



May 2, 2022  
Board Meeting Packet

## CALL TO ORDER

A. ROLL CALL

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. PUBLIC COMMENT

ITEM 2. a.

**ITEM 3.**

## **NON-STANDARD SERVICE AGREEMENT**

This Non-Standard Service Agreement (“Agreement”) is made and entered into by and between Agua Special Utility District (“the SUD”), a special utility district created and operating under Chapter 7201 of the District Local Laws Code and under Chapter 65 of the Texas Water Code, and FPST, LLC (“APPLICANT”) located in Hidalgo County, Texas.

### **RECITALS**

This Agreement is intended to satisfy the requirements of the Texas Water Development Board’s Economically Distressed Areas Program Model Subdivision Rules, as described in 31 Texas Administrative Code §364.32.

The SUD is a utility that supplies drinking water in the area for which water is sought by APPLICANT and is governed by a Board of Directors. APPLICANT is the owner of tracts of land in Hidalgo County, Texas, that have been proposed to be divided into a subdivision known as Greenley Acres Subdivision, within Hidalgo County, Texas (“Subdivision” or “Project”), consisting of one (1) lot which will be a commercial development encompassing 3.20 acres of land owned by the APPLICANT. The one (1) lot is being used for commercial use and is to connect to an existing 2-inch waterline running East/West along the North right-of-way of Veterans Boulevard via a proposed 8-inch waterline, which shall be extended to the South and then West up to the property line adjacent to the frontage via a 15-foot SUD Exclusive Easement. From thereon, the proposed waterline will continue to extend South and connect to an existing 6-inch waterline running East/West along the frontage of US Expressway 83 (I2) to create a looped water system. The proposed development shall be serviced via one (1) 2-inch water service connection and meter. The proposed development shall also connect its wastewater

system via tie-in to the existing clean-out located on Veterans Boulevard with a 6-inch sanitary sewer line.

The SUD and APPLICANT desire to enter into an agreement at the request of APPLICANT to address water service from the SUD to APPLICANT. APPLICANT intends to build the Subdivision, which is within the SUD's Certificate of Convenience and Necessity ("CCN"). APPLICANT has requested service and the SUD has investigated service requirements for APPLICANT. The SUD, through its consulting engineer, has prepared a Service Investigation Report ("SIR") dated April 1, 2021. The SIR is attached hereto and incorporated herein for all purposes. This Agreement sets forth the requirements for the design, bidding, construction and inspection of facilities and the acquisition of easements necessary to provide water to APPLICANT.

In consideration of the foregoing, of the mutual benefits, covenants and agreements expressed herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the SUD and APPLICANT agree as follows:

**PROJECT DESCRIPTION**

1.01. The Project includes all water pipes, lines, meters, valves, facilities, easements and other infrastructure (water infrastructure and facilities) to provide water service to APPLICANT. APPLICANT will construct at its cost all water infrastructure and facilities and obtain all easements that are required and reasonably necessary to serve the Project, including, but not limited to, the facilities and easements described in the SIR. APPLICANT will pay the cost of construction for improvements to the SUD's production, treatment and storage facilities necessary to provide service to APPLICANT'S Subdivision.

- 1.02. Being a 3.20 Acre Tract of Land being out of Lot 14, Block 3, Goodwin Tract Subdivisions No. 1 and No. 2, Hidalgo County, Texas, according to the amended map of the Goodwin Tract Subdivision and per the map or plat thereof recorded in Volume 08, Pages 2 & 3, Map Records, Hidalgo County, Texas. The one lot will be developed for commercial use of 1 living unit equivalents (1 LUE). APPLICANT is required to comply with all requirements set out in the SIR. The lot shall be serviced with one (1) 2-inch service connection and meter, with all related appurtenances as outlined in Agua SUD Standards Manual. The development shall connect to an existing 2-inch waterline running East/West along the North right-of-way of Veterans Boulevard via a proposed 8-inch waterline, which shall be extended to the South and then West up to the property line adjacent to the frontage via a 15-foot SUD Exclusive Easement. From thereon, the proposed waterline will continue to extend South and connect to an existing 6-inch waterline running East/West along the frontage of US Expressway 83 (I2) to create a looped water system. The proposed development shall be serviced via one (1) 2-inch water service connection and meter. The proposed development shall also connect its wastewater system
- 1.03 This development shall provide sanitary sewer service by connecting to a planned 10-inch sanitary sewer line running East/West along the North right-of-way of Veterans Boulevard via a tie-in with a proposed 6-inch sanitary sewer service connection to provide service for the development as outlined in Agua SUD Standards Manual. APPLICANT is responsible for the acquisition of any easements necessary to comply with these requirements.
- 1.04. The Project is located on the Southeast corner of Veterans Boulevard and Abram Road

within the extraterritorial jurisdiction of the City of Palmview, Texas.

### **DESIGN OF FACILITIES**

- 2.01. APPLICANT’S engineer will prepare the design, construction plans and specifications, and supporting documentation for the water infrastructure and facilities associated with the Project in consultation and coordination with the SUD’s engineer, and subject to the SUD’s review and approval. APPLICANT will provide the SUD three sets of preliminary design plans. The SUD will review and comment on the plans, and APPLICANT will amend the plans at the request and to the satisfaction of the SUD. All improvements shall be designed and constructed in accordance with the SUD and TCEQ standards. All facilities and infrastructure will comply with TCEQ rules and regulations. No construction shall commence until the SUD has reviewed and approved plans.
- 2.02. APPLICANT will use the plans approved by the SUD to develop construction-ready plans which will be submitted to the SUD for final review, revision and approval. Once the preliminary plans have been reviewed and approved, APPLICANT will provide four sets of construction-ready plans.
- 2.03. If it is necessary for the SUD to upgrade or add to its existing production, treatment, storage or transmission facilities to serve the Project, the SUD’s engineers will be responsible for the design of such improvements. Additional improvements to the existing system that are not APPLICANT’S obligation under this Agreement will be made by the SUD.
- 2.04. If the APPLICANT’S Project is to be built within a subdivision, the subdivision’s final plat must be approved by all regulatory authorities having jurisdiction over the subdivision, and the SUD must be presented or have been presented with a certificate as



required by Texas Local Government Code §§ 212.012 or 232.029 before the SUD may serve or connect the Project with water.

### **BIDS FOR CONSTRUCTION**

- 3.01. For facilities to be constructed by the APPLICANT, to the extent required by and in accordance with applicable law, APPLICANT shall advertise for bids for construction of the proposed water infrastructure and facilities in consultation with the SUD engineer. On request of the APPLICANT and upon agreement by the SUD in its sole discretion, the SUD's engineer shall advertise for bids for construction of any facilities to be constructed by the SUD with funds provided by APPLICANT. APPLICANT'S engineer may make recommendations to the SUD engineers as to the lowest and best qualified bidder. The SUD may reject any and all bids but generally will accept the lowest and best qualified bid in accordance with the following criteria:
- a. The contractor shall provide an adequate bid bond under terms acceptable to the SUD;
  - b. The contractor shall secure adequate performance and payment bonding for the project under terms acceptable to the SUD;
  - c. The contractor shall supply favorable references acceptable to the SUD;
  - d. The contractor shall qualify with the SUD as competent to complete the work;  
and
  - e. The contractor shall provide adequate certificates of insurance as required by the SUD.
- 3.02. For facilities to be constructed by the APPLICANT, the contract for construction shall be subject to review and approval by the SUD.

## **EASEMENTS, LICENSES, AND OTHER AUTHORIZATIONS**

- 4.01. The water facilities and infrastructure shall be located in existing SUD easements or private rights-of-way or in private easements or rights-of-way acquired by APPLICANT in locations acceptable and approved by the SUD. Specific easements, if any, APPLICANT is required to provide to the SUD are described in the SIR.
- 4.02. The APPLICANT shall bear the cost of obtaining right-of-way easements necessary to connect the APPLICANT's Project to the SUD's facilities, whether or not the easements are located within the APPLICANT's Project. If the SUD determines that utility easements or facility sites outside the APPLICANT's Project are required, the APPLICANT shall secure easements or title to facility sites on behalf of the SUD.
- 4.03. APPLICANT shall bear the cost of acquiring all easements and clearing and chipping the entire width of all easements.
- 4.04. All rights-of-way and easements and property titles shall be researched, validated and filed at the expense of APPLICANT.
- 4.05. All facilities required to be installed in public rights-of-way on behalf of the SUD, due to inability to secure private right-of-way easements, shall be subject to costs equal to the original cost of facility installation for those facilities in public rights-of-way, plus the estimated cost of future relocation to private rights-of-way. The costs as determined by the SUD under this paragraph must be paid by APPLICANT to the SUD before the SUD may serve or connect the Project with water.
- 4.06. The SUD shall require exclusive dedicated right-of-way easements on the APPLICANT's property or within APPLICANT's Project (as required by the size of the planned facilities and as determined by the SUD) and title to property required for such on-site

facilities. In locations where the commissioner's court or municipal governing body has approved specific utility location assignments within Public Utility Easement (PUE), water lines internal to the APPLICANT's Project shall be installed within the PUE at the location assigned for utility service. Where specific utility location assignments are not applicable, every easement internal to the APPLICANT's Project shall have a minimum width of 15 feet. All water line easements within a subdivision shall be shown on the final recorded plat of the subdivision.

- 4.07 APPLICANT shall obtain in the name of the SUD all easements, licenses, permits, or other rights or authorizations as may be required to cross any road right-of-way, railroad rights-of-way, and irrigation canals.

### **CONSTRUCTION**

- 5.01. APPLICANT will schedule a preconstruction meeting with participation by the SUD at least two (2) days before the start of construction.
- 5.02. All road work shall be performed pursuant to applicable state, county or municipal standards and shall be completed prior to water facility and infrastructure construction to avoid future problems resulting from road right-of-way completion and excavation. Subject to approval of the requisite authority, road sleeves may be installed prior to road construction to avoid road damage during construction of facilities.
- 5.03. Construction plans and specifications shall be strictly followed, but the SUD reserves the right to change and order any specifications due to unforeseen circumstances to better facilitate operation of the water line or SUD facilities. All change and order amounts shall be charged to APPLICANT.

- 5.04. APPLICANT shall bear all costs and expenses for land acquisition, construction, water lines, facilities and infrastructure including, but not limited to, engineering fees, permitting fees and construction costs.
- 5.05. The SUD shall, at the expense of APPLICANT, inspect the facilities to ensure the SUD's standards are achieved.
- 5.06. APPLICANT shall provide sufficient notice to the SUD to allow the SUD to observe critical elements of construction:
- a. water line and facility installation;
  - b. connection to existing mains;
  - c. pressure testing; and
  - d. testing of all facilities.

If APPLICANT fails to comply with the above, the SUD may require APPLICANT to have the construction facilities uncovered and exposed for the SUD's inspection. In any event, the integrity of the facilities is the responsibility of APPLICANT.

**APPROVAL BY GOVERNMENTAL BODY**

- 6.01. APPLICANT shall obtain any required approvals for construction of the facilities from the following:
- a. Hidalgo County;
  - b. governing body of any city within whose corporate limits or ETJ the water lines are located;
  - c. United States Fish and Wildlife Service and/or Texas Parks and Wildlife Department;
  - d. Texas Historical Commission; and

- e. any other political subdivision or governmental agency whose approval will be required before the SUD can provide service to APPLICANT.
- 6.02. APPLICANT recognizes that the SUD must comply with United States Department of Agriculture-Rural Development, Texas Commission on Environmental Quality, and Texas Water Development Board rules and regulations as promulgated from time to time as those rules apply to the service, rates and capacity addition of the SUD.

### **INSPECTION AND DEDICATION**

- 7.01. Upon completion of all facilities and other appurtenances constructed for the provision of water service to the Project, the water infrastructure and facilities shall be inspected and certified by the SUD's engineer. SUD inspection will be to ensure water infrastructure and facilities are built in accordance with design plans and specifications. The costs for the SUD's inspection will be borne by APPLICANT.
- 7.02. APPLICANT will provide the SUD two sets of as-built plans and receipts of all costs. APPLICANT will secure a warranty from the construction contractor for one year guarantee of workmanship and serviceability.
- 7.03. Upon completion of the water facilities and infrastructure and certification by the SUD's engineer, all infrastructure, facilities, permits, as built drawings, easements, real property and other property acquired in the design and construction of the water facilities and infrastructure shall be dedicated to and deemed to be owned by the SUD and title and ownership shall automatically vest in the SUD. Within ten (10) days after certification by the SUD's engineer of the completion of the infrastructure and facilities in accordance with state law, the rules of the SUD, and this Agreement, APPLICANT shall confirm or verify such ownership, conveyance, and title by the execution and delivery of appropriate

bills of sale, transfer, assignment, or other instruments of conveyance in form acceptable to the SUD, free and clear of all liens and encumbrances.

- 7.04. After ownership and title of the water infrastructure vests in the SUD as set forth above, all responsibility for repair and maintenance shall be borne by the SUD, provided that the SUD shall not, by this Agreement, waive or otherwise diminish its rights and remedies under any performance bond, warranty or other guarantee of performance regarding infrastructure provided under this Agreement.

### **WATER SERVICE**

- 8.01. Upon determination by the SUD and certified by the SUD's engineer that the water line and all water infrastructure and facilities have been properly constructed, installed and cleared for service in accordance with approved plans and specifications, potable water service will be initiated by the SUD provided APPLICANT has performed and fulfilled all its obligations imposed upon APPLICANT under the terms of this Agreement, relevant laws, rules, regulations and ordinances, including but not limited to:
- a. APPLICANT has paid all fees and amounts owed to the SUD under this Agreement;
  - b. All water infrastructure improvements described herein have been completed onsite of the property or Project in accordance with the construction standards of the SUD and the plans and specifications approved by the SUD's engineers and the SUD has inspected and approved the facilities;
  - c. All water infrastructure improvements described herein that are located offsite of the property or Project that were to be constructed by APPLICANT have been completed in accordance with the construction standards of the SUD and the plans

and specifications approved by the SUD's engineers and the SUD has inspected and approved the facilities;

- d. All water infrastructure improvements described herein that are located offsite of the property or Project that were to be constructed by the SUD have been completed;
- e. All water infrastructure improvements described herein, and which have been inspected and approved by the SUD, have been dedicated to and accepted by the SUD;
- f. APPLICANT has submitted documentation of a satisfactory bacteriological test; and
- g. Subdivision plat approval, if required, has been obtained by APPLICANT, and the SUD has been presented with a certificate as required by Texas Local Government Code §§ 212.012 or 232.029.

8.02. Based upon the daily anticipated water flow required for the Subdivision as set out in the SIR, the SUD has or will have the ability to provide the anticipated water flow for at least thirty (30) years and will provide such water flow. The SUD shall sell and deliver water service to APPLICANT for thirty (30) years after the plat of the Subdivision has been recorded and the Subdivision's water distribution system has been connected to the SUD's water supply system. APPLICANT shall purchase, receive, and/or reserve service from the SUD in accordance and in compliance with the bylaws and Rules of the SUD as amended from time to time by the Board of Directors of the SUD. Based upon the daily anticipated wastewater flow required for the Subdivision as set out in the SIR, the SUD has or will have the ability to provide the anticipated wastewater flow for at least thirty

(30) years and will provide such wastewater flow. The SUD shall sell and deliver wastewater service to APPLICANT for thirty (30) years after the plat of the Subdivision has been recorded and the Subdivision's wastewater distribution system has been connected to the SUD's wastewater collection system. APPLICANT shall purchase, receive, and/or reserve service from the SUD in accordance and in compliance with the bylaws and Rules of the SUD as amended from time to time by the Board of Directors of the SUD.

- 8.03. The APPLICANT shall pay the SUD for service as determined by the rules and upon the terms and conditions set forth therein, a copy of which has been provided as an information packet, for which APPLICANT acknowledges receipt by execution of this Agreement.
- 8.04. The Board of Directors shall have the authority to discontinue service of APPLICANT for non-compliance with any policy or for failure to pay any utility fees or charges as required by the SUD's published rates, fees, and condition of service.
- 8.05. All water shall be metered by a 2-inch meter to be furnished and installed by the SUD. The meter is for the sole use of APPLICANT and is to provide service to only one dwelling or one (1) business. Extension of pipe(s) to transfer utility service from one property to another, to share, resell, or sub-meter water to any other persons, dwellings, businesses, or property, etc., is prohibited.
- 8.06. The SUD shall have the right to locate a water service meter and the pipe necessary to connect the meter on APPLICANT's property at a point to be chosen by the SUD, and shall have access to its property and equipment located upon APPLICANT's premises at all reasonable and necessary times for any purpose connected with or in the furtherance



of its business operations, and upon discontinuance of service the SUD shall have the right to remove any of its equipment from the APPLICANT's property. APPLICANT will install, at its own expense, any necessary service lines from the SUD's facilities and equipment to the point of use including any APPLICANT service isolation valves, backflow prevention devices, clean-outs, and equipment as may be specified by the SUD. The SUD shall also have access to APPLICANT's property for the purpose of inspecting for possible cross-connections, potential contamination hazards, and illegal lead materials.

8.07. The SUD is responsible for protecting the drinking water supply from contamination or pollution which could result from improper practices. This Agreement serves as notice to APPLICANT of its restrictions which are in place to provide this protection. The SUD shall enforce these restrictions to ensure the public health and welfare. The following undesirable practices are prohibited by state regulations:

- a. No direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public system by an air gap or an appropriate backflow prevention assembly in accordance with state regulations.
- b. No cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the proper installation of an air gap or a reduced pressure-zone backflow prevention assembly and a service agreement must be maintained at APPLICANT'S cost for annual inspection and testing by a backflow prevention device tester.

- c. No connection which allows condensing, cooling, or industrial process water to be returned to the public drinking water supply is permitted.
  - d. No pipe or pipe fitting which contains more than 8% lead may be used for the installation or repair of plumbing at any connection which provides water for human consumption.
  - e. No solder or flux which contains more than 0.2% lead may be used for the installation or repair of plumbing at any connection which provides water for human consumption.
- 8.08. The SUD shall maintain a copy of this Agreement as long as APPLICANT is connected to the public water system. APPLICANT shall allow its property to be inspected for possible cross-connections, potential contamination hazards, and illegal lead materials. These inspections shall be conducted by the SUD or its designated agent prior to initiating service and periodically thereafter. The inspections shall be conducted during the SUD's normal business hours.
- 8.09. The SUD shall notify APPLICANT in writing of any cross-connections or other undesirable practices which have been identified during the initial or subsequent inspection. APPLICANT shall immediately correct any undesirable practice on its premises. APPLICANT shall, at its expense, properly install, test, and maintain any backflow prevention device required by the SUD. Copies of all testing and maintenance records shall be provided to the SUD as required. Failure to comply with the terms of this Agreement shall cause the SUD either to terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection. Any

expenses associated with the enforcement of this Agreement shall be billed to and paid by APPLICANT.

- 8.10. In the event the total water supply is insufficient to meet all of the SUD's customers, or in the event there is a shortage of water, the SUD may initiate its drought contingency plan as specified in the SUD's rules. By execution of this Agreement, APPLICANT hereby agrees that it shall comply with the terms of said program.
- 8.11. By execution hereof, APPLICANT shall guarantee payment of all other rates, fees, and charges done on any account for which APPLICANT receives service from the SUD. Said guarantee shall pledge any and all of APPLICANT'S deposit fees against any balance due the SUD. Liquidation of said deposit fees shall give rise to discontinuance of service under the terms and conditions of the SUD's rules.

### **FEES**

- 9.01. The following fees shall be paid on or before the execution of this Agreement by APPLICANT. These fees represent the cost of the SIR, which fee has been paid, and the total costs of water meters, water rights acquisition fees, and all other fees associated with connecting the individual lots in the Subdivision to the SUD's water supply system, all of which are due at the time of execution of this Agreement.
- a. Service Investigation Fee: \$1,500.00 which is an amount sufficient to cover all administrative, legal and engineering fees associated with investigation of the SUD's ability to deliver service to APPLICANT, including but not limited to all actions undertaken by the SUD under this Agreement;
  - b. Service Inspection Fee: \$25.00, which is \$25.00 per connection for 1 connection;

- c. 2" Meter Installation Fee: \$2,829.00, which is \$2,829.00, an amount sufficient to cover cost and installation of a 2-inch meter as specified by meter size in the SUD's rules, multiplied by 1 connection;
- d. 6" Sewer Connection Fee: \$250.00, which is \$250.00, an amount sufficient to cover cost and installation of a 6-inch sewer connection as specified by SUD's rules;
- e. Water Rights Acquisition Fee: \$1,175.00, which is \$1,175.00 (per LUE meter rate) multiplied by 1 LUE;
- g. Impact Fee: \$800.00, which is \$800.00 (per LUE) multiplied by 1 LUE;
- h. Customer Deposit Fee: \$75.00, which is \$75.00 per connection for 1 connection;
- i. Construction Inspection Fee: 5% of total cost of construction which covers the labor costs associated with the inspection of the APPLICANT-constructed facilities; and
- j. Any construction and relocation costs determined pursuant to paragraph 4.05 of this Agreement.

9.02. APPLICANT agrees to pay a monthly charge for metered water service, which includes a base rate and a volumetric rate as specified in the SUD's Rules, until water service is transferred to a new customer in accordance with the SUD's Rules. APPLICANT understands that these monthly rates will be periodically revised by the SUD.

### **DEFAULT**

10.01. Notwithstanding anything herein to the contrary, no party shall be deemed to be in default hereunder until the passage of thirty (30) business days after receipt by such party of notice of default from the other party. Upon the passage of thirty (30) working days

without cure of the default, such party shall be deemed to have defaulted for purposes of this Agreement.

### **FORCE MAJEURE**

- 11.01. The term "force majeure" as employed herein shall mean and refer to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies, orders of any kind of the government of the United States, the State of Texas or any civil or military authority; insurrections; riots; epidemic; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accidents to machinery, pipelines, or canals; or other causes not reasonably within the control of the party claiming such inability.
- 11.02. If, by reason of force majeure, any party hereto shall be rendered wholly or partially unable to carry out its obligations under this Agreement, then such party shall give written notice of the full particulars of such force majeure to the other party within ten (10) days after the occurrence thereof. The obligations of the party giving such notice, to the extent effected by the force majeure, shall be suspended during the continuance of the inability claimed, except as hereinafter provided, but for no longer period, and the party shall endeavor to remove or overcome such inability with all reasonable dispatch.
- 11.03. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require that the settlement be unfavorable in the judgment of the party having the difficulty.

### **NOTICES**

- 12.01. Any notice to be given hereunder by any party to another party shall be in writing and may be affected by personal delivery or by sending said notices by registered or certified mail,

return receipt requested, to the address set forth below. Notice shall be deemed given when deposited with the United States Postal Service with sufficient postage affixed.

Any notice mailed to the SUD shall be addressed:

Agua Special Utility District  
P.O. Box 4379  
Mission, TX 78572  
Attn: General Manager

Any notice mailed to the APPLICANT shall be addressed:

FPST, LLC  
220 South K  
McAllen, TX 78501  
Attn: James Keller

Any party may change the address for notice to it by giving notice of such change in accordance with the provisions of this section.

#### **ENTIRE AGREEMENT**

13.01. This Agreement, together with any exhibits attached hereto, constitutes the entire agreement between Parties hereto, and may not be amended except by a writing signed by all Parties and dated subsequent to the date hereof.

#### **EFFECTIVE DATE**

14.01. This Agreement shall be effective as of the date of the complete execution hereof by all Parties as indicated below.

#### **TEXAS LAW GOVERNS**

15.01. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Hidalgo County, Texas. Venue shall lie exclusively in Hidalgo County, Texas.

### **TIME OF THE ESSENCE AND TERM**

- 16.01. It is acknowledged and agreed by the Parties that time is of the essence in the performance of this Agreement.
- 16.02. This Agreement will remain in effect so long as APPLICANT is receiving service from the SUD.
- 16.03. Notwithstanding paragraph 16.02 herein, this Agreement will terminate before the Project is connected to and receiving water from the SUD under the following circumstances or conditions:
- a. Construction of the Project must commence within thirty (30) days following the effective date of this Agreement, and the construction of the Project must be completed within one hundred and eighty (180) days of the effective date of this Agreement. If either of these deadlines is not met, this Agreement will terminate upon receipt of written notice from the SUD that a deadline has been missed. APPLICANT may seek an extension of either deadline by applying to the District Manager of the SUD for an extension and upon a showing of good cause for the delay. Such application must be filed prior to the expiration of the applicable deadline. APPLICANT may be granted one extension of an additional thirty (30) days to commence construction or an additional one hundred and eighty (180) days to complete construction. No additional extensions may be granted. If this Agreement is terminated under this section, the APPLICANT will receive a refund of all fees paid except the service investigation fee and may reapply for service at such time as APPLICANT is ready to proceed with the Project. Reapplication will be subject to fees in effect at the time of the reapplication.

- b. This Agreement terminates if the plat for the Subdivision is not approved by Hidalgo County or by a municipality whose approval is required, or if the plat is substantially modified to increase the number of lots in the Subdivision or otherwise materially change how water service will be provided to the Subdivision.
- c. The SUD reserves the right to terminate this Agreement if there is a material change to the approved Plans for the Project.

16.04 If all of the requirements prescribed by the Agreement have been completed by the APPLICANT, including but not limited to those listed in Paragraph 8.01, the terms of this Agreement terminate upon the transfer by APPLICANT of all lots in the Subdivision to another party or parties. Paragraph 8.02 shall survive the termination of this Agreement under this Paragraph 16.04.

EXECUTED in multiple originals and effective as of the \_\_\_\_ day of \_\_\_\_\_, 2022.

AGUA SPECIAL UTILITY DISTRICT

By: \_\_\_\_\_  
President of the Board

GREENLEY ACRES SUBDIVISION

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_



**AGREEMENT REGARDING WATER SERVICE FOR THE PROPOSED  
GREENLEY ACRES SUBDIVISION**

**PARTIES:** This Agreement is by and between the Agua Special Utility District, (hereinafter “Utility”) and FPST, LLC, the persons or entity proposing Greenley Acres Subdivision, in the Service area of the Utility (hereinafter “Subdivider”), to wit:

The Utility, which supplies drinking water in the area for which water is sought by the Subdivider, is governed by a Board of Directors (“Board”).

The Subdivider is FPST, LLC, who is the owner, or the authorized agent of the owner, of a tract of land in Hidalgo County, Texas, that has been proposed to be divided into a subdivision, (the “Subdivision”) known as Greenley Acres Subdivision.

**TERMS:** This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board’s Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to Hidalgo County for its approval. The Subdivider plans to construct for the Subdivision a drinking water distribution system to be connected to the Utility’s public water system. The Board has reviewed the plans for the Subdivision (the “Plans”) and has estimated the average water demand anticipated to be needed by the Subdivision under fully built-out conditions (“the anticipated water flow”) to be approximately 864 gallons daily.

The Board covenants that the Utility has or will have the ability to provide the anticipated water flow for at least thirty years, and that it will provide that water flow. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision’s water distribution system has been connected to the Utility’s water supply system.

The Subdivider covenants that the water distribution system has been constructed as shown in the Plans and as provided for through the plat-approval process so that the residents of the lots of the Subdivision may receive drinking water service from the Utility. Upon completion of the water distribution system and upon its approval and acceptance by the Board, the Subdivider will convey to the Utility all right and title to the water distribution system.

The Subdivider has paid the Utility the sum of \$5,154.00 or its equivalent in deeds and conveyance of groundwater and drilling rights, which sum represents the total costs of water meters, water rights acquisition fees, and all other fees associated with connecting the individual lots in the Subdivision to the Utility’s water supply system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by Hidalgo County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility.

By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on \_\_\_\_\_, 2022.

AGUA SPECIAL UTILITY DISTRICT

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_

GREENLEY ACRES SUBDIVISION

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_

**AGREEMENT REGARDING WASTEWATER SERVICE FOR THE PROPOSED  
GREENLEY ACRES SUBDIVISION**

**PARTIES:** This Agreement is by and between the Agua Special Utility District, (hereinafter “Utility”) and FPST, LLC, the persons or entity proposing Greenley Acres Subdivision, in the Service area of the Utility (hereinafter “Subdivider”), to wit:

The Utility is the governing Board of Directors (“Board”) or owner of a retail public utility which provides wastewater treatment.

The Subdivider is FPST, LLC, who is the owner, or the authorized agent of the owner, of a tract of land in Hidalgo County, Texas, that has been proposed to be divided into a subdivision, (the “Subdivision”) known as Greenley Acres Subdivision.

**TERMS:** This Agreement is entered into in partial satisfaction of requirements under the Texas Water Development Board’s Economically Distressed Areas Program Model Subdivision Rules. The Subdivider has prepared a plat of the Subdivision for submission to Hidalgo County for its approval. The Subdivider plans to construct for the Subdivision a wastewater collection system to be connected to the Utility’s wastewater treatment system. Such wastewater consists of domestic sewage, i.e., waterborne human waste and waste from domestic activities such as bathing, washing, and food preparation. The Utility reviewed the plans for the Subdivision (the “Plans”) and has estimated the average wastewater flow projected from the Subdivision under fully built-out conditions (“the projected wastewater flow”) to be approximately 320 gallons daily.

The Utility covenants that it has or will have the capacity to treat the projected wastewater flow, and that upon connection to its system it will treat that wastewater flow for at least thirty years. These covenants will be in effect until thirty years after the plat of the Subdivision has been recorded and the Subdivision’s wastewater collection system has been connected to the Utility’s wastewater treatment plant.

The Subdivider covenants that the wastewater collection system will be constructed as shown in the Plans and as provided for through the plat approval process so that the residents of the lots of the Subdivision may receive wastewater treatment service from the Utility. Upon completion of the wastewater collection system and upon its approval and acceptance by the Utility, the Subdivider will convey to the Utility all right and title to the wastewater collection system.

The Subdivider has paid the Utility the sum of \$250.00 which sum represents the total costs of tap fees, capital recovery charges, and other fees associated with connecting the individual lots in the Subdivision to the Utility’s wastewater collection and treatment system.

The above provisions notwithstanding, this Agreement shall no longer be in effect if the plat of the Subdivision is not approved by Hidalgo County or by a municipality whose approval is required.

By affixing his or her signature to this Agreement, the person signing for the Utility warrants that he or she is authorized to sign this Agreement on behalf of the Utility.

By affixing his or her signature to this Agreement, the person signing for the Subdivider warrants that he or she is authorized to sign this Agreement on behalf of the Subdivider.

This Agreement is effective on \_\_\_\_\_, 2022.

AGUA SPECIAL UTILITY DISTRICT

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_

GREENLEY ACRES SUBDIVISION

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Office or Position: \_\_\_\_\_  
Date: \_\_\_\_\_

**ITEM 4.**

**ITEM 5.**

**Agua Special Utility District  
Board of Director's**

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Date Authorized: 09/13/21  
Supersedes: 12/07/20

**BOARD OF DIRECTOR'S RULES OF PROCEDURES, CONDUCT  
AND DECORUM OF COURT MEETINGS AND OPEN FORUM**

- I. All Regular, Special, Emergency and Executive Session Meetings of the Agua Special Utility District will be called and conducted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Government Code.
- II. Regular, Special and Emergency Meetings of the Agua Special Utility District are open to the public and to representatives of the press and media. Executive Sessions of the Board of Director's are not open to the public, the press or the media and only those individuals expressly requested or ordered to be present are allowed to attend Executive Session.
- III. The Agua Special Utility District meets in Regular Session on the first Monday of each month at 6:00 p.m. and Special Meetings are held when designated. In order for a matter or issue to appear as an agenda item on the Agenda of any Regular/Special Meeting of the Board of Director's, the matter may be place on the agenda by the President of the Board of Directors, by two Directors of the Board of Directors or the General Manger. The Agenda item or matter must be submitted to General Manager Seventy-Eight hours (78) prior to the Regular/Special Meeting of the Board of Director's.
- IV. The business of Agua Special Utility District is conducted by and between the board members of the Agua Special Utility District and by those members of the staff, elected officials, department heads, consultants, experts and/or members of the public requested to be present and participate. While the public is invited to attend all meetings of the Board of Director's (except Executive Sessions) the public's participation therein is limited to that of observers unless a member (or members) of the public is requested to address the Board of Director's on a particular issue (or issues) or unless the member (or members) of the public signs in on the Public Comments Sign in Sheet that will be placed at the entrance of the meeting room to speak during Public Comment item prior to the commencement of the particular meeting of the Board of Director's.
- V. It is the intention of Agua Special Utility District to provide an open access to the members of Agua Special Utility District to address the Board of Director's and express themselves on issues of Agua Special Utility District. A limited amount of time of no longer than fifteen (15) minutes will be set aside during each regular or special meeting of the Board of Director's for Public Comments to allow individuals or groups of individuals who are not listed on the agenda of Agua Special Utility District to address the Board of Director's.
  - A. Each member of the public who appears before the Board of Director's shall be limited to a maximum of three (3) minutes to make his/her remarks. Time for each speaker shall be maintained by the Agua Special Utility District secretary or such other designated representative of the Agua Special Utility District.

**Agua Special Utility District  
Board of Director's**

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- B. In matters of exceptional interest, the Board of Director's may, by the majority consensus of the Board of Director's in attendance at the meeting, either shorten or lengthen the time allocated for a particular member of the public, all members of the public and/or the amount of time allocated for all agenda items and/or a specific agenda item.
- C. Members of the public are reminded that the Agua Special Utility District is a Special Utility District created by enabling legislation, authorized by Article 16, Section 59, of the Texas Constitution, and subsequently codified in Texas Special Districts Local Laws Code Chapter 7201, and as may hereafter be amended and re-enacted. Agua Special Utility District, whose jurisdiction and boundaries are set forth in Special Districts Local Laws Section 7201.00(a) and as further defined in Section 9.12 of Senate Bill No. 3, enacted by the Texas Legislature during the Regular Session, 2007. Accordingly, members of the public in attendance at any Regular, Special and/or Emergency Meeting shall conduct themselves with proper respect and decorum in speaking to, and/or addressing the Board of Director's; in participating in public discussions before the Board of Director's; and in all actions in the presence of the Board of Director's. Proper attire for men, women and children is mandatory. Those members of the public who are inappropriately attired and/or who do not conduct themselves in an orderly and appropriate manner will be ordered to leave the meeting. Refusal to abide by the Board of Director's Order and/or continued disruption of the meeting may result in an arrest.
- D. It is not the intention of the Agua Special Utility District to provide a public forum for the demeaning of any individual or group. Neither is it the intention of Agua Special Utility District to allow a member (or members) of the public to insult the honesty and/or integrity of the Board of Director's, as a body, or any member or members of the Board of Director's, individually or collectively. Accordingly, profane, insulting or threatening language directed toward the Board of Director's and/or any person in the Board of Director's presence and/or racial, ethnic, or gender slurs or epithets will not be tolerated. Violation of these rules may result in the following sanctions:
1. cancellation of a speaker's remaining time;
  2. removal from the Board of Director's meeting room and/or
  3. such other civil and/or criminal sanctions as may be authorized under the Constitution, Statutes and Codes of the State of Texas.
- VI. The President is the presiding officer of the Agua Special Utility District and is a fully participating member thereof. In the event of the absence of the President, the Vice-President will take over the Regular, Special, Emergency Meeting or Executive Session, shall serve as the President. However, nothing herein shall prevent the other Board of Director's of this Board of Director's from delegating this duty to another member of the Board of Director's.



**Agua Special Utility District  
Board of Director's**

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VII. The President or the Vice-President, as presiding officer of the meeting, is responsible for conducting all meetings and members of the public who have properly signed up in the Public Comments Sign in Sheet must wait to be recognized before they will be allowed to address the Board.

VIII. Special Rules for the Press and Media:

- A. No media personnel or equipment, including lights, cameras or microphones will be located on the Board of Director's bench no closer than seven feet 7') in front of the Board of Director's bench.
- B. Reporters and media technicians are required to structure their movements, equipment set-up and take-down and adjustments, etc. in such a manner as to not disrupt the Board of Director's deliberations or the ability of the public to see, hear, and participate in the proceedings.
- C. Interviews shall not be conducted inside the Board of Director's meeting room during the time the meeting is in session.
- D. Media interviews which are conducted outside the Board of Director's meeting room should be conducted in such a manner that the interview does not disturb, impede or disrupt the proceedings of any Regular, Special, Emergency and/or Executive Session Meeting of the Board of Director's.

IX. Law enforcement and/or a Private Security company, shall serve as security at all Regular, Special and Emergency Meetings of the Court. However, in the event of the absence of the Officer/Security Guard, or in the event that there exists a conflict of interest between the Officer/Security Guard and the Board of Director's, or in the event of an Executive Session of the Court in which the Officer/Security Guard is not an authorized participant, then in such event, the Court shall appoint such other Officer/Security Guard to serve as security as may be necessary.

X. From time to time, the Agua Special Utility District shall conduct community meetings and public hearings. These rules of procedure, conduct and decorum shall also apply to such community meetings and public hearings, however, the Board of Director's may adopt such additional and supplemental rules for such meetings as may be necessary and appropriate to conduct such meetings in an orderly, efficient and proper manner.

XI. These Rules of Procedure, Conduct and Decorum at Meetings of the Agua Special Utility District shall be effective immediately upon adoption by the Board of Director's and shall remain in full force and effect until amended or repealed by a majority vote of the Board of Director's.

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**ITEM 6.**

**ITEM 7. a.**

**ITEM 7. b.**