



DATA SHEET
Agenda Item No. 22.B.

Meeting Date: December 7, 2017

Agenda Item:

Consider actions related to the District giving consent for requested assignment to Mustang Special Utility District of Participating Customer Systems and contracts with Denton County Fresh Water Supply District No. 10 (FWSD).

- B. Amendments to existing regional water and wastewater contracts with FWSD to continue providing water and wastewater services on a wholesale basis to FWSD for service to the Artesia community.

Placement:	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Individual Consideration	<input type="checkbox"/> Executive Session
Vote:	<input checked="" type="checkbox"/> Non-Weighted	<input type="checkbox"/> Weighted Capital	
Recommending Department: Customer Contracts			

Background:

Denton County Fresh Water Supply District ("FWSD") and Mustang Special Utility District ("Mustang") have entered into an Interlocal Agreement for Property Transfer and Allocation of Water and Wastewater Service Areas ("Transfer Agreement"). Mustang and FWSD have agreed that FWSD will assign a portion of its benefits and obligations under FWSD's water and wastewater contracts with the District to Mustang. Also, FWSD will assign and convey a portion of FWSD's retail water and wastewater systems to Mustang, specifically for the Savannah and Arrowbrooke communities. The Transfer Agreement provides for FWSD to retain the right to continue to provide retail water and wastewater service to the Artesia community.

Following are the major components of the proposed amendments to FWSD's water and wastewater contracts with the District, including the consent to the transfer and assignment by Mustang of that portion of the contracts between the District and FWSD related to the Savannah and Arrowbrooke communities, including the assignment and conveyance of an agreed portion of FWSD's retail water and wastewater systems to Mustang.

- FWSD desires to transfer and assign 1.58 MGD of Demand in the Regional Treated Water System to Mustang, retaining 0.82 MGD to serve Artesia. Likewise, FWSD desires to transfer 0.5265 MGD of subscribed capacity in the Northeast Regional Water Reclamation System to Mustang, retaining 0.156 MGD for service to Artesia.
- For water service, FWSD to make a permanent connection to the District's water transmission pipeline near FM 1385 and Bryon Road, for permanent water service to Artesia.
- For wastewater service, FWSD is to install a meter and related instrumentation to allow the District to reliably operate the Point of Entry and to reasonably meter the amount of wastewater from Artesia.
- Under the FWSD wastewater contract, FWSD may be reimbursed in the future for certain funds it previously advanced for easements and for the design and construction of certain permanent facilities to transport and treat FWSD's wastewater at the Riverbend Plant and the Doe Branch Plant. Said reimbursement will be determined by the District and limited to the applicable costs FWSD paid to extend wastewater service to Artesia.

Financial:

There is no significant cost impact on the District; the District will be kept whole.

Mustang will assume the specified water and wastewater subscriptions and will make the applicable payments directly to the District.

Recommendation:

FWSD's Board of Directors will consider the amendments at a future Board meeting. Staff recommends approval of the proposed contract amendments with Denton County Fresh Water Supply District No. 10 to continue providing water and wastewater services on a wholesale basis to FWSD for service to Artesia, subject to any non-substantive changes that may be mutually agreed by the parties.

Enclosure:

1. Draft Amendment to Regional Treated Water Contract with Denton County Fresh Water Supply District No. 10.
2. Draft Amendment to Northeast Regional Water Reclamation System Contract with Denton County Fresh Water Supply District No. 10

Submitted By: 

Jason L. Pierce, Manager of Customer Contracts & Support Services

Date: December 1, 2017

**UPPER TRINITY REGIONAL WATER DISTRICT
REGIONAL TREATED WATER SYSTEM**

**AMENDMENT TO
PARTICIPATING CUSTOMER CONTRACT
WITH
DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10**

**THE STATE OF TEXAS §
 §
COUNTY OF DENTON §**

This **AMENDMENT** (the "Amendment") to the **REGIONAL TREATED WATER SYSTEM CONTRACT** is made and entered into this _____ day of _____, _____ ("Effective Date"), by and between **UPPER TRINITY REGIONAL WATER DISTRICT** (the "District") and **DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10** ("FWSD") to amend the Participating Customer Contract dated August 29, 2001, as amended (the "Contract"), which Contract provides for FWSD to participate in the District's Regional Treated Water System (herein "System").

WITNESSETH

WHEREAS, FWSD entered into the Contract to purchase treated water on a wholesale basis from the District to enable service to retail customers within FWSD's service area; including the Savannah, Artesia and Arrowbrooke communities; and

WHEREAS, the Contract specifies in Exhibit B a subscribed capacity (Demand) of 2.4 MGD of treated water for FWSD; and

WHEREAS, Mustang Special Utility District ("Mustang") also has entered into a Regional Treated Water System Contract dated February 6, 2003, as amended, ("Mustang Contract") to participate in the System and has subscribed to certain capacity (Demand) in the System; and

WHEREAS, it has been a matter of long-term intent for FWSD to transfer the ownership and operation of an agreed portion of FWSD's retail water and wastewater systems to Mustang when timely; and

WHEREAS, FWSD and Mustang have entered into an Interlocal Agreement for Property Transfer and Allocation of Water and Wastewater Service Areas (herein "Transfer Agreement") whereby both FWSD and Mustang have agreed that FWSD will assign a portion of its benefits and obligations under the Contract to Mustang, that Mustang will assume and perform said assignment and Mustang will be the sole certified provider of retail water and wastewater service to the Savannah and Arrowbrooke communities, subject to the terms and conditions set out in the Transfer Agreement; and

WHEREAS, FWSD desires to transfer and assign 1.58 MGD of its 2.4 MGD Demand to Mustang for retail service to the Savannah and Arrowbrooke communities; and

WHEREAS, FWSD desires to retain 0.82 MGD Demand in the System to serve the Artesia community, which community is generally located north of Fishtrap Road and east of Teel Parkway as shown in the Revised Exhibit A attached hereto; and

WHEREAS, the District and FWSD previously established a Point of Delivery and metering facilities near FM 1385 and Fishtrap Road to serve the Artesia community, which metering station is currently under construction; and

WHEREAS, treated water service is currently being provided by the District to FWSD for the Artesia community through a direct connection to the water pipeline jointly owned by the District and Mustang; and

WHEREAS, FWSD and the District are making provisions for FWSD to disconnect said temporary connection and make a permanent connection to the District's water transmission pipeline near FM 1385 and Byron Road; and

WHEREAS, based on the Transfer Agreement, FWSD and Mustang have requested the District to approve the transfer and assignment of a portion of the Contract to Mustang; and

WHEREAS, the District's Board of Directors has considered FWSD and Mustang's request and desires to accommodate both parties in accordance with this Amendment; and

WHEREAS, the District's Bond Counsel has determined that the proposed transfer and assignment will not impact the tax-exempt status of the District's Bonds; and

WHEREAS, both FWSD and the District desire to amend the Contract to acknowledge the transfer and assumption of a portion of the Contract by Mustang and the continuation of treated water service by the District to FWSD for the Artesia community.

NOW, THEREFORE, the District and FWSD, in consideration of the terms, conditions and covenants contained in this Amendment, agree as follows:

Section 1. Adoption of Preamble. All of the matters stated in the Preamble of this Amendment are true and correct and are hereby incorporated into the body of this Amendment as though fully set forth in their entirety herein.

Section 2. Definitions. Capitalized terms not otherwise defined herein shall have the same meaning as those set forth in the Contract.

Section 3. Transfer and Assignment. With explicit reliance on the representations and warranties from FWSD and Mustang provided in the Transfer Agreement, District hereby consents to the transfer and assignment by Mustang of that portion of the Contract between the District and FWSD, related to the Savannah and Arrowbrooke communities, including the assignment and conveyance of an agreed portion of FWSD's retail water and wastewater systems to Mustang. That portion of FWSD's service area, the Contract, and the retail water and wastewater system related to the Artesia Community is agreed to be retained by FWSD.

Section 4. Point of Delivery and Contract Service Area. The District agrees to provide treated water service to that portion of FWSD east of FM 1385 known as the Artesia community at the Point of Delivery provided in the Revised Exhibit A of this Amendment. The Revised Exhibit A is

hereby adopted, and, in all aspects shall supersede and be substituted for the existing "Exhibit A" incorporated in the Contract.

Section 5. Subscribed Capacity. As provided in the Transfer Agreement, a portion of FWSD's subscribed capacity (Demand) in the System is to be transferred to Mustang, and a portion is to be retained by FWSD. Exhibit B of the Contract is hereby amended to reflect FWSD's retained and updated Demand (0.82 MGD) in the System. A Revised Exhibit B is attached hereto and is hereby incorporated into the Contract as if fully set forth therein.

Section 6. Construction of Point of Delivery and Permanent Delivery Facilities. FWSD's Point of Delivery and associated metering facilities to serve Artesia have been authorized by the District but not yet constructed by FWSD. FWSD agrees to construct said Point of Delivery, and install the necessary metering facilities and the permanent connection to the District's water transmission pipeline according to the following requirements:

- A. District has previously reviewed and approved the plans and specifications for the Point of Delivery, including the metering facilities and associated appurtenances. FWSD has completed construction of the necessary pipeline extension from the District's joint pipeline with Mustang to the location of the approved Point of Delivery; and, FWSD has made connection with its internal water transmission main, which connection to the District's joint transmission pipeline with Mustang is temporary. FWSD agrees to complete construction of the Point of Delivery in accordance with the approved plans and specifications within 180 days of the Effective Date of this Amendment. The District shall have the right of inspection as construction progresses and shall have the right of final acceptance or rejection of completed work.
- B. Until the Point of Delivery has been completed and is operational, the District shall bill FWSD for water service based on meter readings from 1.) A 6-inch meter located at FWSD's groundwater storage facility in Artesia, and 2.) A 6-inch meter located at the pump station at FWSD's elevated storage tank in Artesia. The readings from both meters will be combined and multiplied by a factor of 1.05 (as an allowance for water loss occurring from the Point of Delivery to the Artesia meters) to measure the total billable flow to FWSD for Artesia on a monthly basis.
- C. To secure FWSD's performance to construct the Point of Delivery, metering station and associated appurtenances, FWSD has deposited \$80,000 with the District. In the event FWSD fails to complete construction of the required facilities within 120 days of the Effective Date, District is authorized to use the deposit made by FWSD to construct, inspect and test said facilities. Should District proceed to construct said facilities, District agrees to provide copies to FWSD of any construction contract, pay applications, evidence of payment and certification of completion. If the District's actual cost for said facilities exceeds \$80,000, FWSD shall be responsible for such cost overrun.
- D. If FWSD makes timely completion of said facilities prior to the District initiating such construction, the District agrees to return the deposit to FWSD, less any appropriate District administrative expense. If the District awards a construction contract for construction of the facilities, District shall be paid an administrative and management fee of 12% of the amount of the final construction contract. Such fee shall be deducted from the deposit.

E. FWSD recognizes that the direct connection to the District's joint pipeline with Mustang is temporary. Provided that FWSD continues to provide retail water service to Artesia, FWSD agrees to complete the construction of necessary improvements to disconnect the temporary connection and to make a permanent connection to the District's water transmission pipeline near FM 1385 and Bryon Road within nine (9) years from the Effective Date of the Amendment, according to the following timeline. FWSD agrees to acquire the necessary easements within seven (7) years of the Effective Date for a delivery pipeline using the District's standard easement form. The delivery pipeline will run from the District's water transmission pipeline near FM 1385 and Bryon Road to FWSD's Point of Delivery. Within eight (8) years from the Effective Date, FWSD agrees to complete the design of the permanent connection and delivery pipeline in accordance with the District's standards and specifications, which design shall be subject to the District's review and approval. FWSD agrees to proceed to timely complete said permanent connection a delivery pipeline within the specified nine (9) year period.

Section 7. Contract Provisions. All other provisions of the Contract, as amended, shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Amendment to be fully executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the Effective Date of this Amendment.

DRAFT

UPPER TRINITY REGIONAL WATER DISTRICT

By: _____
Kevin Mercer, President, Board of Directors

ATTEST:

Mike Fairfield, Secretary, Board of Directors

(DISTRICT SEAL)

APPROVED AS TO FORM:

John F. Boyle, Jr., Counsel for the District

**DENTON COUNTY FRESH WATER SUPPLY
DISTRICT NO 10:**

By: _____
President, Board of Directors

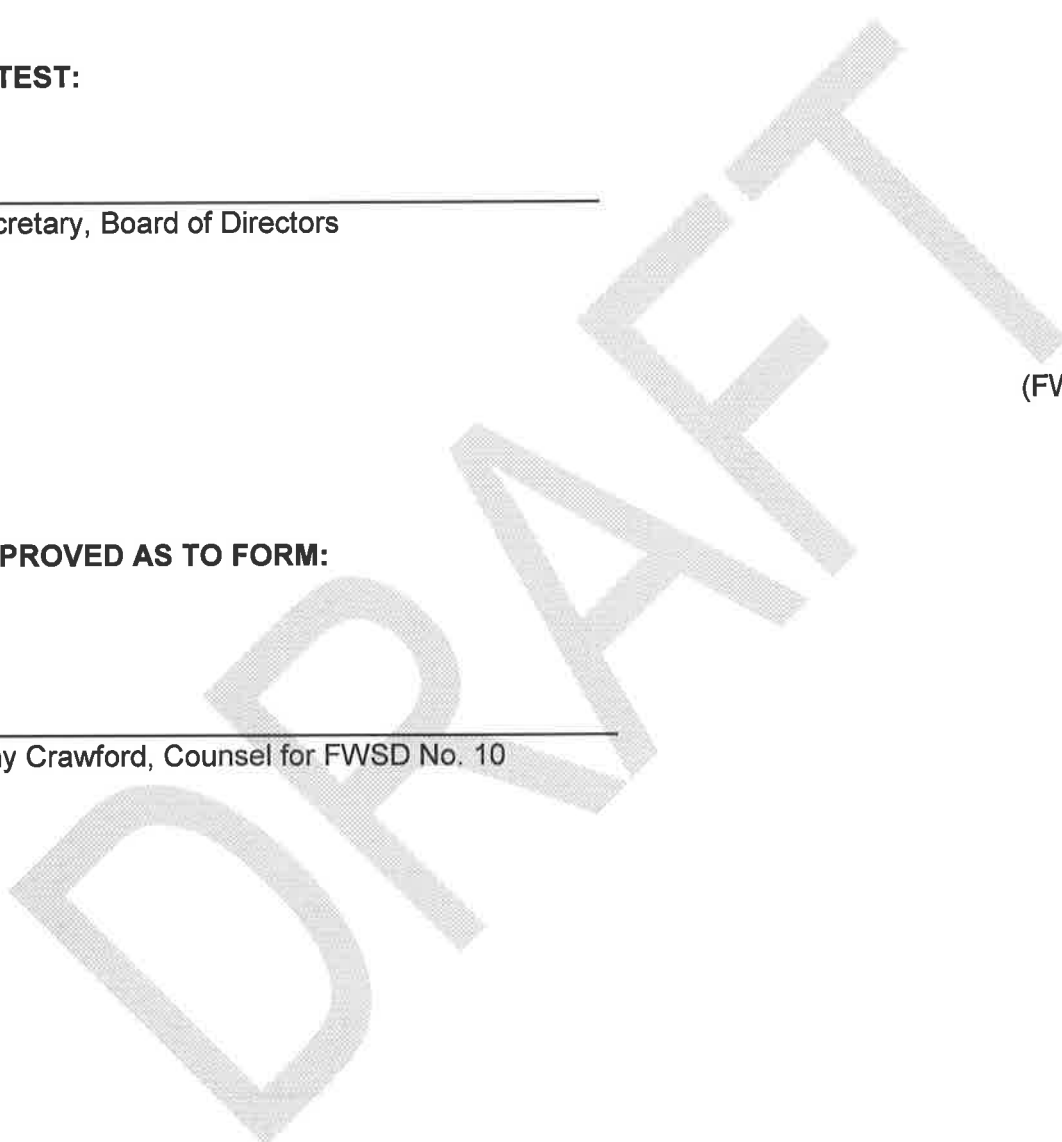
ATTEST:

Secretary, Board of Directors

(FWSD SEAL)

APPROVED AS TO FORM:

Clay Crawford, Counsel for FWSD No. 10



REVISED EXHIBIT A

DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10

POINT OF DELIVERY

The provisions of this Revised Exhibit A form a part of the Contract and are applicable to the District and to Denton County Fresh Water Supply District No. 10 ("FWSD") as if set forth in its entirety in the body of the Contract.

Based on the specific circumstances of water service to FWSD, it is mutually agreed that the Point of Delivery set forth in this Exhibit A is necessary to serve a non-contiguous development within the FWSD.

Artesia Development

Point of Delivery shall be at a mutually agreed location on the northeast corner of the intersection of Fishtrap Road and FM 1385, generally as outlined in the attached sketch.

The Point of Delivery is to be located on easements granted by or on behalf of FWSD to District, with rights of ingress and egress acceptable to District.

Note: Upon mutual agreement of the District and FWSD, an updated Revised Exhibit A may be substituted for this Revised Exhibit A.

EXHIBIT B

MINIMUM AMOUNT OF SYSTEM CAPACITY (DEMAND) BEING COMMITTED FOR DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10 IN ACCORDANCE WITH SECTION 3.04 OF CONTRACT

The provisions of this Exhibit B form a part of the Contract and are applicable to the District and to Denton County Fresh Water Supply District No. 10 (FWSD) as if set forth in its entirety in the body of the Contract.

Participating Customer
Denton County Fresh Water Supply District No. 10

Minimum Demand
0.82 MGD

DRAFT

**UPPER TRINITY REGIONAL WATER DISTRICT
NORTHEAST REGIONAL WATER RECLAMATION SYSTEM**

**AMENDMENT TO
AMENDED & RESTATED PARTICIPATING CUSTOMER CONTRACT
WITH
DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10**

THE STATE OF TEXAS §
 §
COUNTY OF DENTON §

This **AMENDMENT** (the "Amendment") to the **NORTHEAST REGIONAL WATER RECLAMATION SYSTEM CONTRACT** is made and entered into this _____ day of _____, _____, ("Effective Date"), by and between **UPPER TRINITY REGIONAL WATER DISTRICT** (the "District") and **DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10** ("FWSD") to amend the Participating Customer Contract dated May 1, 2003, as amended (the "Contract"), which Contract provides for FWSD to participate in the District's Northeast Regional Water Reclamation System, including the Doe Branch Water Reclamation Plant ("Doe Branch Plant") and the Riverbend Water Reclamation Plant ("Riverbend Plant").

WITNESSETH

WHEREAS, FWSD entered into the Contract for wastewater treatment services to its service area for which it holds a Certificate of Convenience and Necessity ("CCN") issued by the Texas Commission on Environmental Quality; and

WHEREAS, FWSD currently provides retail water and wastewater collection and transportation for three communities within its CCN, namely Savannah, Artesia and Arrowbrooke; and

WHEREAS, the District has constructed and operates the Riverbend Plant and the Doe Branch Plant as part of the Northeast Regional Water Reclamation System ("System") to serve FWSD and others; and

WHEREAS, FWSD has subscribed to certain capacity in the Riverbend Plant (547,500 gallons average daily flow) and in the Doe Branch Plant (135,000 gallons average daily flow); and

WHEREAS, on behalf of the District, FWSD has constructed certain facilities, including but not limited to interceptors, trunk mains and a lift station, to transport FWSD's Wastewater to the Riverbend Plant and to the Doe Branch Plant; and

WHEREAS, Mustang Special Utility District ("Mustang") has also entered into a Regional Wastewater Treatment Services Contract dated June 1, 2006, as amended, ("Mustang Contract") to participate in the District's System and has subscribed to certain capacity in the Riverbend Plant and the Doe Branch Plant; and

WHEREAS, it has been a matter of long-term intent for FWSD to transfer the ownership and operation of an agreed portion FWSD's retail water and wastewater systems to Mustang when timely; and

WHEREAS, FWSD and Mustang have entered into an Interlocal Agreement for Property Transfer and Allocation of Water and Wastewater Service Areas (herein "Transfer Agreement") whereby both FWSD and Mustang have agreed that FWSD will assign a portion of its benefits and obligations under the Contract to Mustang, that Mustang will assume and perform said assignment and Mustang will be the sole certified provider of retail water and wastewater service to the Savannah and Arrowbrooke communities, subject to the terms and conditions set out in the Transfer Agreement; and

WHEREAS, under the Transfer Agreement, Mustang will become the retail water and wastewater provider for the Savannah and Arrowbrooke communities; and

WHEREAS, based on the Transfer Agreement, FWSD and Mustang have requested the District to approve the transfer and assignment of a portion of the Contract to Mustang related to Savannah and Arrowbrooke; and

WHEREAS, the District's Board of Directors has considered FWSD and Mustang's request and desires to accommodate both parties in accordance with this Amendment; and

WHEREAS, FWSD desires to retain certain wastewater treatment capacity in the System (156,000 gallons per day average daily flow) to serve the Artesia community, which community is generally located north of Fishtrap Road and east of Teel Parkway within the Doe Branch drainage basin as shown in Exhibit A attached hereto; and

WHEREAS, FWSD advanced funds to the District for a share of the construction costs for the Riverbend Plant, the Doe Branch Plant, and certain other facilities, portions of which are eligible to be reimbursed to FWSD under certain conditions; and

WHEREAS, after the pending transfer, the District will continue to collect a Building Activity Fee from FWSD as new connections are made in the Artesia community as provided in the Contract; and

WHEREAS, the District and FWSD have previously established a Point of Entry and metering station on the Doe Branch Trunk Main to serve the Artesia community, which metering station is not yet operational; and

WHEREAS, the District's Bond Counsel has determined that the proposed transfer and assignment will not impact the tax-exempt status of the District's Bonds; and

WHEREAS, both FWSD and the District desire to amend the Contract to acknowledge the transfer and assumption of a portion of the Contract by Mustang and the continuation of wastewater service by the District to FWSD for the Artesia community.

NOW, THEREFORE, the District and FWSD, in consideration of the terms, conditions and covenants contained in this Amendment, agree as follows:

Section 1. Adoption of Preamble. All of the matters stated in the Preamble of this Amendment are true and correct and are hereby incorporated into the body of this Amendment as though fully set forth in their entirety herein.

Section 2. Definitions. Capitalized terms not otherwise defined herein shall have the same meaning as those set forth in the Contract.

Section 3. Transfer and Assignment. With explicit reliance on the representations and warranties from FWSD and Mustang provided in the Transfer Agreement, District hereby consents to the transfer and assignment by Mustang of that portion of the Contract between the District and FWSD related to the Savannah and Arrowbrooke communities, including the assignment and conveyance of an agreed portion of FWSD's retail water and wastewater systems to Mustang. That portion of FWSD's service area, the Contract, and the retail water and wastewater systems related to the Artesia Community is agreed to be retained by FWSD.

Section 4. Point of Entry and Contract Service Area.

- A. The District agrees to provide wastewater treatment service to a portion of FWSD (Artesia Community) through the designated Point of Entry as provided in the Revised Exhibit A of this Amendment. The Revised Exhibit A is hereby adopted, and, in all aspects shall supersede and be substituted for the existing "Exhibit A" incorporated in the Contract.
- B. The Revised Exhibit A includes a Point of Entry for FWSD on the District's Doe Branch Trunk Main north of U.S. Highway 380 near Fishtrap Road. Said Point of Entry will serve that area of FWSD north of Fishtrap Road and east of Teel Parkway, as shown in Exhibit A, known as the Artesia Community.
- C. Said Point of Entry was previously designed and constructed by FWSD with a metering manhole, an internal structure and flume, ready for installation of the meter. At FWSD's request, installation of the meter and related instrumentation was deferred until such time as there was sufficient amount of Wastewater being transported through said Point of Entry to justify a need for the meter. As of the Effective Date, the parties agree that there is sufficient Wastewater flowing through the Point of Entry. FWSD hereby agrees, at its sole cost, to install said meter and related instrumentation within 180 days of the Effective Date of this Amendment; and, FWSD agrees to make any and all necessary repairs to the metering manhole, internal structure and flume to allow the District to reliably operate the Point of Entry and to reasonably meter the amount of Wastewater from the Artesia Community.

Section 5. Subscribed Capacity. As provided in the Transfer Agreement, a portion of FWSD's subscribed capacity in both the Riverbend Plant and the Doe Branch Plant is agreed to be transferred to Mustang. Exhibit B of the Contract is hereby amended to reflect FWSD's retained and updated capacity in the System, which is agreed to be 156,000 gallons average daily flow. A Revised Exhibit B is attached hereto and is hereby incorporated into the Contract as if fully set forth therein.

Section 6. Reimbursement of Costs Advanced for Permanent Facilities. Under the Contract, as amended, FWSD is eligible for reimbursement of certain funds it advanced for easements and for the design and construction of certain permanent facilities to transport and treat FWSD's Wastewater at the Riverbend Plant and the Doe Branch Plant. By action of the Transfer Agreement, reimbursement of Eligible Costs shall be determined by the District; and further, shall

be made in accordance with paragraph 20 of Section D of the Contract. The amount of Eligible Costs for which FWSD may be reimbursed in the future shall be limited to the applicable costs it paid to extend wastewater service to the Artesia Community.

Section 7. Contract Provisions. All other provisions of the Contract, as amended, shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this Amendment to be fully executed in several counterparts, each of which shall constitute an original, all as of the day and year first above written, which is the Effective Date of this Amendment.

DRAFT

UPPER TRINITY REGIONAL WATER DISTRICT

By: _____
Kevin Mercer, President, Board of Directors

ATTEST:

Mike Fairfield, Secretary, Board of Directors

(DISTRICT SEAL)

APPROVED AS TO FORM:

John F. Boyle, Jr., Counsel for the District

**DENTON COUNTY FRESH WATER SUPPLY
DISTRICT NO 10:**

By: _____
President, Board of Directors

ATTEST:

Secretary, Board of Directors

(FWSD SEAL)

APPROVED AS TO FORM:

Clay Crawford, Counsel for FWSD No. 10

DRAFT

EXHIBIT A

UPPER TRINITY REGIONAL WATER DISTRICT NORTHEAST REGIONAL WATER RECLAMATION SYSTEM

AMENDED & RESTATED PARTICIPATING CUSTOMER CONTRACT DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10

Boundary Map and Point of Entry for FWSD

The Point of Entry for FWSD will be located on the Doe Branch Trunk Main north of U.S. Highway 380 near Fishtrap Road and will serve that portion of FWSD's service area east of F.M. 1385. Page 2 of this Revised Exhibit A illustrates the approximate location of the Point of Entry. Also, Page 2 outlines the boundaries of FWSD that will be served by the Contract, as amended.

NOTE: Upon mutual agreement of FWSD and that District, an updated or corrected Exhibit A may be substituted for this Exhibit A.

EXHIBIT B

UPPER TRINITY REGIONAL WATER DISTRICT NORTHEAST REGIONAL WATER RECLAMATION SYSTEM

AMENDED AND RESTATED PARTICIPATING CUSTOMER CONTRACT DENTON COUNTY FRESH WATER SUPPLY DISTRICT NO. 10

Subscribed Capacity and Average Flow According to Article II of the Contract

The provisions of this Exhibit B form a part of the Contract and are applicable to the District and to FWSD as if set forth in their entirety in the body of the Contract. The following quantities are mutually agreed to for the purposes noted.

	Minimum Flow (MGD) for Financial Purposes	Average Daily Flow (MGD) for Subscribed Capacity
Riverbend Plant (existing)	0.010 MGD	0.021 MGD
Doe Branch Plant (existing)	0.014 MGD	0.135 MGD
Total Subscribed Capacity	0.028 MGD	0.156 MGD

Phased Construction. Expansion of the existing Riverbend Plant and the Doe Branch Plant are expected to be accomplished in phases. When FWSD desires additional capacity above its subscribed capacity, District will determine to provide requested capacity at Riverbend or at the Doe Branch Plant. FWSD shall give appropriate notice to the District to allow adequate time for coordination with other participants in the System and for financing, design and construction of the necessary facilities. However, in providing service to FWSD pursuant to the Contract, the District may use either or both plants to whatever degree that District determines, in its sole discretion, to be prudent in providing for the treatment of the Wastewater delivered by FWSD to the System.

Riverbend Plant. FWSD has specific subscribed capacity in the Riverbend Plant, which capacity shall be retained by FWSD according to the provisions outlined in this Revised Exhibit B and in Exhibit D.

Doe Branch Plant. Construction of plant capacity in the Doe Branch Plant for FWSD is expected to be accomplished in phases; to be determined by the District, consistent with the discharge permit approved by TCEQ, and adequate for the needs of FWSD and other Customers.

Additional Capacity. When FWSD desires additional capacity above the amount subscribed herein, to provide for future growth requirements, FWSD shall give appropriate notice to District to allow adequate time for District to coordinate financing, design and construction of additional capacity. The District, at its discretion, will determine whether to provide the requested increase in capacity at either the Riverbend Plant or the Doe Branch Plant. However, it is the intent of the Parties hereto that the Doe Branch Plant will provide for the future needs of FWSD over and above the capacity provided herein at the Riverbend Plant. The District then will use such increased capacity as the new subscribed capacity for allocation of costs to Customer as provided in the Contract. It is mutually agreed that other Customers may participate in the System to allow the District to fulfill its responsibility to provide adequate service for the region.