related facilities and improvements, and thirty (30) feet around all lift stations and pump stations wherever that may occur within said lands owned by TAC. Without in any way limiting the non-exclusive nature of the easement described in this section, it is specifically agreed that TAC, and its successors and assigns, may co-locate additional and different utility infrastructure in said easements along with the Wet Utility Systems.

The easement(s) described in this section shall be subject to 1) any existing roads or roadways, 2) existing improvements located on any portion of the Property as of the date hereof which fall within the easement areas, 3) subject to all terms, restrictions, reservations, and obligations imposed upon TAC by Army Title Conveyance Documents, and any other agreements with the United States of America and/or the Department of the Army related to the property, and 4) all other easements, rights of way, conveyances and other interests appearing of record as of the effective date hereof, and further subject to any future easements imposed by TAC in its sole discretion, 5) other uses of the easements by TAC (and its successors and assigns) in its discretion to the extent that they do not unreasonably interfere with the Wet Utility Systems or Riverbend's operations thereof.

- C. The non-exclusive right to use any easements retained by TAC in prior conveyances to third parties for the location of portions of the Wet Utility Systems on said tracts.
- D. Except as otherwise specifically set forth herein, all other easements of every kind and character transferred to TAC or previously retained by TAC that do not directly relate to the location of the Wet Utility Systems are retained by TAC and are not conveyed or granted hereunder.

1.04 Contract Rights.

- A. Army Wet Utilities Contract. All of TAC's rights, duties, and obligations arising from and after the date of Closing under the Army Wet Utilities Contract, as the same may have been or will be subsequently amended.
- B. D&Z Contract. All of TAC's rights, duties, and obligations arising from and after the date of Closing under the D&Z Contract, as the same may have been or will be subsequently amended.
- C. Utility Supply Contracts. All of TAC's rights, duties, and obligations arising from and after the date of Closing under the Utility Supply Contracts for the provision of water, and wastewater/sanitary sewer treatment and industrial wastewater treatment between TAC and any third parties not otherwise

included within subsections (A) and (B) of this section 1.04, including, but not limited to, those contracts listed on Schedule E-1 hereto.

D. Texarkana Water Supply Contract. All of TAC's rights, duties, and obligations arising from and after the date of Closing under the Texarkana Water Supply Contract, as the same may have been or will be subsequently amended.

E. Existing Capital Improvement Program Projects. All of TAC's rights, duties and obligations arising from and after the date of Closing under any pending construction projects forming a portion of the capital improvement program of the Army Wet Utilities Contract, including, but not limited to those more particularly described on Schedule "K-1" which is attached hereto and incorporated herein for all purposes (hereinafter called the "Capital Improvement Program Projects").

1.05 Inventory, Equipment, Furniture and Fixtures.

All of the following items on hand in TAC's possession as of the day of Closing:

- A. Inventories of chemicals, supplies, stock, parts and consumables used in the testing and operation of the Wet Utility Systems. (hereinafter called the "Inventory").
- B. All equipment, fixtures, apparatus, tools, controls, monitoring systems, and other items of a similar character that are used exclusively for the operation and maintenance of the Wet Utility Systems conveyed hereunder;
- C. All of those specific computer systems, printing equipment, office equipment, and furniture which are more particularly described on Schedule I-1, attached hereto and incorporated herein for all purposes. Any such computers shall be delivered with newly formatted hard-drives, along with the operating system and office productivity suite installation media/software and licenses for the same which came originally installed on said systems;
- D. All computer software licenses, maintenance agreements, and warranties relating to any of the computer systems conveyed in the previous subsection (but not including any proprietary data of TAC);

1.06 Copies of Maps and Records. The right to receive one copy each (but not the originals) of TAC's presently existing maps, diagrams, specifications, descriptions, drawings, plans, and records relating to the location, and design, of

the Wet Utility System. All such copies shall be presented in electronic form, if available. TAC's third-party archivist/record keeper (currently MTG Engineers) for certain portions of said records shall be directed to set up a segregated system for storage of Riverbend's copies of such records. Riverbend shall each be responsible for paying their respective costs to MTG for said services following Closing.

1.07 Vehicles. All of the vehicles more particularly described on Schedule H-1, which is attached hereto and incorporated herein for all purposes, and any replacements thereof acquired prior to Closing, subject to the possibly of obsolescence, damage and destruction prior to Closing. All vehicles will be conveyed as-is, where-is, with all faults.

1.08 Permits and CCNs. All of TAC's rights, duties and obligations under the Permits and CCNs, to the extent the same are transferable or assignable and assumable.

1.09 Acquired Assets. The properties, rights, interests and other assets to be acquired by Riverbend from TAC pursuant to this Section 1 are collectively called the "Acquired Assets".

1.10 Excepted Assets. Riverbend is not purchasing, and TAC shall retain ownership of, all of the following items:

- A.** All revenues, profits and income and receipts derived from the ownership and operation of the Wet Utility Systems up to and including the day prior to Closing. Any such funds received by Riverbend following Closing shall be paid to TAC within ten (10) days of Riverbend's receipt thereof;
- B.** All cash on hand, including but not limited to bank accounts, cash investments, other investments, reserves, restricted funds, and escrows, and all other financial assets of TAC, regardless of how accounted for in the financial records of TAC;
- C.** Claims for refunds of governmental charges, deposits, reserves, and financial assurances for periods ending on or prior to the Closing Date, including but not limited to any credits due under any annual "true up" of the Texarkana Contracts or the Army Wet Utilities Contract, which, if received by Riverbend following closing in the form of credits or disbursements, shall be paid by Riverbend to TAC in like kind;
- D.** Rights under insurance policies, including rights to any cancellation value on the Closing Date;

- E. All other assets, real or personal, of TAC not specifically provided to be conveyed under this Agreement.
- F. All accounts receivable and other sums due to TAC under the Army Wet Utilities Contract, the Utility Supply Contracts, the D&Z Contract, and the Texarkana Water Supply Contract, which arise from or are related to periods up to and including the day prior to the Closing Date. Any such funds received by Riverbend following Closing shall be paid to TAC within ten (10) days of Riverbend's receipt thereof.
- G. All other financial assets and resources of TAC;
- H. All easements not conveyed hereunder and those specifically retained pursuant to the terms hereof, including but not limited to those described in Section 1.03(D) hereof.
- I. All presently existing, if any, and all future rights which may be conveyed to TAC relating to ownership or any rights to draw water from the lakes commonly known as Caney Lake and Elliott Lake on the current Red River Army Depot property.
- J. All bank accounts in the name of TAC;
- K. All software, imagery, data files, maps, plats, records, documents, files, communications, software licenses, other intellectual property of TAC, and all other computer and data systems.

(hereinafter collectively called the "Excepted Assets").

ARTICLE II. PURCHASE PRICE

2.01. Purchase Price for Acquired Assets. The purchase price for the Acquired Assets shall be determined and paid as follows:

- A. The sum of Ten Thousand and NO/100 Dollars (\$10,000.00);
- B. Payment of all sums necessary to fully rebate and discharge the *TexAmericas Center Water and Wastewater System Revenue Refunding Bond Taxable Series 2014A* bond(s), following application of any sums held immediately prior to Closing by TAC which are derived from Facility Charge #1 under the Army Wet Utilities Contract toward said bonds;
- C. Payment of all sums necessary to fully rebate and discharge the *TexAmericas Center Water and Wastewater System Revenue Improvement Bond Taxable Series 2014B*

bond(s), following application by TAC of the then-current balance of the following funds held by TAC:

- a. Funds on hand derived from Facility Charge #2 under the Army Wet Utilities Contract;
- b. The unexpended original principal of said bond held by TAC as of the date of Closing;

Riverbend, as one of the conditions of the transfer of the Army Wet Utilities Contract, shall issue its own revenue bonds sufficient to fund the obligations contained in subsections B and C of this section 2.01, and to comply with the capital improvement program requirements and the other provisions of the Army Wet Utilities Contract, in its own name and under its own authority. Riverbend shall be solely responsible for providing for and complying with all terms, conditions, stipulations, requirements and other obligations set forth in its bond(s) and as may otherwise be required by its bondholders and related parties.

- D. Assumption of all liabilities of every kind and character relating to any of the agreements or matters referenced in Section 2.03 hereof.

2.02. Payment of Purchase Price. The Purchase Price described in section 2.01 shall be paid as follows:

- A. The purchase price shall be paid in cash at Closing.

2.03. Assumption, in writing at Closing by Riverbend of all of the duties, obligations, covenants, liabilities, terms and conditions of TAC existing now or arising hereafter under each of the following, to-wit:

- A. The Army Wet Utilities Contract;
- B. The Water Permits and the CCNs;
- C. Intentionally Deleted;
- D. The Utility Supply Contracts;
- E. The D&Z Contract;
- F. The Texarkana Water Supply Contract;
- G. Those portions of the Army Title Conveyance Documents that restrict or otherwise govern the use of the land upon which the Wet Utility Systems are located or on which future expansions or relocations of the Wet Utility Systems may be made;
- H. All rights and obligations of TAC for pending orders for additional Inventory, equipment, supplies and tools pending on the day of Closing and the associated obligation to pay for the same in accordance with the terms of said purchase orders;

- I. All pending Capital Improvement Program Projects and all associated contracts and agreements;
- J. Expenses relating to the ownership or operation of the Wet Utility System billed and received on or after the Closing Date;
- K. Obligations to remedy and resolve all pending and/or outstanding Notices of Violation and similar notices arising from or relating to the ownership and operation of the Wet Utility Systems;
- L. All other liabilities and obligations of every kind and character of TAC relating to the ownership and operation of the Wet Utility Systems.

III. REPRESENTATIONS AND WARRANTIES BY TAC.

TAC hereby represents and warrants to and agrees with Riverbend, as follows:

3.01. Organization and Authority of TAC. TAC is a political subdivision of the State of Texas, validly existing and has full power and authority to enter into this Agreement and other Agreements contemplated hereby and to consummate the transactions contemplated hereby according to law.

3.02. Ownership of Personal Property. TAC has good and indefeasible title to the Acquired Assets free and clear of all security interests, liens, encumbrances, restrictions and other burdens including any pledges or other encumbrances incurred or imposed by TAC, except as shown or imposed in any of the Army Title Conveyance Documents, the Outstanding Bonds (and documents executed in connection therewith which will be discharged through the Closing) or otherwise appearing of public record in the office of the County Clerk of Bowie County, Texas.

3.03. Litigation. No material litigation or proceeding is pending or, to the best of TAC's knowledge, threatened against or relating to the Acquired Assets which are the subject of this Agreement, except the following:

- i. Letter demand from the Sierra Club dated December 29, 2010;

3.04. Permit Actions. There are no presently outstanding notices of violation, notices of corrective action, or permit revocation proceedings pending before the United States Environmental Protection Agency or the Texas Commission on Environmental Quality, to the best of TAC's knowledge, threatened, relating to any of the Permits or the CCNs, except the following:

- i. Agreed Order with the Texas Commission on Environment Quality dated August 20, 2008.

3.05. Instruments of Conveyance.

The instruments of conveyance and transfer to be executed by TAC to Riverbend at Closing will effectively convey to Riverbend the title and rights to the Acquired Assets contracted to be conveyed hereunder, subject to all terms and conditions of this Agreement, the Army Title Conveyance Documents, and the Army Wet Utilities Contract.

IV. REPRESENTATIONS AND WARRANTIES BY RIVERBEND

4.01. Organization and Authority of Riverbend. Riverbend is a conservation and reclamation district of the State of Texas, and has full power and authority to enter into this Agreement and other Agreements contemplated hereby and to consummate the transactions contemplated hereby.

4.02. Litigation. No material litigation or proceeding is pending or, to the best of Riverbend's knowledge, threatened against or relating to Riverbend that would make the execution of this Agreement, or the consummation of the transactions contemplated hereby either unlawful or inadvisable to TAC.

V. Covenants of TAC

TAC hereby covenants and agrees that:

5.01. Operation of Wet Utility Systems Before Closing. Prior to the Closing Date and except as otherwise agreed in writing by Riverbend:

a. TAC shall operate the Wet Utility Systems only in the ordinary course of TAC's business;

b. TAC shall use its reasonable best efforts to preserve the personal property composing the Acquired Assets, other than sales and consumable use of any portion thereof in the ordinary course of operating the Wet Utility Systems and shall make emergency repairs to the system as required; provided, however, TAC shall not undertake any additional major capital improvement or expansion projects other than the Capital Improvement Program Projects, unless specifically required under the Army Wet Utility Contract.

5.02. Consents. TAC shall cooperate with Riverbend in its efforts to obtain all necessary consents or approvals of third parties in privity of contract with TAC necessary to transfer or assign any of the Acquired Assets hereunder.

VI. COVENANTS OF BUYER.

6.01. Necessary Actions. Riverbend hereby covenants and agrees that Riverbend shall take all necessary steps to consummate and carry out the transactions contemplated by this Agreement.

6.02. Consents. Riverbend shall use its best efforts to obtain all necessary consents or approvals of third parties necessary to transfer or assign any of the Acquired Assets hereunder, including Permit and CCN transfers/assignments, and shall cooperate with TAC in obtaining the same.

VII. CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

7.01. Leases for Office. TAC and Riverbend shall have executed three separate leases of office and shop space for the operation of the Wet Utility Systems. The leases shall be for buildings 164, 167, and the western office portion of building 228 on the TAC Central campus (which office space, following segmentation from the eastern portion of the building shall be designated as Building 228A). The term of the lease shall be for one year, renewable annually at the option of Riverbend for up to nine (9) successive years, for a total possible term of 10 years. The annual rent shall be \$1 for each building, plus Additional Rent in assignable future water and/or wastewater credits at the following rates per square foot of leased space:

- a) Building 228(A): \$5 per square foot per year;
- b) Building 164: \$2.50 per square foot per year;
- c) Building 167: \$1 per square foot per year;

Each year during any optional extension term, on the commencement date of the extended term, the Additional Rent shall be increased by three percent (3.00%) over the amount of the Additional Rent being charged immediately prior to the anniversary date, and said increased amount shall be the amount due until the next Additional Rent adjustment.

The Additional Rent is earned upon the first day of each successive term of the Lease, and is payable by Riverbend in future credits for water or wastewater services, redeemable by TAC (or its assignees) from Riverbend from the current Wet Utility Systems, any future additions or expansions thereof, and from any future new water treatment plant or facilities owned by Riverbend. Riverbend specifically acknowledges that TAC may request application of accrued water or sewer credits from the current Wet Utility Systems (and any future additions or expansions thereof) prior to the completion of any future water treatment facilities by Riverbend.

In order to redeem any accrued water or wastewater credits, TAC (or its assignee) shall give Riverbend notice, by June 30th of each year, for credits to be redeemed in the following budget year. TAC (and its assignees) shall not be permitted to redeem more than twenty percent (20.00%) of the then-current balance of TAC's accrued water and wastewater credits arising from the Additional Rent during any ninety (90) day period. Said requests are subject to Riverbend's budgetary ability to meet the same. ~~Said requests are subject to Riverbend's budgetary ability to meet the same.~~



7.02. TAC giving Required Notices. TAC shall have given any and all notices to any and all person, entities or regulatory authorities of its intent to transfer the Acquired Assets and

shall have taken any and all action required by statute, regulation or regulatory authorities in order to transfer such Acquired Assets, except as otherwise provided herein.

7.03. TAC's Representations and Warranties. All representations and warranties made by TAC contained in this Agreement shall be true in all material respects at and as of the time of Closing as though such representations and warranties were made at and as of such time except for changes specifically required or permitted to occur by any such representations or warranty.

7.04 Rights, Powers and Approval. Riverbend shall have acquired the necessary rights, powers and approval of any local, state or federal agency for the operation of the Wet Utility Systems to include, but not limited to, any permits, CCNs or other necessary documents.

7.05 Bonding Riverbend shall have acquired the necessary funds to fully rebate and discharge TexAmericas Center Series 2014A and 2014B bonds.

7.06 Discovery Riverbend shall not have discovered any one or more materially significant errors, the aggregate of which are materially adverse to Riverbend and which, after notice by Riverbend, have or have not been adequately remedied to the satisfaction of Riverbend. Nothing in this Agreement shall be deemed to require TAC to remedy any such error(s) prior to Closing. Riverbend has been provided the opportunity to conduct such due diligence investigation as it deems necessary and advisable, and the purchase and sale of all of the Acquired Assets are on an "AS IS", "WHERE IS", and "WITH ALL FAULTS" basis, as more particularly set forth in Article XXIV hereof.

VIII. CONDITIONS PRECEDENT TO TAC'S OBLIGATIONS.

All obligations of TAC under this Agreement are subject to the fulfillment at or prior to the Closing Date of each of the following conditions, any of which may be waived by TAC in its sole discretion:

8.01. Riverbend's Representations and Warranties. All representations, warranties and covenants made by Riverbend contained in this Agreement shall be true in all material respects at and as of the time of Closing as though such representations, warranties and covenants were made at and as of such time except for changes specifically required or permitted to occur by any such representation or warranty.

8.02. No Legal Proceedings. No action or proceeding before a Court or other governmental body shall have been instituted or overtly threatened which in the reasonable opinion of TAC and its counsel would make it inadvisable for TAC to close or consummate this transaction.

8.03. Riverbend's Required Action. Riverbend shall have taken all appropriate action regarding the transaction, which shall be evidenced by resolutions of its Board of Directors and certified by its Secretary, authorizing Buyer to enter into and complete this transaction.

8.04. TAC Required Action. Approval by TAC's Board of Directors of the final terms and conditions of this Agreement and the Closing Documents provided to be executed hereunder.

8.05. Third Party Approvals and Novations. Receipt of all necessary approvals and consents required to transfer and assign all of the Acquired Assets to Riverbend, and the release/novation of TAC from all further liability under any agreements or obligations related to any of the Acquired Assets.

8.06. Assignment of Permits and CCNs. All existing Permits and CCNs held by TAC relating to the ownership and operation of the Wet Utility Systems shall have been transferred to Riverbend, and TAC shall have been released from future liability thereunder for circumstances occurring following Closing, and any financial assurances pledged by TAC under said Permits and/or CCNs shall have been discharged, released and/or refunded to TAC. Riverbend shall be solely responsible for obtaining and providing any financial assurances required by any regulatory authority under the Permits or CCNs following transfer of the same to Riverbend.

8.07. Assumption of Obligations by Riverbend. Riverbend shall have assumed in writing all obligations of TAC required to be assumed hereunder, including but not limited to those obligations and duties arising under the Army Wet Utilities Contract, and the Army Title Conveyance Documents (as they relate to the Acquired Assets, but not otherwise), and those contained in Section 2.03 hereof, and the receipt by TAC of written releases/novations of TAC thereunder from ongoing liability.

8.08. License Agreement. Execution of a mutually agreeable written Interlocal License Agreement permitting Riverbend (and its contractors) to enter upon property of TAC adjacent to the Wet Utility Systems, and to use TAC's roads, streets, rights of way, specified easements, and other specified portions of TAC's property in order to access, operate, maintain, install, upgrade, repair, replace, and remove the Wet Utility Systems. This License Agreement shall be conditioned upon 1) the payment of an annual franchise fee equal to three percent (3.00%) of the gross revenue (specifically excluding any revenue derived from Facility Charge #1 and Facility Charge #2 under the Army Wet Utilities Contract) generated by any utility system hereafter owned by Riverbend (or any entity owned and/or controlled or subordinate to Riverbend, and each of their respective successors and, where permitted or required, each of their assigns) upon real property 1) previously owned, now owned, or hereafter owned by TAC, and 2) constituting any portion of the current or prior installations known as Red River Army Depot and Lone Star Army Ammunition Plant (and their respective successors), which franchise fee shall be payable monthly in arrears, 2) a covenant to repair to TAC's reasonable standards all damage to any roads, streets, culverts, ditches or other improvements arising from work performed by Riverbend while maintaining, improving, replacing, repairing or otherwise altering the Wet Utility Systems and any future expansions of the same, and such other terms and conditions as TAC may reasonably require. The initial term of the agreement shall be for a period of thirty (30) years, and shall automatically renew for successive terms of ten years each, unless

terminated by the mutual agreement of both parties hereto, and shall be in a form acceptable to TAC.

8.09. Water and Sewer Service Interlocal Agreement. Riverbend and TAC shall have executed a mutually agreeable interlocal agreement under which Riverbend shall supply water, wastewater, and industrial wastewater service to prior, current and future TAC-owned properties. Such agreement shall contain a provision providing that TAC's rates for said services shall be at a rate equal to the lowest rate charged by Riverbend to any other present or future customer of Riverbend for wet utilities.

IX. TERMINATION

9.01. Failure of Condition. In the event of any of the conditions specified in Articles VII or VIII of this Agreement shall not be fulfilled on or before the Closing Date, or if either party has been informed that one or more conditions will not be satisfied, either Riverbend which respect to the conditions in Paragraph VII, or TAC, with respect to the conditions in Paragraph VIII, shall have the right to either proceed or, upon written notice to the other, to terminate and rescind this Agreement without liability to any other party. The election to proceed shall not affect the right of such electing party reasonably to require the other party to continue to use its best efforts to fulfill the conditions.

9.02. Consent. This Agreement may be terminated at any time prior to Closing by the mutual consent of TAC and Riverbend.

9.03. Failure to Close. Notwithstanding any other provision of this Agreement or law to the contrary, if the transaction contemplated by this Agreement is not closed on or before the 12 month anniversary of executing this Agreement, the same shall thereafter be null and void, unless extended in writing prior to expiration thereof for one additional ninety (90) day period by either party. If said deadline is properly extended, and if the transaction contemplated by this Agreement is not successfully closed on or before end of said additional ninety day (90) period, this Agreement shall thereafter be null and void.

X. CLOSING

10.01. Time and Place. The Closing Date shall be October 1, 2015.

10.02. TAC's Closing Documents. TAC shall execute, and deliver, the following documents at Closing:

- a. Deeds without Warranty to all parcels of real property to which fee title is to be conveyed hereunder, containing disclaimers of warranties, and containing an "AS IS, WHERE IS" and "WITH ALL FAULTS" clause acceptable to TAC, and being further subject to the following:

- i) All prior reservations, conditions, restrictions, covenants, limitations, exceptions and other matters appearing of public record in records of the office of the County Clerk of Bowie County, Texas;
 - ii) All matters set forth in the Army Title Conveyance Documents, and any other agreements between TAC and the United States of America (either directly or through one or more of its constituent agencies or departments), and the Texarkana Contracts;
 - iii) All zoning laws, regulations and ordinances of municipal and/or governmental authorities, if any, but only to the extent that they are still in effect, relating to the hereinabove described property.
 - iv) All rights-of-way and prescriptive rights, whether of record or not; all presently recorded reservations, covenants, conditions, oil and gas leases, mineral severance, mineral reservations and other instruments, other than liens and conveyances, that affect the property; any discrepancies, conflicts or shortages in area of boundary lines; and encroachments or overlapping of improvements; taxes for the current year and subsequent years, the payment of which Grantees assume to the extent the same may be taxable; and prior or subsequent assessments due to change in land usage, ownership or both, the payment of which Grantees assume.
 - v) The terms of the Interlocal License Agreement contemplated by section 8.08 hereof.
 - vi) All other rights and interests reserved to TAC herein.
- b. Bills of Sale with warranties of title (except as to rights reserved in the Army Title Conveyance Documents) to all personal property to be conveyed hereunder, containing an "AS IS, WHERE IS" and "WITH ALL FAULTS" clause and disclaimers of warranties acceptable to TAC, subject to the same exceptions as set forth in the preceding section relating to the Deed without Warranty;
- c. Assignment and Assumption Agreements for all existing obligations, contractual rights, duties, benefits, and easement rights to be conveyed to Riverbend hereunder;
- d. The Easement Agreement contemplated by section 1.03(B) hereof;
- e. The Interlocal License Agreement contemplated by section 8.08 hereof;
- f. The Water and Sewer Service Interlocal Agreement contemplated by section 8.09 hereof;
- g. The Lease contemplated by Section 7.01 hereof;

h. Copies of titles, licenses, permits and all other documentation of TAC relating to the Acquired Assets being acquired by Riverbend as requested by Riverbend.

i. Titles to the vehicles to be conveyed hereunder, properly endorsed for conveyance.

j. Loan documents reasonably acceptable to TAC giving effect to loan described in Section 23.01 hereof.

10.03. Buyer's Closing Documents. Riverbend shall execute, and deliver, the following documents at Closing:

a. All documents described in section 10.02 hereof;

b. Such other assignments, assumptions, conveyances, other assurances, and documents and instruments of transfer reasonably requested by TAC. Riverbend shall also take any other action consistent with the terms of this Agreement that may be reasonably requested by TAC for the purpose of assigning, transferring, accepting, confirming and assuming to Riverbend or reducing to possession any or all property or assets to be acquired hereunder.

c. Such other documents as TAC may reasonably request that are necessary to give effect to any provisions contained elsewhere in this Agreement.

d. Sufficient evidence of proper corporate action by the appropriate governing authority of Riverbend approving the transactions contemplated by this Agreement and authorizing the execution and delivery of all documents necessary to fully effectuate the closing of the transactions contemplated hereby.

10.04. Purchase Price. The Purchase Price shall be paid by Riverbend as set forth in sections 2.01, 2.02, and 2.03 hereof.

10.05. Possession. TAC shall deliver possession of the Acquired Assets upon funding and Closing, except for delivery of final transfer documents relating to the transfers of the easements from the Army and the transfer of the Permits and CCN's on the records of TCEQ, which shall be diligently pursued following Closing.

XI. EXPENSES.

11.01. Transfer Taxes and Recording Fees.

Riverbend shall pay any and all transfer, conveyance, titling, permit assignment or modification fees, financial assurances, escrows, reserves, filing fees, stamp taxes and recording fees incurred in connection with this transaction.

11.02. TAC and Riverbend shall each pay its own closing costs incurred, unless provided otherwise herein. Each party shall each pay its own attorney's fees.

XII. SURVIVAL OF REPRESENTATIONS AND WARRANTIES.

12.01. Survival of Covenants. Each and every obligation, covenant, representation and warranty made by TAC or Riverbend in this Agreement or in any Schedule, Exhibit or any other instrument furnished or to be furnished pursuant hereto shall survive the Closing of the transaction or transactions evidenced hereby and thereafter be binding upon the parties hereto, their heirs, personal representatives, successors and assigns. No such matters shall be considered merged into the Closing of the transactions contemplated hereby. Each section or provision of this Agreement that contemplates performance beyond the Closing date shall be deemed to contain a survival of covenants provision as if set forth in each of them verbatim.

XIII. SUCCESSORS AND ASSIGNS.

13.01. This Agreement, and all rights, duties and obligations created herein, shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns, but shall not be assignable by Riverbend without the prior written consent of TAC, which may be withheld by TAC in its sole and absolute discretion.

XIV. WAIVER AND OTHER ACTION.

14.01. The Seller and the Buyer may, but only by a signed writing, give any consent, waive any condition, or waive any inaccuracies in the representations and warranties by the other and compliance by the other with any of the covenants and conditions herein.

XV. GOVERNING LAW, JURISDICTION AND VENUE.

Any and all questions concerning this Agreement shall be resolved in accordance with the laws of the State of Texas, without regard to its principles of conflicts of law.

Seller and Buyer consent to the jurisdiction and venue of any of the Courts sitting in Bowie County, Texas to hear any and all disputes arising hereunder. This Agreement is performable in Bowie County, Texas.

XVI. ENTIRE AGREEMENT.

This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and undertakings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing.

XVII. PARAGRAPH HEADINGS

The paragraph headings in this Agreement are for convenience only. They form no part of this Agreement and shall not affect its interpretation.

XVIII. COUNTERPARTS.

This Agreement may be executed in two or more counterparts each of which shall be deemed an original but all of which shall constitute but one instrument.

XIX. TIME OF ESSENCE.

Time is of the essence in the performance of this Agreement.

XX. NOTICES.

Any notice or other communication provided for or given to a party shall be in writing and shall be delivered by Certified Mail, Return Receipt Requested, postage prepaid, or in person to the individuals listed below:

To TAC:

TexAmericas Center
Attn: Scott Norton, Executive Director/CEO
107 Chapel Lane
New Boston, TX 75570

Copy To Counsel:

Jordan Law Firm, LLP
Attn: Phillip W. Jordan
#4 Woodmont Crossing
Texarkana, TX 75503

To Riverbend:

Riverbend Water Resources District
Attn: Scott Albert, Exec. Director
3930 Galleria Oaks
Texarkana, TX 75503

Copy To Counsel:

David Glass
Smith Weber, LLP
5505 Plaza Drive
Texarkana, TX 75503

XXI. DEFAULT AND REMEDIES

21.01. Breach. In the event that either party wrongfully refuses to timely close and consummate the transaction contemplated hereby, the non-breaching party's sole remedy shall be to seek specific performance of this Agreement. Should any breach of any ongoing promise or covenant, or obligation occur, the non-breaching party may also seek injunctive relief from a court of proper jurisdiction.

21.02. Informal Dispute Resolution. Prior to filing suit or seeking formal mediation, the parties shall attempt to work together to seek a mutually agreeable resolution to any disputes arising hereunder through informal negotiations.

21.03. Non-binding Mediation. Prior to filing suit and following the information dispute resolutions contained in section 21.02 hereof, the parties shall submit any unresolved disputes to mediation by a licensed mediator, and each party shall participate in good faith in said mediation. The parties shall employ a mutually agreeable mediator, and shall split the mediators fees equally. If the parties cannot agree on a mediator, one shall be appointed by the then-incumbent District Judge of the 202nd District Court of Bowie County, Texas (or any successor court).

XXII. KEY EMPLOYEES.

22.01. Key Employees. Subject to any individual employee's right not to accept employment, and subject to personnel changes occurring between the effective date hereof and the Closing date, Riverbend shall hire the personnel in the positions described on Schedule J-1, which is attached hereto and incorporated herein, who are employed by TAC on the day of Closing, to operate the Wet Utility Systems following Closing. TAC shall release any such key employees from any employment agreements with TAC and from any covenants not to compete, if any, that may apply at the request of each such Employee obtaining employment with Riverbend. Riverbend, at its expense, shall assume and honor all outstanding vacation and sick leave obligations of TAC accrued by any such employee as of the Closing Date. Riverbend, at its expense, shall provide employee benefits, including but not limited to accrued annual leave, sick leave, health insurance, dental and vision insurance, disability insurance, and other benefits and retirement contributions to said employees at reasonably the same (or better) levels and benefits than are currently provided to them by TAC. It is specifically understood that all employees hired by Riverbend shall be "at will" employees, and this Agreement shall not be deemed or construed to create any right or benefit in favor of any third-party employee(s) of either TAC or Riverbend, and shall not create a contractual relationship between Riverbend and any such Employee, and shall not give any right or claim to any such Employee against TAC or Riverbend in relation to the other provisions set forth in this Article. Employees leaving TAC's employ pursuant to the preceding paragraph shall be paid directly by TAC for time/salary obligations incurred up to the day prior to Closing according to TAC's usual and customary payroll schedule and policies. Riverbend shall be responsible for paying said employees from the day of Closing and forward. Riverbend reserves the right to reevaluate salaries and benefits on an as needed basis.

XXIII. ADDITIONAL AGREEMENTS

23.01. Short-Term Operating Capital Loan. TAC will loan Riverbend at Closing the sum of \$900,000.00, payable on or before September 30, 2016 (the "maturity date"), and bearing interest at the then current New York Prime rate as published in the Wall Street Journal until paid in full, subject to any rate limitations imposed by law on political subdivision indebtedness. Riverbend shall grant TAC a first-lien security interest in all accounts, accounts receivable, and other revenues of Riverbend, exclusive of any such items that are required to be

held in reserve or escrow pursuant to Riverbend's bonds to be issued as set forth herein, which shall be held in segregated accounts. If Riverbend has paid all sums due under said loan on or before the maturity date, TAC shall forgive the interest due. If Riverbend has not paid all sums due under said loan on or before the end of the twenty-fourth (24th) month of the loan, TAC may, in its sole and absolute discretion, at any time thereafter elect to take payment of the outstanding balance due under the loan in assignable water and/or wastewater service credits, or may elect to pursue any remedy available at law or equity to enforce collection of said sums due, including enforcement and foreclosure of the aforementioned security interest. TAC may redeem the credits generated under this Agreement in the same manner as those created as payment of Additional Rent, as set forth in section 7.01 hereof. The loan documents to be executed by Riverbend relating to the loan shall include provisions providing for the payment of attorneys fees in the event that Riverbend does not timely pay its obligations due thereunder as set forth therein.

23.02. Consulting Fee. TAC shall pay to Riverbend a consulting fee in exchange for work and consulting services actually provided by Riverbend's executive director between the effective date of this Agreement and the Closing Date, relating to effectuating the terms of this Agreement and consummating the transactions contemplated hereby. Said payments shall be based upon a monthly invoice from Riverbend, which shall include with a general description on tasks worked on or completed by the executive director and the number of hours spent on each, and which shall not include any time expended by said executive director on any other unrelated projects of Riverbend. The maximum amount that will be paid under this paragraph shall be the sum of \$30,000.00, regardless of the amount of time expended by Riverbend's executive director, and the length of time between execution of this Agreement and Closing. The maximum amount of any one-month's invoice shall be the sum of \$7,500.00.

23.03. Updates to Maps and System Specifications. Riverbend shall at all times hereafter maintain complete and accurate records of all specifications, designs, alterations, additions, subtractions, and other modifications to the Wet Utility Systems, including maps and drawings showing the location of all parts of the said systems, and shall provide TAC a complete and correct digital copy of each when received by Riverbend, at no cost to TAC. Said documents and records shall be maintained in at least the same or reasonably similar condition and manner as maintained by TAC (and its contractors) prior to Closing. Riverbend hereby consents and agrees that TAC may contact any third parties in possession of any such materials to obtain complete and accurate copies of the same, and hereby irrevocably consents to the release of such items to TAC (and its successors and assigns) upon its reasonable request for the same.

23.04. Level of Service. Riverbend agrees to use all reasonable means to provide at least the same or a higher level of service to the military and non-military users of the Wet Utility System following Closing.

23.05. Intentionally Deleted.

23.06. ENVIRONMENTAL CONDITIONS. Riverbend acknowledges that TAC has advised it there are significant environmental pre-existing conditions on some or all of the

properties where the Wet Utility Systems are located. TAC will provide unfettered access to all environmental studies, conditions and documentation in TAC's possession that are relevant to the operation and maintenance of the Wet Utility Systems. Riverbend will exercise caution and will comply with all environmental laws, rules, regulations, ordinances, covenants, conditions, restrictions, and other rules applicable thereto, including but not limited to those contained in the Army Title Conveyance Documents.

Riverbend shall not cause any Hazardous Materials to be brought onto or stored in, on or under any property owned by TAC or occupied by the Wet Utility Systems without the prior written consent of TAC, unless the same has regularly been used by TAC in the operation of the Wet Utility Systems previously, or which has been specifically approved in writing by TAC. Any such substances brought onto said premises shall be transported, stored, handled, used and disposed of in accordance with applicable law and standards of due care.

23.07. Reporting Requirements and Remediation Obligations. In the event that there is ever a release, discharge, violation or other occurrence caused by the Wet Utility Systems, by Riverbend, or by Riverbend's agents, employees, contractors, guests, invitees, or other parties in privity of contract with Riverbend on property owned, leased or controlled by TAC that triggers any reporting requirement to any federal, state, or local agency, political subdivision, or department, or to Red River Army Depot, the Department of the Army or the United States Army Corps of Engineers under the Army Wet Utilities Contract or the Army Title Conveyance Documents, or results in a notice of violation or potential violation, Riverbend shall immediately use all available means to contact the Executive Director/CEO of TAC or his/her designee to notify TAC of the same. Riverbend shall also provide copies of all correspondence, notices, pleadings, responses, and submissions relating to any such matters to TAC upon its receipt or sending thereof.

Riverbend shall be solely responsible for and agrees to perform at its expense all of the cleanup of any such releases, discharges, or other matters caused by Riverbend or its agents, employees, contractors, guests, invitees, or other parties in privity of contract with Riverbend or in any way relating to or arising from the ownership and operation of the Wet Utility Systems (as now existing or hereafter altered or expanded) that affect the real property of TAC, or which otherwise subject TAC to liability, and to remediate to the applicable standards required by law and as requested by TAC any such property affected thereby at Riverbend's sole cost and expense.

RIVERBEND must promptly notify TAC as to any liens threatened or attached against TAC owned, leased or controlled property pursuant to any environmental law. If an environmental lien is filed against the premises, RIVERBEND must, within 30 days from the date on which the lien is placed against the premises, and at any rate before the date on which any governmental authority begins proceedings to sell the premises pursuant to a lien, either: (1) pay the claim and remove the lien from the premises; or (2) furnish either (a) a bond satisfactory to the TAC in the amount of the claim on which the lien is based, or (b) other security satisfactory to the TAC in an amount sufficient to discharge the claim on which the lien is based.

To the maximum extent possible under the laws and Constitution of the State of Texas, and other applicable law, including any possible waivers of sovereign immunity which shall be deemed to have been made, Riverbend agrees to indemnify and hold TAC harmless from any liability arising from any of the foregoing matters described in this paragraph.

23.08. Partial Invalidity. In the event that any term or condition of this Agreement is deemed to be invalid or unenforceable, such invalidity or unenforceability shall not render the remainder of this Agreement (or any document executed in connection herewith) invalid or void, and the other remaining provisions of the Agreement shall remain in full force and effect notwithstanding the inclusion of the invalid or unenforceable provision(s).

23.09. Insurance. Riverbend shall maintain the following minimal insurance coverages during all times where Riverbend owns and operates any portion of the Wet Utility Systems on property owned, leased or controlled by TAC:

- 1) Comprehensive General liability Insurance for bodily injury with limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate;
- 2) Comprehensive Automobile Liability insurance covering the operation of all automobiles used in connection with the performance of this contract with limits of \$500,000.00 per person, \$1,000,000.00 per accident for bodily injury, and \$100,000.00 per accident for property damage.
- 3) Worker's Compensation coverage in the statutory amount and Employer's Liability coverage with limits of \$1,000,000.00.
- 4) Any other insurance required to be carried under the Army Title Conveyance Documents and the Army Wet Utilities Contract that relate directly to the ownership or operation of the Wet Utilities Systems.

At or before closing, and at all times while Riverbend (or its successors or permitted assigns) owns or operates any wet utilities systems on property owned by TAC, Riverbend shall deliver certificates evidencing the existence of said policies of insurance. All certificates of insurance relating thereto shall contain a clause stating, in substance, that the insurer shall notify TAC in writing at least thirty (30) days prior to any cancellation of the referenced coverage. TAC shall be named as an additional insured on all such policies other than the worker's compensation policy.

23.10. Permits and Licenses. Riverbend shall obtain and maintain all environmental, health and safety permits, certificates of convenience and necessity, and facility licenses necessary for the ownership and operation of the Wet Utility Systems, and shall own and operate the Wet Utility Systems in accordance with the terms therewith and applicable law. Riverbend shall operate and maintain the Wet Utility Systems in a good and workman-like manner, consistent with all applicable law, rules, regulations, ordinances, statutes, and regulatory actions applicable thereto, and in a manner consistent with that level of care and skill ordinarily

exercised my members of the same profession, and as required by the Army Wet Utilities Contract.

23.11. **Right of Inspection.** TAC may, at reasonable times and upon reasonable notice have access to inspect any portion of the Wet Utility Systems located on land owned, leased or controlled by TAC, and the properties covered by the Lease to ensure Riverbend's compliance with the terms of this Agreement, any agreement executed in connection herewith, and applicable law.

23.12. **Timeframe for delivery of raw water capability.** Subject to the terms of this Section, Riverbend shall develop, in cooperation with TAC, a proposed timeframe for Riverbend's acquisition of water rights, and for construction and deployment of facilities and infrastructure necessary to deliver raw water to an agreed upon location on the TAC-East property. Riverbend shall design and construct said facilities and infrastructure to be able to deliver to TAC (and/or future TAC tenants/grantees and assigns) not less than six million (6,000,000) gallons per day of raw, non-potable water upon commencement of operations of said facilities and infrastructure, which shall not be later than the tenth (10th) anniversary of the Closing of the transaction contemplated by this Agreement. Riverbend shall reserve capacity in said facilities and infrastructure and/or in the first system expansion thereafter to deliver an additional nineteen million (19,000,000) gallons per day of raw, non-potable water to TexAmericas (and/or future TAC tenants/grantees and assigns). Riverbend shall diligently pursue acquisition, construction, licensing, and commencement of operation of said facilities at the earliest possible date.. Riverbend shall use its best efforts to commence operation of the raw water facilities providing delivery of raw water to TAC (and its current and future tenants/grantees and assigns) as soon as possible.

XXIV. AS IS SALE

24.01 AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, RIVERBEND IS ACCEPTING ALL OF THE ACQUIRED ASSETS TO BE CONVEYED HEREUNDER "AS IS AND WHERE IS, AND WITH ALL FAULTS" CONDITION.

OTHER THAN THE LIMITED WARRANTIES OF TITLE TO BE INCLUDED IN THE CLOSING DOCUMENTS, TAC HAS MADE NO WARRANTIES OR REPRESENTATIONS REGARDING THE PHYSICAL CONDITION OF THE ACQUIRED ASSETS, AND IS SPECIFICALLY DISCLAIMING ALL WARRANTIES, BOTH EXPRESS AND IMPLIED, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, AND SUITABILITY/FITNESS FOR A PARTICULAR PURPOSE.

RIVERBEND HAS BEEN AFFORDED AN OPPORTUNITY TO INSPECT THE ASSETS AND TAC'S DOCUMENTATION RELATING TO THE SAME, AND ACCEPTS THEM IN THEIR PRESENT, AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS. RIVERBEND ACKNOWLEDGES THAT SOME OR ALL OF THE PROPERTY CONDITION

DOCUMENTS IT HAS REVIEWED AS A PART OF THEIR DUE-DILIGENCE INSPECTION WERE PREPARED BY THIRD PARTIES, AND THAT TAC CANNOT AND DOES NOT WARRANTY THE ACCURATENESS OR COMPLETENESS THEREOF. RIVERBEND FURTHER ACKNOWLEDGES THAT PORTIONS OF THE REAL PROPERTY AND POSSIBLY PORTIONS OF THE WET UTILITIES SYSTEMS MAY HAVE HAD ENVIRONMENTAL CONTAMINATION ISSUES IN THE PAST, AND MAY BE SUBJECT TO ONGOING REGULATION BY FEDERAL, STATE AND/OR LOCAL REGULATORY AUTHORITIES. RIVERBEND WILL TAKE TITLE SUBJECT TO ALL RESTRICTIONS, COVENANTS, REGULATIONS AND CONDITIONS UNDER WHICH TAC OBTAINED TITLE TO THE ACQUIRED ASSETS.

ALL OF THE CLOSING DOCUMENTS SHALL CONTAIN AN "AS-IS, WHERE-IS" DISCLAIMER INCORPORATING ALL OF THE TERMS SET FORTH IN THIS SECTION.


In witness whereof, the parties have affixed their signatures hereto on the dates set forth below.

Riverbend Water Resources District

BY:


Kelly Mitchell,

President/Chairman of the Board


 26, 2015

TexAmericas Center

BY:


Denis Washington,

Chairman of the Board

 26, 2015

SCHEDULE C-1
Copies of Permits

See Attached pages



TEXAS COMMISSION ON ENVIRONMENTAL
QUALITY

P.O. Box 13087
Austin, Texas 78711-3087

PERMIT TO DISCHARGE WASTES

under provisions of

Section 402 of the Clean Water Act
and Chapter 26 of the Texas Water Code

TPDES PERMIT NO. WQ0004664000
[For TCEQ office use only -
EPA I.D. No. TX0126098]

This major amendment replaces
TPDES Permit No.
WQ0004664000 issued on
October 10, 2011.

TexAmericas Center

whose mailing address is

107 Chapel Lane
New Boston, Texas 75570

~~is authorized to treat and discharge wastes from Ronald R. Collins Water Reclamation Facility (SIC~~
9532, 4952, 3471, and 3795)

located 2.4 miles south of the intersection of Bowie Parkway and U.S. Highway 82 and
approximately 10 miles east of New Boston, Bowie County, Texas 75561

via Outfall 001 to East Fork Elliot Creek; thence to Elliot Creek; thence to Wright Patman Lake in
Segment No. 0302 of the Sulphur River Basin

only according to effluent limitations, monitoring requirements and other conditions set forth in this permit, as well as the rules of the Texas Commission on Environmental Quality (TCEQ), the laws of the State of Texas, and other orders of the TCEQ. The issuance of this permit does not grant to the permittee the right to use private or public property for conveyance of wastewater along the discharge route described in this permit. This includes, but is not limited to, property belonging to any individual, partnership, corporation, or other entity. Neither does this permit authorize any invasion of personal rights nor any violation of federal, state, or local laws or regulations. It is the responsibility of the permittee to acquire property rights as may be necessary to use the discharge route.

This permit shall expire at midnight on January 1, 2018.

ISSUED DATE: October 27, 2014

A handwritten signature in black ink, appearing to read "R. A. Hylleberg", written over a horizontal line.

For the Commission

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 001

- During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge previously monitored effluent (industrial wastewater) from internal Outfall 101 and treated domestic wastewater subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 1.5 million gallons per day (MGD). The daily maximum flow shall not exceed 3.0 MGD.

Effluent Characteristics	Discharge Limitations			Minimum Self-Monitoring Requirements		
	Daily Average	Daily Maximum	Single Grab	Report Daily Average and Daily Maximum	Measurement Frequency	Sample Type
	lbs/day 1.5 MGD	lbs/day 3.0 MGD	mg/L	mg/L	Continuous	Totalizing Meter
Flow						
Carbonaceous Biochemical Oxygen Demand (5-day)	125	250	20	35	1/day	Composite
Ammonia Nitrogen	62.5	125	10	10	1/day	Composite
Total Suspended Solids	188	500	40	65	2/week	Composite
Dissolved Oxygen	N/A	N/A	N/A	5.0, min	2/week	Grab
Oil and Grease	125	184	15	15	1/week	Grab
Total Residual Chlorine (*1)	N/A	N/A	0.019	0.019	1/week	Grab
<i>E. coli</i> (*2)	126 (*3)	394		394	1/week	Grab
Chemical Oxygen Demand	N/A	N/A	Report	300	1/year	Composite
Total Phosphate	N/A	N/A	Report	15	1/year	Composite
Total Aluminum	10.45	22.16	1.77	2.51	1/week	Composite
Total Cadmium	N/A	N/A	Report	0.2	1/year	Composite
Total Chromium	N/A	N/A	Report	0.5	1/year	Composite
Total Copper (*4)	0.33	0.026	0.055	0.08	1/week	Composite
Total Copper (*5)	0.238	0.019	0.040	0.06	1/week	Composite
Total Lead	N/A	N/A	Report	0.5	1/year	Composite
Total Nickel	N/A	N/A	Report	3.0	1/year	Composite
Total Silver (*4)	0.05	0.004	0.0085	0.012	1/month	Composite
Total Silver (*5)	0.043	0.0034	0.0071	0.010	1/month	Composite

(*1) The monitoring and reporting requirements for this parameter shall be suspended only if chlorination is discontinued and an alternate form of disinfection is implemented. The permittee shall contact the TCEQ at least 60 days prior to discontinuation of chlorination and suspension of monitoring and reporting for total residual chlorine. See Other Requirement No. 11.

(*2) Measurement units are colony forming units (cfu) or most probable number (MPN) per 100 mL.

(*3) The daily average limit for *E. coli* is calculated as the geometric mean.

(*4) Limits are effective beginning on the date of permit issuance and lasting 364 days.

(*5) Limits are effective beginning one year after the date of permit issuance and lasting through the permit expiration date.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - continued

Outfall Number 001

Effluent Characteristic	Discharge Limitations		Single Grab	Minimum Self-Monitoring Requirements	
	Daily Avg	Daily Max		Measurement Frequency	Sample Type
Whole Effluent Toxicity (WET) limit 100% (Parameter 22414) ¹					
<u>Daphnia pulex</u> (48-hour acute NOEC ²)	100%	100%	N/A	1/quarter	24-hr Composite
<u>Pimephales promelas</u> (48-hour acute NOEC ²)	100%	100%	N/A	1/quarter	24-hr Composite

¹ The lethal WET limit of not less than 100% is effective at the permit issue date.

² The No Observed Effect Concentration (NOEC) is defined as the greatest effluent dilution at which no significant lethality is demonstrated. Significant lethality is defined as a statistically significant difference between a specified effluent dilution and the control.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/day by grab sample.
3. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
4. Effluent monitoring samples shall be taken at the following location: Outfall 001, where combined treated effluent is discharged from the final treatment unit.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

Outfall Number 101

1. During the period beginning upon the date of permit issuance and lasting through the date of permit expiration, the permittee is authorized to discharge industrial wastewater (*1) from the metals/phosphate treatment facility subject to the following effluent limitations:

The daily average flow of effluent shall not exceed 0.75 million gallons per day (MGD). The daily maximum flow shall not exceed 1.5 MGD.

Effluent Characteristics	Discharge Limitations		Minimum Self-Monitoring Requirements		
	Daily Average	Daily Maximum	Single Grab	Report Daily Average and Daily Maximum	
	lbs/day	lbs/day	mg/L	Measurement Frequency	Sample Type
Flow	0.75 MGD	1.5 MGD	N/A	1/week (*2)	Totalizing Meter
Total Suspended Solids	146	291	60	1/week (*2)	Grab
Oil and Grease	76.7	108	23	1/week (*2)	Grab
Total Phosphate	24.3	48.6	10	1/day (*2)	Grab
Total Cadmium	0.316	0.692	0.15	1/week (*2)	Grab
Total Chromium	2.85	5.48	1.2	1/day (*2)	Grab
Total Copper	2.98	5.69	1.2	1/week (*2)	Grab
Total Cyanide	0.273	0.511	0.11	1/week (*2)	Grab
Total Lead	2.40	4.75	1.0	1/week (*2)	Grab
Total Nickel	5.34	10.4	2.2	1/week (*2)	Grab
Total Silver	0.309	0.602	0.13	1/week (*2)	Grab
Total Zinc	5.03	9.92	2.1	1/week (*2)	Grab
Total Toxic Organics (*3)	N/A	0.747	0.16	1/month (*2)	Grab

(*1) See Other Requirement No. 10.

(*2) When discharge occurs on a regular work day (weekends and holidays are exempt).

(*3) See Other Requirement No. 5.

2. The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored 1/week (*2) by grab sample.
3. There shall be no discharge of floating solids or visible foam in other than trace amounts and no discharge of visible oil.
4. Effluent monitoring samples shall be taken at the following location: internal Outfall 101, where pretreated effluent from the phosphate and chromium treatment systems has commingled after exiting the final treatment units and prior to discharge into the collection system for the domestic wastewater treatment plant.

DEFINITIONS AND STANDARD PERMIT CONDITIONS

As required by Title 30 Texas Administrative Code (TAC) Chapter 305, certain regulations appear as standard conditions in waste discharge permits, 30 TAC §§305.121 - 305.129 (relating to Permit Characteristics and Conditions) as promulgated under the Texas Water Code (TWC) §§5.103 and 5.105, and the Texas Health and Safety Code (THSC) §§361.017 and 361.024(a), establish the characteristics and standards for waste discharge permits, including sewage sludge, and those sections of 40 Code of Federal Regulations (CFR) Part 122 adopted by reference by the Commission. The following text includes these conditions and incorporates them into this permit. All definitions in Texas Water Code §26.001 and 30 TAC Chapter 305 shall apply to this permit and are incorporated by reference. Some specific definitions of words or phrases used in this permit are as follows:

1. Flow Measurements

- a. Annual average flow - the arithmetic average of all daily flow determinations taken within the preceding 12 consecutive calendar months. The annual average flow determination shall consist of daily flow volume determinations made by a totalizing meter, charted on a chart recorder, and limited to major domestic wastewater discharge facilities with a one million gallons per day or greater permitted flow.
- b. Daily average flow - the arithmetic average of all determinations of the daily flow within a period of one calendar month. The daily average flow determination shall consist of determinations made on at least four separate days. If instantaneous measurements are used to determine the daily flow, the determination shall be the arithmetic average of all instantaneous measurements taken during that month. Daily average flow determination for intermittent discharges shall consist of a minimum of three flow determinations on days of discharge.
- c. Daily maximum flow - the highest total flow for any 24-hour period in a calendar month.
- d. Instantaneous flow - the measured flow during the minimum time required to interpret the flow measuring device.
- e. 2-hour peak flow (domestic wastewater treatment plants) - the maximum flow sustained for a two-hour period during the period of daily discharge. The average of multiple measurements of instantaneous maximum flow within a two-hour period may be used to calculate the 2-hour peak flow.
- f. Maximum 2-hour peak flow (domestic wastewater treatment plants) - the highest 2-hour peak flow for any 24-hour period in a calendar month.

2. Concentration Measurements

- a. Daily average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar month, consisting of at least four separate representative measurements.
 - i. For domestic wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values in the previous four consecutive month period consisting of at least four measurements shall be utilized as the daily average concentration.
 - ii. For all other wastewater treatment plants - When four samples are not available in a calendar month, the arithmetic average (weighted by flow) of all values taken during the month shall be utilized as the daily average concentration.
- b. 7-day average concentration - the arithmetic average of all effluent samples, composite or grab as required by this permit, within a period of one calendar week, Sunday through Saturday.
- c. Daily maximum concentration - the maximum concentration measured on a single day, by the sample type specified in the permit, within a period of one calendar month.

- d. Daily discharge - the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in terms of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the sampling day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the sampling day.

The "daily discharge" determination of concentration made using a composite sample shall be the concentration of the composite sample. When grab samples are used, the "daily discharge" determination of concentration shall be the arithmetic average (weighted by flow value) of all samples collected during that day.

- e. Bacteria concentration (Fecal coliform, *E. coli*, or Enterococci) - the number of colonies of bacteria per 100 milliliters effluent. The daily average bacteria concentration is a geometric mean of the values for the effluent samples collected in a calendar month. The geometric mean shall be determined by calculating the n th root of the product of all measurements made in a calendar month, where n equals the number of measurements made; or computed as the antilogarithm of the arithmetic mean of the logarithms of all measurements made in a calendar month. For any measurement of bacteria equaling zero, a substitute value of one shall be made for input into either computation method. If specified, the 7-day average for bacteria is the geometric mean of the values for all effluent samples collected during a calendar week.
- f. Daily average loading (lbs/day) - the arithmetic average of all daily discharge loading calculations during a period of one calendar month. These calculations must be made for each day of the month that a parameter is analyzed. The daily discharge, in terms of mass (lbs/day), is calculated as $(\text{Flow, MGD} \times \text{Concentration, mg/L} \times 8.34)$.
- g. Daily maximum loading (lbs/day) - the highest daily discharge, in terms of mass (lbs/day), within a period of one calendar month.

3. Sample Type

- a. Composite sample - For domestic wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9(a). For industrial wastewater, a composite sample is a sample made up of a minimum of three effluent portions collected in a continuous 24-hour period or during the period of daily discharge if less than 24 hours, and combined in volumes proportional to flow, and collected at the intervals required by 30 TAC §319.9(c).
- b. Grab sample - an individual sample collected in less than 15 minutes.
4. Treatment Facility (facility) - wastewater facilities used in the conveyance, storage, treatment, recycling, reclamation and/or disposal of domestic sewage, industrial wastes, agricultural wastes, recreational wastes, or other wastes including sludge handling or disposal facilities under the jurisdiction of the Commission.
5. The term "sewage sludge" is defined as solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in 30 TAC Chapter 312. This includes the solids that have not been classified as hazardous waste separated from wastewater by unit processes.
6. Bypass - the intentional diversion of a waste stream from any portion of a treatment facility.

MONITORING AND REPORTING REQUIREMENTS

1. Self-Reporting

Monitoring results shall be provided at the intervals specified in the permit. Unless otherwise specified in this permit or otherwise ordered by the Commission, the permittee shall conduct effluent sampling and reporting in accordance with 30 TAC §§319.4 - 319.12. Unless otherwise specified, a monthly effluent report shall be submitted each month, to the Enforcement Division

(MC 224), by the 20th day of the following month for each discharge that is described by this permit whether or not a discharge is made for that month. Monitoring results must be reported on an approved self-report form that is signed and certified as required by Monitoring and Reporting Requirements No. 10.

As provided by state law, the permittee is subject to administrative, civil and criminal penalties, as applicable, for negligently or knowingly violating the Clean Water Act; TWC Chapters 26, 27, and 28; and THSC Chapter 361, including but not limited to knowingly making any false statement, representation, or certification on any report, record, or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance, or falsifying, tampering with or knowingly rendering inaccurate any monitoring device or method required by this permit or violating any other requirement imposed by state or federal regulations.

2. Test Procedures

- a. Unless otherwise specified in this permit, test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC §§319.11 - 319.12. Measurements, tests, and calculations shall be accurately accomplished in a representative manner.
- b. All laboratory tests submitted to demonstrate compliance with this permit must meet the requirements of 30 TAC Chapter 25, Environmental Testing Laboratory Accreditation and Certification.

3. Records of Results

- a. Monitoring samples and measurements shall be taken at times and in a manner so as to be representative of the monitored activity.
- b. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR Part 503), monitoring and reporting records, including strip charts and records of calibration and maintenance, copies of all records required by this permit, records of all data used to complete the application for this permit, and the certification required by 40 CFR §264.73(b)(9) shall be retained at the facility site, or shall be readily available for review by a TCEQ representative for a period of three years from the date of the record or sample, measurement, report, application or certification. This period shall be extended at the request of the Executive Director.
- c. Records of monitoring activities shall include the following:
 - i. date, time, and place of sample or measurement;
 - ii. identity of individual who collected the sample or made the measurement;
 - iii. date and time of analysis;
 - iv. identity of the individual and laboratory who performed the analysis;
 - v. the technique or method of analysis; and
 - vi. the results of the analysis or measurement and quality assurance/quality control records.

The period during which records are required to be kept shall be automatically extended to the date of the final disposition of any administrative or judicial enforcement action that may be instituted against the permittee.

4. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit using approved analytical methods as specified above, all results of such monitoring shall be included in the calculation and reporting of the values submitted on the approved self-report form. Increased frequency of sampling shall be indicated on the self-report form.

5. Calibration of Instruments

All automatic flow measuring or recording devices and all totalizing meters for measuring flows shall be accurately calibrated by a trained person at plant start-up and as often thereafter as necessary to ensure accuracy, but not less often than annually unless authorized by the Executive Director for a longer period. Such person shall verify in writing that the device is operating properly and giving accurate results. Copies of the verification shall be retained at the facility site or shall be readily available for review by a TCEQ representative for a period of three years.

6. Compliance Schedule Reports

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date to the Regional Office and the Enforcement Division (MC 224).

7. Noncompliance Notification

- a. In accordance with 30 TAC §305.125(9) any noncompliance that may endanger human health or safety, or the environment shall be reported by the permittee to the TCEQ. Report of such information shall be provided orally or by facsimile transmission (FAX) to the Regional Office within 24 hours of becoming aware of the noncompliance. A written submission of such information shall also be provided by the permittee to the Regional Office and the Enforcement Division (MC 224) within five working days of becoming aware of the noncompliance. The written submission shall contain a description of the noncompliance and its cause; the potential danger to human health or safety, or the environment; the period of noncompliance, including exact dates and times; if the noncompliance has not been corrected, the time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance, and to mitigate its adverse effects.
 - b. The following violations shall be reported under Monitoring and Reporting Requirement 7.a.:
 - i. unauthorized discharges as defined in Permit Condition 2(g).
 - ii. any unanticipated bypass that exceeds any effluent limitation in the permit.
 - iii. violation of a permitted maximum daily discharge limitation for pollutants listed specifically in the Other Requirements section of an Industrial TPDES permit.
 - c. In addition to the above, any effluent violation that deviates from the permitted effluent limitation by more than 40% shall be reported by the permittee in writing to the Regional Office and the Enforcement Division (MC 224) within 5 working days of becoming aware of the noncompliance.
 - d. Any noncompliance other than that specified in this section, or any required information not submitted or submitted incorrectly, shall be reported to the Enforcement Division (MC 224) as promptly as possible. For effluent limitation violations, noncompliances shall be reported on the approved self-report form.
8. In accordance with the procedures described in 30 TAC §§35.301 - 35.303 (relating to Water Quality Emergency and Temporary Orders) if the permittee knows in advance of the need for a bypass, it shall submit prior notice by applying for such authorization.
9. Changes in Discharges of Toxic Substances

All existing manufacturing, commercial, mining, and silvicultural permittees shall notify the Regional Office, orally or by facsimile transmission within 24 hours, and both the Regional Office and the Enforcement Division (MC 224) in writing within five (5) working days, after becoming aware of or having reason to believe:

- a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant listed at 40 CFR Part 122, Appendix D, Tables II and III (excluding Total Phenols) that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

- i. one hundred micrograms per liter (100 µg/L);
 - ii. two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - iii. five (5) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. the level established by the TCEQ.
 - b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - i. five hundred micrograms per liter (500 µg/L);
 - ii. one milligram per liter (1 mg/L) for antimony;
 - iii. ten (10) times the maximum concentration value reported for that pollutant in the permit application; or
 - iv. the level established by the TCEQ.
10. Signatories to Reports
- All reports and other information requested by the Executive Director shall be signed by the person and in the manner required by 30 TAC §305.128 (relating to Signatories to Reports).
11. All Publicly Owned Treatment Works (POTWs) must provide adequate notice to the Executive Director of the following:
- a. any new introduction of pollutants into the POTW from an indirect discharger that would be subject to CWA §301 or §306 if it were directly discharging those pollutants;
 - b. any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit; and
 - c. for the purpose of this paragraph, adequate notice shall include information on:
 - i. the quality and quantity of effluent introduced into the POTW; and
 - ii. any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

PERMIT CONDITIONS

1. General

- a. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in an application or in any report to the Executive Director, it shall promptly submit such facts or information.
- b. This permit is granted on the basis of the information supplied and representations made by the permittee during action on an application, and relying upon the accuracy and completeness of that information and those representations. After notice and opportunity for a hearing, this permit may be modified, suspended, or revoked, in whole or in part, in accordance with 30 TAC Chapter 305, Subchapter D, during its term for good cause including, but not limited to, the following:
 - i. violation of any terms or conditions of this permit;
 - ii. obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
 - iii. a change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- c. The permittee shall furnish to the Executive Director, upon request and within a reasonable time, any information to determine whether cause exists for amending, revoking, suspending, or terminating the permit. The permittee shall also furnish to the Executive Director, upon request, copies of records required to be kept by the permit.

2. Compliance

- a. Acceptance of the permit by the person to whom it is issued constitutes acknowledgment and agreement that such person will comply with all the terms and conditions embodied in the permit, and the rules and other orders of the Commission.
 - b. The permittee has a duty to comply with all conditions of the permit. Failure to comply with any permit condition constitutes a violation of the permit and the Texas Water Code or the Texas Health and Safety Code, and is grounds for enforcement action, for permit amendment, revocation, or suspension, or for denial of a permit renewal application or an application for a permit for another facility.
 - c. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 - d. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal or other permit violation that has a reasonable likelihood of adversely affecting human health or the environment.
 - e. Authorization from the Commission is required before beginning any change in the permitted facility or activity that may result in noncompliance with any permit requirements.
 - f. A permit may be amended, suspended and reissued, or revoked for cause in accordance with 30 TAC §§305.62 and 305.66 and TWC §7.302. The filing of a request by the permittee for a permit amendment, suspension and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
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- g. There shall be no unauthorized discharge of wastewater or any other waste. For the purpose of this permit, an unauthorized discharge is considered to be any discharge of wastewater into or adjacent to water in the state at any location not permitted as an outfall or otherwise defined in the Other Requirements section of this permit.
 - h. In accordance with 30 TAC §305.535(a), the permittee may allow any bypass to occur from a TPDES permitted facility that does not cause permitted effluent limitations to be exceeded or an unauthorized discharge to occur, but only if the bypass is also for essential maintenance to assure efficient operation.
 - i. The permittee is subject to administrative, civil, and criminal penalties, as applicable, under Texas Water Code §§7.051 - 7.075 (relating to Administrative Penalties), 7.101 - 7.111 (relating to Civil Penalties), and 7.141 - 7.202 (relating to Criminal Offenses and Penalties) for violations including, but not limited to, negligently or knowingly violating the federal CWA §§301, 302, 306, 307, 308, 318, or 405, or any condition or limitation implementing any sections in a permit issued under the CWA §402, or any requirement imposed in a pretreatment program approved under the CWA §§402(a)(3) or 402(b)(8).

3. Inspections and Entry

- a. Inspection and entry shall be allowed as prescribed in the TWC Chapters 26, 27, and 28, and THSC Chapter 361.
- b. The members of the Commission and employees and agents of the Commission are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the Commission. Members, employees, or agents of the Commission and Commission contractors are entitled to enter public or private property at any reasonable time to investigate or monitor or, if the responsible party is not responsive or there is an immediate danger to public health or the environment, to remove or remediate a condition related to the quality of water in the state. Members, employees, Commission contractors, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then