

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE CITY OF SEGUIN, TEXAS AND MEADOW LAKE WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1; PROVIDING THE TERMS PURSUANT TO WHICH CERTAIN IMPROVEMENTS LOCATED WITHIN THE CITY AND THE DISTRICT WILL UNDERTAKEN AND FINANCED FOR THE BENEFIT OF THE RESIDENTS OF THE CITY AND THE DISTRICT; AND OTHER MATTERS IN CONNECTION THEREWITH

This interlocal cooperative agreement (the *Agreement*), made to be effective as of the ____ day of March, 2024, is by and between the City of Seguin, Texas, a home rule municipality (the *City*), and Meadow Lake Water Control and Improvement District No. 1, a water control and improvement district created by order of the Guadalupe County Commissioners Court as a conservation and reclamation district under Article XVI, Section 59 of the Texas Constitution, and operating under Chapters 49 and 51, as amended, Texas Water Code (the *District*), for the purpose of memorializing the terms pursuant to which certain improvements within the City and the District will be undertaken and financed. The City and the District may be referred to individually as a *Party* or together as the *Parties*.

RECITALS

WHEREAS, the City Council of the City (the *City Council*) adopted a resolution on July 5, 2022, consenting to the creation of the District to facilitate the repair of the Nolte Dam (the *Project*) (this resolution is attached hereto as Exhibit A and incorporated herein for all purposes); and

WHEREAS, the City Council adopted a resolution on August 15, 2023, finding that the stability and integrity of the Nolte Dam serves a public purpose of the City that warrants the expenditure of public funds and authorized the City Manager to spend up to \$5,000,000 to assist with the Project (this resolution is attached hereto as Exhibit B and is incorporated herein for all purposes); and

WHEREAS, the anticipated cost of the Project is \$20,836,408; and

WHEREAS, based on the prior Council resolution and the anticipated costs of and sources of funding for the Project, the City's contribution shall 33% of the Project costs after subtracting funds received from any other funding source, up to a maximum amount of \$5,000,000 (the *City Contribution*); and

WHEREAS, at an election held on November 7, 2023, the voters of the District authorized the District to issue bonds in an amount not to exceed \$15,840,000 to finance the Project (which takes into account the City's Contribution); and

WHEREAS, the City contemplates the issuance of one or more series of certificates of obligation (collectively, the *COs*) to provide funds, in part, to fund for the City's Contribution; and

WHEREAS, the District intends to undertake the Project and contract with appropriate parties to complete the Project; and

WHEREAS, to memorialize the conditions by which the City will pay the City's Contribution to the District for the Project, the City and the District desire to enter into this Agreement; and

WHEREAS, this Agreement shall constitute an interlocal cooperative agreement as authorized pursuant to the provisions of Chapter 791, as amended, Texas Government Code; and

WHEREAS, the adoption of this Agreement is hereby found and determined to be in the best interest of the residents of the City and the District; and

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1: Definition and Use of Terms. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, (a) all references in this Agreement to designated *Sections*, *Schedules*, *Exhibits*, and other subdivisions are to the designated Sections, Schedules, Exhibits, and other subdivisions of this Agreement as originally adopted; and (b) the words *herein*, *hereof*, and *hereunder* and other words of similar import refer to this Agreement as a whole and not to any particular Section or other subdivision.

SECTION 2: Representations.

2.1 Representations of City. City hereby represents to the District that:

- (a) The City is a home rule municipality and a political subdivision under the laws of the State of Texas and is duly qualified and authorized to carry out the governmental functions and operations as contemplated by this Agreement.
- (b) The City has the power, authority, and legal right to enter into and perform under this Agreement and the execution, delivery, and performance hereof have been duly authorized.
- (c) The City has the authority to make the City Contribution from proceeds of the COs to the District for the Project to benefit the residents of the City pursuant to Chapter 1502, as amended, Texas Government Code (*Chapter 1502*), and Subchapter C, Chapter 271, as amended, Texas Local Government Code (*Chapter 271* or the *Certificate of Obligation Act*).
- (d) This Agreement has been duly authorized, executed, and delivered and constitutes a legal, valid, and binding obligation of City enforceable in accordance with its terms.

2.2 Representations of District. District hereby represents to the City that:

- (a) The District is a political subdivision and is duly authorized, created, and existing in good standing under the laws of the State of Texas and is duly qualified

and authorized to carry out the governmental functions and operations as contemplated by this Agreement.

(b) The District has the power, authority, and legal right to enter into and perform under this Agreement and the execution, delivery, and performance hereof have been duly authorized.

(c) The District has the authority to construct and maintain the Project.

(d) The District is authorized by section 51.402, Texas Water Code, as amended, and Chapter 49, Texas Water Code as amended, to issue its bonds necessary to provide improvements and maintenance of improvements to achieve the purposes set forth in section 51.121(b), Texas Water Code, as amended, for which the District was created.

(e) This Agreement has been duly authorized, executed, and delivered and constitutes a legal, valid, and binding obligation of the District enforceable in accordance with its terms.

SECTION 3: Findings. Each of the Parties hereby find that the Project is being undertaken for the benefit of the residents of the City and the District.

SECTION 4: Agreement of the Parties. The Parties hereby agree on the necessity for the Project and that the District intends to undertake the Project. The City will issue the COs and will make the City Contribution to the District for the Project. The District will issue its own bonds and use the proceeds therefrom, together with the City Contribution, to finance the Project. The City shall fund the City Contribution in installments. The first installment shall be in the amount of \$1,360,000 and shall be paid to the District on or before May 1, 2024. Future installments shall be made at least 90 days after (a) the District has issued bonds to finance its portion of the Project, and (b) the District has provided the City written request for one or more additional installments.

Notwithstanding the foregoing, if construction on the Project does not commence by May 1, 2026, then the District will repay to the City any portion of the City Contribution that was paid to the District and the City shall not be obligated to pay any additional amounts to the District. Such repayment shall occur within 180 days after May 1, 2026.

Other than the consideration referenced in this section, no additional consideration will be required in connection with such conveyance.

SECTION 5: Term of this Agreement. This Agreement shall terminate upon the completion of the Project, the inability of the District to adequately acquire proper funding to complete the Project, or the inability of the District to secure conveyance of the Nolte Dam from the Guadalupe-Blanco River Authority.

SECTION 6: Liability of City and District. To the extent not limited by State law, neither the City, District, or any director, officer, employee, or agent of either shall be responsible for any liability arising from the Project or this Agreement.

SECTION 7: Amendment. This Agreement may be amended, modified, revised or changed by written instrument executed by all the Parties.

SECTION 8: Addresses and Notice. Unless otherwise provided herein, any notice, communication, request, reply, or advice (herein severally and collectively, for convenience, called *Notice*) herein provided or permitted to be given, made or accepted by any Party to any other Party must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the Party to be notified, with return receipt requested, or by delivering the same to an officer of such Party, or by prepaid telegram when appropriate, addressed to the Party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of three days after it is so deposited. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For the purposes of notice, the addresses of the Parties hereto shall, until changed as hereinafter provided, be as follows:

A. If to the City, to:

City of Seguin, Texas
Attn: City Manager
205 N. River Street
Seguin, Texas 78155
Phone: (830) 379-3212

With a copy to:

City of Seguin, Texas
Attn: City Attorney
205 N. River Street
Seguin, Texas 78155
Phone: (830) 379-3212

B. If to the District, to:

Meadow Lake Water Control and Improvement
District No. 1
McLean & Howard, L.L.P.
Attn: Anthony Corbett
4301 Bull Creek Road, Suite 150
Austin, Texas 78731
Phone: (512) 538-2505

With a copy to:

Norton Rose Fulbright US LLP
Attn: Reginald Wilson

1301 McKinney, Suite 5100
Houston, Texas 77010
Phone: (713) 651-5608

The Parties hereto shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least ten (10) days' written notice to the other Party hereto.

SECTION 9: Counterparts. This Agreement may be executed in any number of counterparts, each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

SECTION 10: Entire Agreement. This Agreement contains the entire agreement between the Parties pertaining to the subject matter hereof and fully supersedes all prior agreements and understandings between the parties pertaining to such subject matter.

SECTION 11: Captions. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

SECTION 12: Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Agreement for all purposes and are adopted as a part of the judgment and findings of the respective governing body of each party hereto.

SECTION 13: Inconsistent Provisions. All orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Agreement are hereby repealed to the extent of such conflict, and the provisions of this Agreement shall be and remain controlling as to the matters provided herein.

SECTION 14: Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 15: Venue. Venue for any action to enforce or construe this Agreement shall be in Guadalupe County, Texas.

SECTION 16: Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Agreement and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Parties hereby declare that this Agreement would have been enacted without such invalid provision.

SECTION 17: Construction. Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa. This Agreement and all the terms and provisions hereof

shall be constructed to effectuate the purposes set forth herein and to sustain the validity of this Agreement.

SECTION 18: Compliance with Texas Open Meetings Act. It is officially found, determined, and declared that the meeting of each governing body of the respective Party at which this Agreement was adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Agreement, was given, all as required by Chapter 551, as amended, Texas Government Code.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date and year first above written.

SEGUIN, TEXAS

Donna Dodgen, Mayor

ATTEST:

Kristin Mueller, City Secretary

(CITY SEAL)

MEADOW LAKE WATER CONTROL
AND IMPROVEMENT DISTRICT NO. 1

President, Board of Directors

ATTEST:

Secretary

(SEAL)

EXHIBIT A

Resolution (July 5, 2022)

EXHIBIT B

Resolution (August 15, 2023)