

**AMENDED AND RESTATED CONSENT AGREEMENT AMONG THE CITY OF SAN ANTONIO, TEXAS,  
THE SAN ANTONIO WATER SYSTEM,  
VERANO LAND GROUP, LP, and  
THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER TWENTY-EIGHT,  
CITY OF SAN ANTONIO, TEXAS**

This Amended and Restated Agreement (this "Agreement"), is an amended and restatement of the ("2009 Consent Agreement") that pursuant to Ordinance No. 2009-08-20-0662 \_\_\_\_\_, passed and approved on the 20th day of August, 2009 was entered into by and between the City of San Antonio, a Texas municipal corporation in Bexar County, Texas (the "City"); the San Antonio Water System, a public utility, acting through its Board of Directors pursuant to Resolution No. 09-217 as passed and approved on August 4, 2009 and Resolution No. 09-251 as passed and approved on September 1, 2009 ("SAWS"); VTLM Texas, LP, a Texas limited partnership ("VTLM"); and the Board of Directors for Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas, a tax increment reinvestment zone as passed and approved on August 13, 2009 (the "Board").

The City, SAWS, the Developer, and the Board may each be referred to singularly as a "Party" or collectively as "Parties."

NOW THIS AGREEMENT is made by and among the City, acting through its City Manager pursuant to Ordinance No. 2016-\_\_-\_\_-\_\_\_\_passed and approved by the City Council on the 28<sup>th</sup> day of January , 2016, the Board approved on \_\_\_\_\_, and Verano Land Group, LP, a Nevada limited partnership (formerly a Texas limited partnership) (the "Developer").

**BACKGROUND:**

**WHEREAS**, the City, pursuant to Ordinance 2007-12-06-1257, created Reinvestment Zone Number Twenty-Eight to promote development of property surrounding the Texas A&M University campus in San Antonio ("TAMU-SA"), pursuant to the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, through the use of tax increment financing, and established the Board; and

**WHEREAS**, the City, pursuant to Ordinance 2008-11-20-1018, entered into a Development Agreement (the "Original Development Agreement") with VTLM Texas, LP, a Texas limited partnership ("VTLM") defining the rights and duties of the parties thereto with regard to development of public infrastructure within Tax Increment Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas ("TIRZ"); and

**WHEREAS**, SAWS, pursuant to Resolution No. 09-217 and/or Resolution No. 09-251, entered into a Utility Service Agreement with the Developer, VTLM and the Texas A&M University System for the benefit of TAMU-SA ("Prior Utility Service Agreement"); and

**WHEREAS**, under the Prior Utility Service Agreement, the Developer and VTLM assigned rights to some of the reimbursement of Project Costs under the Original Development Agreement to SAWS; and

**WHEREAS**, the City and the Board have entered into an Interlocal Agreement with each of the three other Participating Taxing Entities in the TIRZ; and

**WHEREAS**, per Article V.C. in each of the Interlocal Agreements, the City and the Board may enter into agreements to pay Project Costs from the TIF Fund with only written notice to the other Participating Taxing Entities; and

**WHEREAS**, a Consent Agreement ("Prior Consent Agreement") was entered into, pursuant to Ordinance No. 2009-08-20-0662, passed and approved on the 20th day of August, 2009, by and between the City; SAWS, acting through its Board of Directors pursuant to Resolution No. 09-217 as passed and approved on August 4, 2009 and Resolution No. 09-251 as passed and approved on September 1, 2009; Developer; VTLM; and the Board, as passed and approved on August 13, 2009; and

**WHEREAS**, VTLM has assigned its rights to Developer, and Developer has assumed VTLM's obligations, under the Original Development Agreement (as amended prior to such assignment and assumption) and the Prior Utility Service Agreement; and

**WHEREAS**, the Original Development Agreement (as amended prior to such assignment and assumption by Developer) was amended and restated by that what certain Amended and Restated Development Agreement entered into pursuant to Ordinance \_\_\_\_\_ (the "Development Agreement") by and among the City, Bexar County, the Board and the Developer; and

**WHEREAS**, SAWS, pursuant to Resolution No. \_\_\_\_\_, entered into a Utility Service Agreement (the "Utility Service Agreement") with the Developer, and the Texas A&M University System for the benefit of TAMU-SA, to supersede and replace the Prior Utility Service Agreement; and

**WHEREAS**, under the Utility Service Agreement, the Developer assigned rights to some of the reimbursement of Project Costs under the Development Agreement to SAWS; and

**WHEREAS**, this Amended Consent Agreement is being entered into to restate, and amend the Prior Consent Agreement, with the effectiveness of this Agreement relating back to the effective date of the Prior Consent Agreement;

**NOW, THEREFORE**, the Parties consent to the terms of the Utility Service Agreement and agree as follows in order to implement the provisions of Utility Service Agreement:

## **I. DEFINITIONS**

1.1 "Agreement" means this document by and among the City, SAWS, the Developer, and the Board which may be amended from time to time as necessary to fully implement the Utility Service Agreement, attached as Exhibit A.

1.2 "Assignment" means a written assignment to SAWS of right to receive TIF Fund reimbursements with a warranty of the Developer's rights to such funds as set forth in the Utility Service Agreement, attached in final form as Exhibit B to this Agreement.

1.3 "Development Agreement" means the agreement by and among the City, Bexar County, the Developer, and the Board which may be amended from time to time as necessary to fully implement the Project Plan and Finance Plan for the TIRZ.

1.4 "EDU" stands for "Equivalent Dwelling Unit", a means of measuring water and wastewater capacity provided by SAWS.

1.5 "Effective Date" is the date the last Party executes this Agreement, provided, however, that the effectiveness of this Agreement relates back to the effective date of the Prior Consent Agreement.

1.6 "Impact Fees" is a one-time charge imposed on new development by SAWS to help recover capital costs associated with providing the infrastructure and other required improvements to provide water or wastewater service to the new development.

1.7 "Participating Taxing Entity" means any governmental entity recognized as such by Texas law, which is participating in this TIRZ by contributing a percentage of its Tax Increment.

1.8 "Project Costs" has the meaning provided by Section 311.002(1) of the Act.

1.9 "Public Improvements" include those improvements that provide a public benefit and that are listed in the Project Plan, the Financing Plan and the Construction Schedule. When an improvement has both private and public benefits, only that portion dedicated to, held open to or accessible by the public may be reimbursed to the Developer as a Public Improvement.

1.10 "TAMU-SA" means Texas A&M University – San Antonio.

1.11 "Tax Increment" has the meaning assigned by Section 311.012 of the Texas Tax Code, and applies only to taxable real property within the TIRZ.

1.12 "TIF" means Tax Increment Financing.

1.13 "TIF Fund" means the tax increment fund created by the City pursuant to Ordinance 200712-06-1257 for the deposit of Tax Increments for the TIRZ, entitled "Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas Tax Increment Fund."

1.14 "TIRZ" means Tax Increment Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas.

1.15 "Utility Service Agreement" means the Utility Service Agreement entered into among SAWS, the Developer, and Texas A&M University on behalf of TAMU-SA.

Singular and Plural: Words used in this Agreement in the singular, where the context so permits, also include the plural and vice versa, unless otherwise specified.

Gender: The gender of the wording throughout this Agreement shall always be interpreted to mean either sex.

## II. REPRESENTATIONS AND AGREEMENTS

2.1 **Consent.** The City, SAWS, the Developer, and the Board consent to the terms of the Utility Service Agreement, attached as Exhibit A. Because the City and the Board are not parties to the Utility Service Agreement, the intent of this Agreement is to evidence the agreement of all Parties to the Utility Service Agreement.

2.2 **City and Board Authority.** The City and the Board are authorized by paragraph V.C. in each of the Interlocal Agreements with the Participating Taxing Entities to enter into any other agreements to pay Project Costs and other reasonable expenses from the Tax Increments paid into the Tax Increment Fund by the City without the consent of any other Participating Taxing Entity and therefore have the authority to enter into this Agreement. The City and Board have provided each of the Participating Taxing Entities: Bexar County, Alamo Community College District, and the San Antonio River Authority, a written notice of this Agreement and will provided each entity executed copies of this Agreement when available.

2.3 **Right to Assign Payment.** The Developer may rely upon the payments to be made to Developer from the TIF Fund out of the Available Tax Increment Funds as specified in the Development Agreement, and the Developer may assign its rights to such payments to other parties. The Developer, City, and the Board agree that SAWS shall be assigned certain tax increment reimbursement otherwise due the Developer under the Utility Service Agreement and that City shall issue a check or other form of payment from the TIF Fund made payable only to SAWS for any assigned reimbursement.

2.4 **Right to Receive Reimbursements.** In exchange for certain expenditures by SAWS for Public Improvements within the TIRZ, the Developer shall by separate document, in substantially the form attached as Exhibit B, assign a portion of Developer's right to recover tax increment under the Development Agreement to SAWS.

2.5 **Assigned Payment not Otherwise Encumbered.** The Developer warrants that as of the Effective Date Developer has not made any other assignment of Developer's right to TIF Fund proceeds and the City and the Board confirm that they have not authorized any other assignments of Developer's right to proceeds from the TIF Fund. The Developer agrees that SAWS reimbursement shall take precedence over any other reimbursement that Developer or assignee of Developer is entitled to under the Development Agreement, a condition precedent appearing in Paragraph S.C.WW.1.01(5) in the wastewater section of the Utility Service Agreement.

2.6 **Reasonable Efforts of all Parties.** The City, SAWS, the Board, and the Developer represent each to the others that they shall make reasonable efforts to expedite the subject matters of this Agreement and acknowledge that the successful performance of this Agreement requires their continued cooperation.

## III. THE RIGHT TO RECOVER

3.1 In partial reimbursement for certain expenditures heretofore made by SAWS for the design and construction of wastewater infrastructure in the TIRZ, the Developer agreed in the Utility Service Agreement to allow SAWS the right to recover the following reimbursement

amounts to which Developer is entitled under the Development Agreement for the TIRZ:

- a. up to \$2,131,618.50 for the design and construction of wastewater improvements that have been completed and that were funded by SAWS pursuant to the Prior Utilities Service Agreement (the “SAWS-Funded Wastewater Improvements”);
- b. actual costs incurred by SAWS if and to the extent it is necessary for SAWS to repair or reconstruct any wastewater infrastructure designed or constructed by Developer within two (2) years from the date of completion of such infrastructure, as and to the extent set forth in the Utility Service Agreement; and
- c. the actual amount of water and wastewater impact fees attributable to certain water and wastewater capacity reserved and allocated to TAMU-SA in the Utility Service Agreement (i.e., 100 EDUs for water service to the tract identified as the “ITC Tract” in the Utility Service Agreement, and 2,783 EDUs for wastewater service to the tract identified as the “TAMU-SA Tract” in the Utility Service Agreement) until the earlier of (i) August 2034 or (ii) such time as the water service EDUs reserved and allocated to TAMU-SA for the ITC Tract under the Utility Service Agreement (i.e., a maximum of 100 EDUs of water service) and the wastewater service EDUs reserved and allocated to TAMU-SA for the TAMU-SA Tract under the Utility Service Agreement (i.e., a maximum of 2,783 EDUs of wastewater service) are committed or utilized.

#### **IV. TERM OF AGREEMENT AND TIRZ**

4.1 The term of this Agreement shall commence on the Effective Date and end on the date which is the earlier to occur of the following: (i) SAWS has been reimbursed from the TIF Fund for the full amount that SAWS is entitled to under the Utility Service Agreement and has no possibility of additional reimbursement or (ii) September 30, 2045. The City and the Board agree that they will not terminate the TIRZ unless SAWS has been reimbursed the full amount SAWS is or becomes entitled to under the Utility Service Agreement and TAMU-SA has constructed its first facility on site. However, the City agrees not to terminate the TIRZ while SAWS has outstanding reimbursement that SAWS is entitled to receive per Paragraph S.C.WW.1.01(4) in the wastewater section of the Utility Service Agreement.

#### **V. DUTIES AND OBLIGATIONS OF DEVELOPER**

5.1 The Developer has the following duties and obligations to the other Parties:

- a. **Invoices.** The Developer shall designate SAWS as the direct payee on all supporting invoices submitted to the City for reimbursement for construction of the SAWS-Funded Wastewater Improvements.

#### **VI. DUTIES AND OBLIGATIONS OF SAWS**

6.1 SAWS has the following duties and obligations to the other Parties:

- a. **Documentation in Support of Payment from the TIF Fund.** SAWS agrees to promptly submit to the City, in a form acceptable to the City, documentation of

impact fees due and owing on behalf of TAMU-SA and any repair and reconstruction expenses, including competitive bidding documentation, made by SAWS per Paragraphs S.C.WW.1.01(4)D and S.C.WW.1.01(4)C.2(i) respectively in the wastewater section of the Utility Service Agreement.

## **VII. DUTIES AND OBLIGATIONS OF CITY**

7.1 The City has the following duties and obligations to the other Parties:

- a. Provide written notification to the other Participating Taxing Entities contributing to the TIF Fund that none of the Tax Increment that they contribute will be used to reimburse SAWS per Paragraph S.C.WW.1.01(5) in the wastewater section of the Utility Service Agreement.
- b. Maintain an accounting of the tax increment collected by the City and available for distribution to SAWS and allow all other Parties and Participating Taxing Entities access to review such an accounting.
- c. Present the Assignment to the Board and request that the Board authorize payment directly to SAWS from the TIF Fund in the amount required by Paragraph S.C.WW.1.01(4)C.2 in the wastewater section of the Amended and Restated Utility Service Agreement.
- d. Provide SAWS access to all TIRZ financial reporting, including periodic financial reports that provide an accounting of all TIF Fund collections and disbursements as required by Paragraphs S.C.WW.1.01(4)C.3 and S.C.WW.1.01(4)C.4 respectively in the wastewater section of the Amended and Restated Utility Service Agreement.

## **VIII. DUTIES AND OBLIGATIONS OF THE BOARD**

8.1 The Board has the following duties and obligations to the other Parties:

- a. Approve disbursements to be made directly to SAWS from the TIF Fund in the amount required by Paragraph S.C.WW.1.01(4)C.2 in the wastewater section of the Utility Service Agreement,

## **IX. LEGAL AUTHORITY**

9.1 Each person executing this Agreement on behalf of the City, SAWS, the Board or the Developer, represents, warrants, assures and guarantees that he has full legal authority to (i) execute this Agreement on behalf of the City, SAWS, the Board and/or the Developer, respectively and (ii) to bind the City, SAWS, the Board and/or the Developer, respectively, to all of the terms, conditions, provisions and obligations contained in this Agreement.

## **X. PARTIES' REPRESENTATIONS**

10.1 This Agreement has been jointly negotiated by the City, SAWS, the Board, and the Developer and shall not be construed against a party because that party may have primarily assumed responsibility for the drafting of this Agreement.

## **XI. CAPTIONS**

11.1 All captions used in this Agreement are only for the convenience of reference and shall not be construed to have any effect or meaning as to the agreement between the parties to this Agreement.

## **XII. ENTIRE AGREEMENT**

12.1 **No Contradictions.** This written Agreement is a consent to the Amended and Restated Utility Service Agreement and embodies the final and entire agreement between the Parties for the implementation of said Utility Service Agreement, and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the Parties. If there is any conflict between the terms of this Agreement and the Utility Service Agreement, the terms of the Amended and Restated Utility Service Agreement shall control.

12.2 **Incorporation of Exhibits.** The Exhibits attached to this Agreement are incorporated in and shall be considered a part of this Agreement for the purposes stated in this Agreement.

IN WITNESS THEREOF, the Parties hereto have caused this instrument to be signed on the date of the each signature below. In accordance with Section 1.5 above, the Effective Date of this Agreement will be the date of the last signature below, but the effectiveness of this Agreement relates back to the effective date of the Prior Consent Agreement:

**CITY OF SAN ANTONIO**

**SAN ANTONIO WATER SYSTEM**

\_\_\_\_\_  
Sheryl Sculley  
City Manager

\_\_\_\_\_  
Robert R. Puente, President and Chief  
Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST/SEAL:**

**ATTEST/SEAL:**

\_\_\_\_\_  
\_\_\_\_\_  
City Clerk  
Date: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Martha G. Sepeda  
Acting City Attorney  
Date: \_\_\_\_\_

**BOARD OF DIRECTORS  
TAX INCREMENT REINVESTMENT  
ZONE NUMBER TWENTY-EIGHT,  
CITY OF SAN ANTONIO, TEXAS**

**VERANO LAND GROUP, LP**, a Nevada  
limited partnership

By: South San Antonio Management, LLC,  
a Nevada limited liability company, its General  
Partner

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Presiding Officer, Board of Directors

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## **EXHIBIT A**

**UTILITY SERVICE AGREEMENT**

**STATE OF TEXAS**                   §  
  §  
**COUNTY OF BEXAR**               §

This Utility Service Agreement (“Agreement”) is entered into by and between the San Antonio Water System Board of Trustees, through Resolution Number \_\_\_\_\_, acting by and through its President/Chief Executive Officer (“SAWS”), The Texas A&M University System (“TAMUS”), for the benefit of The Texas A&M University – San Antonio (“TAMU-SA”), and Verano land Group, LP, a Nevada limited partnership (formally a Texas limited partnership) (“Developer”) acting by and through Joseph M DeSimone Jr., as managing member of its general partner, all of the foregoing entities being referred to together as the “Parties” and each separately as a Party.

**Recitals**

**Whereas**, Developer and TAMUS have requested that SAWS provide water and wastewater service (the “Services”) to an approximate 2,421- acre tract of land, (the “Tract”), which is located inside SAWS’ water CCN, inside SAWS’ wastewater CCN and does require SAWS’ financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board action is required; and

**Whereas**, portions of the Tract are owned by Developer (the “Verano Tract”), and portions of the Tract are owned by TAMUS (the “TAMU-SA Tract”);

**Whereas**, the TAMU-SA Tract consists of approximately 694.5 acres, being comprised of (i) approximately 590 acres, being two 5 acre parcels along South Loop 410 and one contiguous 580 acre parcel north of Mauermann Road (collectively, the “Main Campus”) and (ii) one 104.5 acre parcel south of Mauermann Road to be used for an Irrigation Technology Center (the “ITC Tract”); and

**Whereas**, the Verano Tract consists of (i) approximately 1726.5 acres essentially surrounding the Main Campus north of Mauermann Road (the “Verano North Tract”), and (ii) approximately 45.65 acres adjacent to the ITC Tract south of Mauermann Road (the “Verano South Tract”, and together with the ITC Tract, the “South Tract”); and

**Whereas**, the Tract is not located over the Edwards Aquifer Recharge or Contributing Zone, which is not located within the 5-mile Awareness Zone of Camp Bullis, such Tract being more particularly described in Attachment VI hereto, as accepted by SAWS; and

**Whereas**, SAWS desires to provide the Services to the Developer pursuant to this Agreement, the SAWS Utility Service Regulations, and all applicable local, state, and federal regulations, as amended; and

**Whereas**, Bexar Metropolitan Water District (SAWS being the successor to Bexar Metropolitan Water District), Developer and TAMUS entered into a Memorandum of Understanding dated as of January 28, 2008 (the “Memorandum of Understanding”);

**Whereas**, Bexar Metropolitan Water District and Developer entered into a Texas A&M University Support Agreement for the benefit of TAMUS dated as of July 31, 2008 (the “Support Agreement”);

**Whereas**, Bexar Metropolitan Water District and VTLM TEXAS LP, a Texas limited partnership (“VTLM”) entered into a University Way Funding Agreement dated February 1, 2009 (“University Way Agreement”);

**Whereas**, Bexar Metropolitan Water District and VTLM entered into an East-West Street Funding Agreement dated August 7, 2009 (“East-West Agreement”);

**Whereas**, the Parties and VTLM entered into a Utility Services Agreement dated October 15, 2009 (the “2009 SAWS USA”);

**Whereas**, VTLM and Bexar Metropolitan Water District entered into a Utility Services Agreement dated January 26, 2009 (the “2009 BexarMet USA”);

**Whereas**, VTLM has assigned its rights to Developer, and Developer has assumed VTLM’s obligations, under the University Way Agreement, the East-West Agreement, the 2009 SAWS USA and the 2009 BexarMet USA;

**Whereas**, this Agreement supersedes and replaces the 2009 SAWS USA and the 2009 BexarMet USA;

**Whereas**, this Agreement confirms that the respective obligations of SAWS and Developer under the Memorandum of Understanding, the Support Agreement, the University Way Agreement and the East-West Agreement have been satisfied, except as may be specifically set forth or carried forward in this Agreement;

**Now Therefore, The Parties Hereto Agree To The Following Terms and**

**Conditions:**

**1.00 Interpretation of Agreement.**

1.01 The Parties acknowledge that the Services contemplated by this Agreement shall be provided in accordance with the SAWS Utility Service Regulations, Design Criteria, Schedules, Attachments and Instruments thereto, as amended (together “USR”). In the event the specific terms of this Agreement are in conflict with the USR, the specific terms of this Agreement shall apply. The above notwithstanding, for the specific conflicting terms to prevail, the conflict must be expressly noted in the Agreement. The Parties further acknowledge that this Agreement is

subject to future acts of the City Council of the City of San Antonio with respect to the adoption or amendment of impact fee ordinances/resolutions.

1.02 The Parties agree that the purpose of this Agreement is the reservation of the designated water supply and /or wastewater discharge capacity for the Tract. Any rights that the Developer claims arise under Chapter 245, Texas Local Government Code, that are related to this Agreement shall comply with the Unified Development Code Article IV, Division 1, Chapter 35-410 and applicable requirements in Article VII, Division 2 *Vested Rights*, which are dependent upon the provision of written information that provides the City of San Antonio fair notice of the project, provided that such written information includes a description of each land use (residential, multi-family, commercial or industrial) by acreage. If Developer intends to rely on this USA as its application for the purposes of vested rights under Chapter 245, then please contact Development Services Department, Land Entitlement team at 210-207-1111 or 1901 S. Alamo, San Antonio, TX. 78204. Further, this information must be included in the supporting engineering report in conformance with the Utility Service Regulations, which may be amended, or repealed and replaced, from time to time. In no event shall those Utility Service Regulations replace or conflict with the City's Unified Development Code, Article IV, Division 1, Chapter 35-410 and applicable requirements in Article VII, Division 2 *Vested Rights*.

## **2.00 Obligation Conditioned.**

The obligation of SAWS to provide the Services is conditioned upon present rules, regulations and statutes of the United States of America and the State of Texas and any court order that directly affects the SAWS' Regional Water Production and Distribution System and/or Regional Wastewater Transportation and Treatment System and/or the utility infrastructure directly servicing the Tract. Developer acknowledges that if the rules, regulations and statutes of the United States of America and/or the State of Texas that are in effect upon the execution date of this Agreement are repealed, revised or amended to such an extent that SAWS becomes incapable of, or prevented from, providing the Services, then no liability of any nature is to be imposed upon SAWS as a result of SAWS' compliance with such legal or regulatory mandates. SAWS agrees that it will use its best efforts to prevent the enactment of such legal or regulatory mandates.

## **3.00 Term.**

3.01 The term of this Agreement shall be seven (7) years from the Effective Date if the Developer complies with the requirements set out in G.C. 19.00 (attached) within the time period therein stated. This Agreement shall automatically expire if Developer fails to comply with the requirements of G.C. 19.00 within the time period therein provided. The term of this Agreement may be extended to fifteen (15) years from the Effective Date, if Developer complies with the requirements to extend the term set forth in G.C. 19.00 within the time period therein stated. Certain obligations of SAWS (described in Section 3.03 below) may survive the expiration of the term of this Agreement, to the extent that Developer has (i) paid all applicable impact fees for the Services at the then-current rate, and (ii) complied with all On-Site and Off-Site utility infrastructure requirements of this Agreement (described in the Special Conditions), including

over-sizing requirements. The term may be further extended as provided in the Special Conditions.

3.02 To the extent that SAWS' obligations do not survive the expiration of this Agreement, Developer understands and agrees that a new Utility Service Agreement must be entered into with SAWS to receive the Services for the development project that is the subject of this Agreement.

3.03 To the extent that all applicable impact fees are timely paid and Developer complies with all On-Site utility infrastructure requirements for the Verano Tract and all Off-Site utility infrastructure requirements for the Tract, and TAMUS complies with all On-Site utility infrastructure requirements for the TAMU-SA Tract, all prior to the expiration of this Agreement, the following obligations will survive expiration of this Agreement:

- (i) SAWS' recognition of the EDUs referenced as the subject of this agreement as Guaranteed Capacity.
- (ii) SAWS' continued recognition of impact fee credits previously earned by the Developer pursuant to Sections 15.8 and 15.9 of the USR and/or pursuant to this Agreement.
- (iii) SAWS' continued provision of the Services to retail customers located in the Tract, so long as such customers pay for the services and comply with the regulations applicable to individual customers.

3.04 Developer's obligations to pay SAWS all sums set forth in this Agreement shall survive the expiration of the term of this Agreement.

#### **4.00 Entire Agreement.**

The following documents attached hereto and incorporated herein are as fully a part of this Agreement as if herein repeated in full, together with this Agreement, comprise the Agreement in its entirety:

Attachment I:	General Conditions
Attachment II:	Special Conditions
Attachment III:	Description of Proposed Water and/or Wastewater Infrastructure
Attachment IV:	Board Summary & Recommendation and Resolution (if necessary)
Attachment V:	Developer Water and/or Wastewater Master Plan (if necessary)
Attachment VI:	Engineering Study Including Description of the Tract
Attachment VII:	Lift Station & Force Main Supplemental Agreement (if necessary)
Attachment VIII:	Water Recycling and Conservation Plan (if necessary)

Any of the above attachments that are created and submitted by the Developer as an attachment to this USA shall be limited to providing relevant engineering, planning or managing information for the purposes of setting aside or reserving water and/or wastewater service capacity as specified in the body of this USA, the General Conditions and the Special Conditions. Developer agrees that it will not attempt to rely on, and SAWS does not authorize, any of the contents of

any attachments created and submitted by the Developer as a basis for claiming rights under Chapter 245 of the Texas Local Government Code, except as specifically required by Section 1.02 of this USA.

Developer understands that this Agreement, including, its General Conditions, Special Conditions and Attachments, is subject to the Texas Public Information Act; and, therefore, agrees that it will not claim that any of the information contained herein is subject to any third party exception under that Act.

### **5.00 Developer's Obligations.**

The Developer acknowledges and agrees that the capacity provided by this Agreement runs with the land and shall be an appurtenance to the Tract. The Developer acknowledges that recordation of this Agreement in the Real Property Records of the County in which the Tract is located within three (3) years of the Effective Date of this Agreement is required; otherwise, this Agreement will automatically terminate. Developer shall record the Agreement and the delivery of a recorded copy to the Director within three (3) years of the Effective date of this Agreement or before any transfer of property or EDUs as specified in G.C. 20.00, whichever is sooner, is required. The Developer shall maintain records of EDU's remaining on the Tract pursuant to the approved Developer Master Plan. Developer shall provide SAWS with such records upon SAWS written request. Notwithstanding anything herein to the contrary, the Parties acknowledge and agree that the rights herein regarding the Main Campus and the ITC Tract are personal to and for the exclusive benefit of TAMUS, and are not assignable.

### **6.00 Indemnity.**

**TO THE EXTENT ALLOWED BY LAW AND TEXAS CONSTITUTION, THE DEVELOPER FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS SAWS AND ITS SUCCESSOR AND ASSIGNS FROM THE CLAIMS OF THIRD PARTIES ARISING OUT OF SAWS' RECOGNITION OF THE TRANSFER OF CAPACITY UNDER THIS AGREEMENT TO DEVELOPER'S SUBSEQUENT PURCHASERS, SUCCESSORS AND ASSIGNS.**

### **7.00 Notices.**

Any notice, request, demand, report, certificate or other instrument which may be required or permitted to be furnished to or served upon the parties shall be deemed sufficiently given or furnished or served if in writing and deposited in the United States mail, registered or certified, return receipt requested, addressed to such party at the address set forth below:

#### **IF TO SAN ANTONIO WATER SYSTEM:**

**SAN ANTONIO WATER SYSTEM  
POST OFFICE BOX 2449  
SAN ANTONIO, TEXAS 78298-2449  
ATTN: SAM MILLS, P.E., DIRECTOR, INFRASTRUCTURE PLANNING**

**IF TO DEVELOPER:**

**Verano Land Group, LP**

\_\_\_\_\_

**Attn:** \_\_\_\_\_

**with a copy to:**

\_\_\_\_\_

\_\_\_\_\_

**Attn:** \_\_\_\_\_

**If to TAMUS:**

SYSTEM REAL ESTATE OFFICE  
THE TEXAS A&M UNIVERSITY SYSTEM  
A&M SYSTEM BUILDING, SUITE 2079  
200 TECHNOLOGY WAY  
COLLEGE STATION, TEXAS 77845  
ATTN: TIMOTHY V. COFFEY  
EMAIL: [TCoffey@tamus.edu](mailto:TCoffey@tamus.edu)  
TELEPHONE: (979) 458-6350  
FACSIMILE: (979)458-6359

**with a copy to:**

GENERAL COUNSEL  
THE TEXAS A&M UNIVERSITY SYSTEM  
A&M SYSTEM BUILDING, SUITE 2079  
200 TECHNOLOGY WAY  
COLLEGE STATION, TEXAS 77845  
ATTN: ANDREW L. STRONG  
EMAIL: [ASTRONG@TAMU.EDU](mailto:ASTRONG@TAMU.EDU)  
TELEPHONE: (979) 458-6120  
FACSIMILE: (979) 458-6150

**8.00 Severability.**

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

**9.00 Effective Date.**

The Effective Date of this Agreement shall be the date signed by the authorized representative of the San Antonio Water System.

#### **10.00 Ownership.**

By signing this Agreement the Developer represents and warrants that it is the owner of the Verano Tract or has the authority of the Verano Tract owner to develop the area. By signing this Agreement the TAMUS represents and warrants that it is the owner of the TAMU-SA Tract or has the authority of the TAMU-SA Tract owner to develop the area. Any misrepresentation of authority or ownership by Developer or TAMUS shall make this Agreement voidable by SAWS. If the Developer or TAMUS does not own the respective part of the Tract, then the Developer or TAMUS, as the case may be, must provide documentation from the owner of the respective part of the Tract to show that it has the proper authority to develop the respective part of the Tract.

#### **11.0 Controlling Provisions.**

To the extent of any irreconcilable conflict between the Agreement, the Attachments, and/or the General Conditions and the Special Conditions, the provisions of the Special Conditions shall apply.

#### **12.0 Counterparts.**

This Agreement may be executed in multiple counterparts, with the same effect as if all signatory parties had signed the same Agreement. All counterparts will be construed together and will constitute one and the same document. The signature pages from each counterpart document may be removed and attached to the same document for purposes of recording in the Real Property Records of Bexar County, Texas.



**ACCEPTED AND AGREED TO IN ALL THINGS:**

**San Antonio Water System**

**Signature:** \_\_\_\_\_

**Print Name:** Ashok S. Kaji, P.E.

**Title:** Interim Vice-President, Engineering & Construction

**Date:** \_\_\_\_\_

**The Texas A&M University System, and agency of the State of Texas**

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

**Print Name:** \_\_\_\_\_

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

**Date:** \_\_\_\_\_

**VERANO LAND GROUP, LP, a Nevada limited partnership**

**By: South San Antonio Management, LLC, a Nevada limited liability company, its General Partner**

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

**Print Name:** \_\_\_\_\_

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

**Date:** \_\_\_\_\_

**ACKNOWLEDGEMENTS**

**STATE OF TEXAS, COUNTY OF BEXAR**

**§**

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument and that he has executed the same as \_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this \_\_\_\_ day of \_\_\_\_\_, 2015.

(seal)

\_\_\_\_\_  
**Notary Public**

**STATE OF TEXAS, COUNTY OF BEXAR**

§

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument and that he has executed the same as \_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this \_\_\_\_ day of \_\_\_\_\_, 2015.

(seal)

\_\_\_\_\_  
**Notary Public**

**STATE OF TEXAS, COUNTY OF BEXAR**

§

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument and that he has executed the same as \_\_\_\_\_ for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** this \_\_\_\_ day of \_\_\_\_\_, 2015.

(seal)

\_\_\_\_\_  
**Notary Public**

## GENERAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT

### **G.C.1.00 Definitions.**

#### **G.C.1.01 Developer.**

Owner of the tract, his subsequent purchasers, successors, and/or assigns.

#### **G.C.1.02 Director of Infrastructure Planning.**

The Director of Infrastructure Planning of the San Antonio Water System or his/her designated representative.

#### **G.C. 1.03 Definition of Terms.**

Unless defined in the Utility Service Agreement (the "Agreement"), the terms used in this General Conditions of the Utility Service Agreement (the "General Conditions") shall have the same definitions and meaning as those set out in Chapter 2, Definitions, of the Utility Service Regulations ("USR"). In the event a term is specifically defined in the General Conditions, and the definition is in conflict with that found in the USR, and such conflict is acknowledged in the General Conditions, the definition set out in the General Conditions shall apply.

#### **G.C.2.00 Required Submittals.**

If determined to be necessary by the Director of Infrastructure Planning ("Director"), the Developer hereby agrees to submit the following documents prior to the execution of the Agreement: Developer Master Plan, Developer Utility Layout, Water Recycling and Conservation Plan (not highly detailed), and Engineering Report. The Parties agree that such documents are included instruments to the Agreement. The submittal of such documents is a condition precedent to plat recordation and initiation of Services. Developer shall modify such documents as may be reasonably required by the Director. Such documents shall be updated as required by the Director and the USR.

#### **G.C.3.00 Dedication to SAWS.**

The Developer agrees to dedicate, grant, and convey to SAWS all rights, title and interest of Developer in both the Off-Site and On-Site utility infrastructure that the Developer is required to construct under the Special Conditions of the Utility Service Agreement (the "Special Conditions"), and to dedicate, grant, and convey to SAWS easements for such utility infrastructure. Upon written acceptance of Off-Site and On-Site utility infrastructure by SAWS, the infrastructure shall be owned, operated and maintained by SAWS.

#### **G.C.4.00 Design and Construction Requirements.**

The design and construction of all Off-Site and On-Site utility infrastructure shall, at a minimum, comply with the requirements established by SAWS, including the USR, the City of San Antonio, the County of Bexar, the State of Texas, and any agency thereof with jurisdiction, including but not limited to the Texas Commission on Environmental Quality and the Texas Department of Health. Off-Site and On-Site utility infrastructure shall be constructed under the

inspection of SAWS. Provision of the Services to the Tract shall not commence until the Director has accepted and approved Off-Site and On-Site utility infrastructure in writing.

**G.C.5.00 Joint Venture Agreements.**

In the event the Developer enters into a Joint Venture Agreement covering the costs for supplying the Services to the Tract, the Developer shall send a copy of such agreement to the attention of the Director.

**G.C.6.00 Assignment.**

This Agreement may not be assigned by Developer or TAMUS in whole or in part without the written consent of SAWS; however, Developer may assign, convey or transfer EDU capacity (“EDU capacity transfer”) to buyers of portions of the Tract in accordance with the terms in G.C. 20.00.

**G.C.7.00 Event of Foreclosure.**

In the event Developer’s interest in the Tract described in Attachment VI are extinguished by an act of foreclosure, and the foreclosing party has supplied sufficient evidence to SAWS that they are the successor in interest to the Tract as a result of such foreclosure, and that there are no lawsuits pending concerning the Tract, SAWS shall consider the foreclosing party a successor in interest if the foreclosing party executes a utility service agreement with SAWS after the Director determines that the execution of such an agreement will not be adverse to SAWS’ interest.

**G.C.8.00 Payment for Provision of Utility Service.**

In the event payment for the Services provided to a subdivision plat within the Tract is not billed by SAWS, the amount of the monthly fees for the provision of the Services will be those charged to the various customer classifications as set by City Ordinances, with the billing and collection thereof on behalf of SAWS, being the responsibility of the billing utility purveyor. To facilitate this arrangement, Developer is to insert into any utility agreement with whatever utility purveyor is to bill for utility services to a subdivision plat within the Tract, a provision requiring said purveyor to enter into a Contract with SAWS to bill and collect SAWS’ monthly utility services fees and transmit said fees to SAWS. The billing utility purveyor shall advise customers that delinquent non-payment of any of SAWS’ fees will result in interruption and/or termination of the Services provided by SAWS, in accordance with applicable interruption and termination policies and procedures, as amended. SAWS shall not be obligated to provide the Services to any plat within the Tract unless and until the utility purveyor has executed a contract with SAWS to provide for the billing and collection of the Services provided by SAWS.

**G.C.9.00 Enforcement of Industrial Waste Ordinance if Required by SAWS.**

If any of the Tract is located outside the corporate limits of the City of San Antonio, the Developer shall cause to be recorded in the Deed and Plat Records of the counties in which the Tract is located, a restrictive covenant covering the portion of the Tract outside the City limits. This restrictive covenant shall run with the land in the Tract described in Attachment VI. Such covenant shall contain language expressly granting to SAWS the right, should SAWS so elect, to enforce and or otherwise pursue to the extent provided at law or in equity, the provisions of the City’s Industrial Waste Ordinance No. 57214, as amended or as may be amended (codified as Chapter 34, Article V, Division 3 of the City Code). SAWS’ right shall include, to the extent

provided at law or in equity, the right to inspection, sampling and monitoring of the collection system to assure ordinance compliance.

Recordation of the Covenant shall be a condition precedent for SAWS' provision of the Services to any portion of said Tract.

#### **G.C.10.00 Oversizing.**

Except as may be set forth in the Special Conditions, Developer must pay for all mains and other utility facilities needed to serve the Tract. SAWS may require the installation of oversized water mains and wastewater mains and related facilities. SAWS' requirements for over-sizing, if any, are set forth in the Special Conditions. SAWS will execute a trilateral contract with Developer and a contractor for the construction of oversized facilities, enter into some other form of agreement, or utilize the City of San Antonio's contracting process to accomplish the objectives of this Agreement. Contracts for the construction of oversized facilities must be competitively bid or otherwise procured in compliance with all applicable law. SAWS will reimburse the Developer promptly in cash for the oversize construction cost differential upon completion of the approved facility installation and SAWS' acceptance of such facility. All oversizing shall be done in accordance with the USR.

#### **G.C.11.00 Off-Site /On-Site Facilities.**

Except as may be set forth in the Special Conditions, Developer shall construct and install all required Off-Site and On-Site utility infrastructure in accordance with the USR and Special Conditions, at no cost to SAWS. Any specific requirements related to the facilities are set forth in the Special Conditions.

#### **G.C.12.00 Impact Fee Payment.**

Developer agrees that the Agreement does not constitute an assessment of impact fees. Developer agrees to pay all applicable impact fees at the time and in the amount prescribed by ordinance or resolution of the City Council of the City of San Antonio and the USR, as amended. An estimate of the impact fees for the development Tract is provided in the Special Conditions. The estimate does not constitute an assessment of impact fees, and the amount of impact fees is subject to change by the City Council of the City of San Antonio as provided by law.

#### **G.C.13.00 SAWS' Obligation to Supply Service.**

Subject to the terms and provisions of Wastewater Special Conditions Section S.C.WW.1.01.(4)D, to the extent that all applicable impact fees are paid, Developer complies with all Off-Site utility infrastructure requirements for the Tract and all On-Site utility infrastructure requirements for the Verano Tract, and TAMUS complies with all On-Site utility infrastructure requirements for the TAMU-SA Tract, Developer and TAMUS shall be entitled to the permanent use and benefit of the Services and is entitled to receive immediate service from any existing facilities with actual capacity to serve the development for which impact fees were paid, subject to compliance with other valid regulations. If, after collecting the impact fees, there is no actual capacity in existing facilities to provide the Services, SAWS will provide the Services within a reasonable period of time not to exceed five (5) years, as prescribed by Chapter 395 of the Local Government Code, as amended. In the event Services are required by Developer or TAMUS earlier than the five (5) year period, Developer, TAMUS and SAWS may agree that Developer may construct or finance the capital improvements or facility expansions required to provide Services, and the costs incurred or funds advanced will be credited against impact fees otherwise

due from the new development or reimbursed to Developer from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to Developer at the time the other new development records its plat.

#### **G.C.14.00 Facility Design and Construction.**

The Developer shall design and construct all On-Site and Off-Site utility infrastructure described in the Special Conditions, including any oversizing, in accordance with the USR and all applicable local, state and federal requirements. Developer further recognizes that SAWS' approval in all respects as to facility right-of-way adequacy, location, size, grade and invert elevation is a condition precedent to any further obligation of SAWS. Specific design and construction requirements are set forth in the Special Conditions.

#### **G.C.15.00 Use of Capacity by SAWS.**

Developer understands that capacity in Off-Site and On-Site utility infrastructure resulting from the Agreement for the Tract may be utilized by SAWS for other tracts requesting service from SAWS. SAWS shall keep accurate records of the capacity provided to the Tract under the Agreement, whether Set-Aside or Guaranteed Capacity, and in no event will Developer be denied capacity as a result of SAWS' utilization of such capacity for another tract. Set-Aside capacity shall not survive the expiration of the Agreement.

#### **G.C.16.00 Utility Master Plan Requirements.**

The Developer will prepare a utility master plan, which details the water and/or wastewater systems for the Tract pursuant to the USR, as amended.

#### **G.C.17.00 Phased Utility Master Plans.**

If the Developer's water and/or wastewater systems are to be installed in phases or units, the Developer shall submit overall utility master plans to SAWS for review and approval. The overall utility master plan(s) shall be submitted before the first construction phase is submitted for plat approval. The overall utility master plan(s) shall show the development phases or units including the sequence and a timetable for build-out. The Developer shall also provide SAWS with a digital version of the proposed recorded plat, as submitted for plat recordation in a format acceptable to SAWS, for each phase or unit of the development project.

#### **G.C.18.00 Conformance of Plans to Utility Master Plan.**

All water and wastewater system facilities to serve the Tract shall be designed and constructed in conformance with the approved utility master plan. Changes in the water and wastewater system design shall be resubmitted to SAWS for written approval.

#### **G.C.19.00 Timing Requirements for Submission of Plans.**

Developer shall have three (3) years from the Effective Date of the Agreement to complete and submit the required utility master plan and to start construction of the Off-Site and On-Site utility infrastructure described in the Special Conditions. Developer agrees that the Agreement for the provision of Services shall automatically expire if Developer has not submitted a utility master plan and started construction of required Off-Site and On-Site utility infrastructure within three

(3) years of the Effective Date of the Agreement, and a new request for the Services must be submitted to SAWS, which SAWS will grant based on then existing policies and regulations. In the event Developer meets the above-mentioned requirements within the three (3) year period provided, the Agreement shall remain in effect for seven (7) years from the Effective Date. If Developer submits a revised Utility Master Plan in accordance with the USR prior to the expiration of the seven (7) year period, the Agreement for the provision of Services may be extended to a maximum term of fifteen (15) years from the Effective Date. Furthermore in this regard, Recognizing that completion of the development on the Verano Tract and the construction of the TAMU-SA campus and ITC Center may exceed fifteen (15) years, and pursuant to Section 5.10 of the USR and subject to completion of the items required under this G.C. 19.00, SAWS agrees to extend the term of this Agreement to a period of thirty (30) years.

#### **G.C. 20.00 EDU Transfers.**

The transfer of EDU capacity outside the original boundaries of this Utility Service Agreement will not be allowed. The San Antonio Water System considers this Agreement to run with the land; however, EDU capacity transfers to subdivided tracts within the Tract of this Agreement are the responsibility of the Developer and approval of such transfers is not required by the San Antonio Water System. The Developer shall maintain an accounting of the EDU capacity that is used by the Developer and/or transferred after the effective date of this Agreement to portions of the Tract. If the Developer sells a portion of the Tract and transfers part of the EDU capacity contained in this Agreement, then that EDU capacity transfer must be included in the deed, bill of sale or instrument conveying the land and the Developer must require the buyer of the land who receives the allocated EDUs to record the instrument effectuating the transfer. Developer may file a Master Development Plan or an EDU Plan, prepared by an engineer, that shows specific EDU capacity allocations within the Tract and shall ensure that the Master Development Plan or EDU Plan is attached to this Agreement and properly recorded. SAWS will recognize the capacity allocations within the Master Development Plan or EDU Plan so long as those allocations are within the parameters of this Agreement. For properties that have areas of unplanned use, the demand will be calculated at four (4) EDUs per acre unless the engineering report specifies otherwise or there is not enough EDU capacity remaining for the Tract to allocate four (4) EDUs per acre.

In no event will the System be responsible to 3<sup>rd</sup> parties for providing water supply or wastewater discharge capacity beyond the total EDU capacity identified in this Agreement for the Tract. Developer expressly disclaims, releases and holds harmless SAWS from any liability, damages, costs or fees, and agrees to indemnify SAWS for any liability, including, costs and attorney's fees, associated with any dispute related to the transfer of all or a portion of EDU capacity approved for the Tract in this Utility Services Agreement.

#### **G.C. 21.00 Camp Bullis Awareness Zone.**

In the event that the Tract is located within, or partially within, the Camp Bullis Awareness Zone, the Developer acknowledges that certain lighting regulations may apply within at least a 3-mile radius of Camp Bullis, commonly referred to as down-lighting or dark sky lighting, and Developer will comply with those regulations. Developer agrees to comply with any local, state or federal law, rule or regulation related to the protection of the environment or endangered species, including but not limited to, any site assessments or surveys and notice to the United States Fish & Wildlife when required by law, rule or regulation. Developer acknowledges that any required assessment, survey or notice shall be current or updated as may be required by law, rule or regulation.





**SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT**

**WATER SERVICE**

**S.C.W.1.00 Tract Location and Ultimate Demand.**

The Tract, an approximately 2,421-acre tract inside the City limits, is located south of SW Loop 410, west of Pleasanton Rd., and east of S. Zarzamora (other than 22 acres of the 2,421 acres that is west of S. Zarzamora), as shown in Attachment VI. The tract is not located over the Edwards Aquifer Recharge or Contributing Zone and is not located within the 5-mile Awareness Zone of Camp Bullis. The proposed Tract is located inside SAWS' water CCN, inside SAWS' wastewater CCN and does require SAWS' financial participation in the development of infrastructure through oversizing or impact fee credits, therefore, Board action is required. The subtracts within the Tract are:

- TAMU-SA Tract: Those portions of the Tract that are owned by TAMUS
- Verano Tract: Those portions of the Tract that are owned by Developer
- Main Campus: Those portions of the TAMU-SA Tract consisting of two 5 acre parcels along South Loop 410 and one contiguous 580 acre parcel north of Mauermann Road
- Verano North Tract: That portion of the Verano Tract consisting of approximately 1681.5 acres essentially surrounding the Main Campus north of Mauermann Road
- ITC Tract: That portion of the TAMU-SA Tract consisting of 104.5 acre parcel south of Mauermann Road to be used for an Irrigation Technology Center
- Verano South Tract: That portion of the Verano Tract consisting of approximately 45.65 acres adjacent to the ITC Tract south of Mauermann Road
- South Tract: The ITC Tract and the Verano South Tract
- Northern Region: Bound by SW Loop 410 to the north, S. Zarzamora to the west (other than 22 acres of the Northern Region that is west of S. Zarzamora), Verano Parkway to the south and the Union Pacific Railroad to the east. This area also includes the additional 22 acres just west of S. Zarzamora.

- Western Region: Bound by the Union Pacific Railroad to the east, Verano Parkway to the north and Mauermann Road to the south
- Eastern Region: Bound by Pleasanton Road to the east, Mauermann Road to the south and the Union Pacific Railroad to the west
- Southern Region: That portion of the Tract south of Mauermann Road

The San Antonio Water System previously executed a Utility Service Agreement for the Tract (2,523.47-Acres) on October 15, 2009 for 342 EDUs of water service to the South Tract as outlined in the 2009 SAWS USA's water Special Conditions.

The Bexar Metropolitan Water District previously executed a Utility Service Agreement for the Tract (approximately 2,590-Acres) on January 26, 2009 for 10,831 EDUs of water service.

This Utility Service Agreement replaces and terminates the aforementioned existing Utility Service Agreements.

This Agreement confirms that the respective obligations of SAWS and Developer under the Memorandum of Understanding, the Support Agreement, the University Way Agreement and the East-West Agreement have been satisfied, except as may be specifically set forth or carried forward in this Agreement. Accordingly, the Memorandum of Understanding, the Support Agreement, the University Way Agreement and the East-West Agreement are superseded by this Agreement and are, therefore, terminated.

The Parties also hereby terminate the Reservoir Lease and Easements Agreement dated July 28, 1997 by and between South Loop Land & Cattle, L.C. and Bexar Metropolitan Water District, recorded in Volume 7181, Page 1649 of the real property records of Bexar County, Texas. The Parties agree to execute a recordable written instrument to further evidence such termination in form and substance reasonably satisfactory to each of the Parties.

The ultimate demand on the SAWS' facilities under this Agreement shall not exceed [12,030] equivalent dwelling units (EDUs) of water supply, for the proposed development. The allocation of these amounts are as follows:

9080 EDUs of water service are allocated to and reserved for the Verano North Tract.

2,700 EDUs of water service are allocated to and reserved for the Main Campus. Capacity and services for the Main Campus are personal to and for the exclusive benefit of TAMUS and are not assignable or transferable.

150 EDUs of water service are allocated to and reserved for the Verano South Tract.

100 EDUs of water service are allocated to and reserved for the ITC Tract. Capacity and services for the ITC Tract are personal to and for the exclusive benefit of TAMUS and are not assignable or transferable.

**S.C.W.2.00 Infrastructure Requirements.**

Water Supply to the tract will be from DSP Pressure Zone 790 and SAWS Pressure Zone 2.

The flow capacity of a 30-inch main or the equivalent is required to supply water to the Tract, in conformance with SAWS' Utility Service Regulations (USR).

**DSP Pressure Zone 790 Requirements ( [Need number] EDUs); Verano Elevated Storage Tank (EST)**

The first 2,500 EDUs of water service to the Tract will not require additional elevated water storage; however, water service to the Tract under this Agreement beyond such 2,500 EDUs will require additional an elevated water storage tank on a 2-acre tract previously transferred by Developer to Bexar Metropolitan Water District (SAWS being the successor to Bexar Metropolitan Water District) by Special Warranty Deed from Verano Land Group, LP, as Grantor, to Bexar Metropolitan Water District for an elevated storage tank and related facilities, dated effective as of July 31, 2008 and recorded on September 9, 2008 as Document No. 20080198270 in Volume 13673, Page 534 of the Real Property Records of Bexar County, Texas (the "EST Site"). In this regard, the Support Agreement obligated SAWS (which obligation as set forth below is carried forward under this Agreement), for the benefit of TAMUS, to design, engineer and construct (or cause to be designed, engineered and constructed) in accordance with applicable law, at SAWS' cost and expense (with construction to commence when the water service to the Verano Tract and the TAMU-SA Tract reaches 2,500 EDUs), an elevated water production storage facility with yard piping (the "Elevated Storage Facility"), to include the following:

- (a) an elevated storage tank with the capacity for at least 1 million gallons of water;
- (b) a 20-inch or larger transmission main coming out of the elevated storage tank with two transmission mains extending into the adjacent Verano Tract; and
- (c) all other site improvements necessary for such facility, including, but not limited to, yard piping, electrical service, lighting, fencing, paving and drainage improvements.

To comply with such obligation, SAWS has included in its Water Infrastructure Plan the construction of the Elevated Storage Facility, with construction of such facility scheduled to be completed within \_\_\_\_\_ (\_\_\_\_)[Need number.] years after the date hereof. In order to obtain service beyond such initial 2,500 EDUs of water service before SAWS completes construction of the Elevated Storage Facility, Developer and/or TAMUS would be required to (i) construct an elevated water storage tank, with contribution from SAWS, and impact fee credit therefor, as

provided below, and (ii) construct approximately 2,500 linear feet of 24-inch water main from the existing 20-inch main near the intersection of S Zarzamora Street and SW Loop 410 to the Verano EST, with impact fee credit therefor as provided below, and (iii) construct a 16-inch main from the Verano EST to S Zarzamora Street and border the western boundary of the Tract as illustrated in the water exhibit of Attachment III. This proposed 16-inch border main must connect to the existing 16-inch main near the intersection of S Zarzamora Street and Verano Parkway.

To obtain water service for the Verano North Tract, the Developer will be required to construct a series of 12-inch and 16-inch mains throughout the Verano North Tract within PZ 790 and connect to the existing 16-inch main (PZ 790) along Verano Parkway, the existing 16-inch main (PZ 790) along University Way and the existing 12-inch main (PZ 790) along Mauermann Road. The Developer will then construct throughout the Verano North Tract a series of 8-inch mains from these 12-inch and 16-inch mains. The Developer shall then connect services to the proposed PZ 790 8-inch, 12-inch and 16-inch mains traversing through the Verano North Tract within PZ 790.

Water service for the Main Campus will be at the property line of the Main Campus from the existing 16-inch main (PZ 790) along Verano Parkway, the existing 16-inch main (PZ 790) along University Way and the existing 12-inch main (PZ 790) along Mauermann Road. TAMUS will construct and maintain its own distribution system throughout the Main Campus at its discretion.

#### **Pressure Zone 2 Requirements (342[Is this number correct?] EDUs)**

To obtain water service for the Verano South Tract, the Developer shall construct a series of looped 8-inch and 12-inch mains in the Verano South Tract from the existing 12-inch PZ 2 main along Mauermann Rd. and the existing 16-inch PZ 2 main along Mauermann Rd. The Developer shall then connect services in the Verano South Tract to the proposed PZ 2 8-inch and 12-inch mains.

Water service for the ITC Tract will be at the property line of the ITC Tract from the existing 12-inch PZ 2 main along Mauermann Rd. and the existing 16-inch PZ 2 main along Mauermann Rd. TAMUS will construct and maintain its own distribution system throughout the ITC Tract at its discretion.

#### **S.C.W.3.00 SAWS Master Plan and Oversizing Requirements.**

SAWS' Water Infrastructure Plan and the anticipated growth in this area requires SAWS to start construction of a 2.5 MG Elevated Storage Tank (EST), being the Elevated Storage Facility, within the Verano Tract, by 2018. If the Developer or TAMUS requires the EST to be constructed prior to the anticipated 2018 construction date as discussed above, then the Developer or TAMUS can construct the EST with SAWS participation. The total estimated cost of the EST is \$5,447,899. The Developer's or TAMUS' (as the case may be) estimated share is 40.0%, a cost of \$2,179,160; and SAWS' estimated share is 60.0%, a cost of \$3,268,800.

#### **S.C.W.4.00 Impact Fee Credit Eligibility.**

The aforementioned 24-inch main was included as a Capital Improvement Project in the current impact fees. Therefore, if the Developer constructs said 24-inch main, the Developer is eligible for impact fee credits for Developer's share of the cost for the 24-inch main, and if TAMUS constructs said 24-inch main, TAMUS is eligible for impact fee credits for TAMUS' share of the cost for the 24-inch main.

The Elevated Storage Facility was included as a Capital Improvement Project in the current impact fees. Therefore, if the Developer constructs all or any portion of the Elevated Storage Facility, the Developer is eligible for impact fee credits for Developer's share of the cost for the Elevated Storage Facility, and if TAMUS constructs all or any portion of the Elevated Storage Facility, TAMUS is eligible for impact fee credits for TAMUS' share of the cost for the Elevated Storage Facility.

Such impact fee credits will be transferrable and will not have an expiration date.

#### **S.C.W.5.00 Engineering Study Report and/or Pro-Rata Refund Eligibility.**

The engineering study report "Verano, Utility Service Agreement Engineering Report", by Big Red Dog, dated June 2015 is included as Attachment VI.

#### **S.C.W.6.00 Developer and TAMUS On-Site and/or Off-Site Requirements.**

The Developer shall acquire any right-of-way or easements, and install all On-Site utility infrastructure required to serve the Verano Tract in accordance with SAWS' USR, solely at the Developer's cost. TAMUS shall acquire any right-of-way or easements, and install all On-Site utility infrastructure required to serve the TAMU-SA Tract in accordance with SAWS' USR, solely at the Developer's cost. Other On-Site requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract.

#### **S.C.W.7.00 Requirement to Install Approved Pressure Regulators and/or Booster**

##### **Pumps. Pressure Zone 790**

A portion of the tract within Pressure Zone 790 is below ground elevation of 605 feet where the static pressure will theoretically exceed 80 psi. Any service connections within the Tract in Pressure Zone 790, at elevations lower than this ground elevation, shall require the installation of a Pressure Reducing Valve (PRV), on the customer(s) side of the meter, rated for a maximum working pressure of no less than 300 psi, prior to a SAWS meter being installed. Installation shall be in conformance with the current Plumbing Code with Local Amendments adopted by the City of San Antonio.

Pressure Zone 2

A portion of the tract within Pressure Zone 2 is below ground elevation of 565 feet where the static pressure will theoretically exceed 80 psi. Any service connections within the Tract in Pressure Zone 2, at elevations lower than this ground elevation, shall require the installation of a Pressure Reducing Valve (PRV), on the customer(s) side of the meter, rated for a maximum working pressure of no less than 300 psi, prior to a SAWS meter being installed. Installation shall be in conformance with the current Plumbing Code with Local Amendments adopted by the City of San Antonio.

**S.C.W.8.00 Time for Water Impact Fee Assessment and Payment.**

Water Impact Fees will be assessed at the rates in effect at the time of plat recordation or the latest date allowed by law. Impact fees will be collected at either the time of plat recordation or connection to the SAWS' water system, at the discretion of the Developer.

**S.C.W.9.00 Water Impact Fee Estimates Based Upon Current Charges.**

Following is an estimate of impact fees for the provision of Services contemplated under the Agreement, which are based on current impact fee rates. This estimate shall not constitute an assessment of impact fees and impact fee rates are subject to change by the San Antonio City Council.

**Note: There shall be no waiving of water impact fees for this Development except as specifically provided in Section S.C.WW1.01(4)D of this Agreement.**

Type of Impact Fee	EDUs	\$/EDUs	Current Total
Flow Development	12,030	\$1,182.00	\$14,219,460
System Development Low	12,030	\$619.00	\$7,446,570
Water Supply	12,030	\$2,796.00	\$33,635,880
Total			\$55,301,910

**S.C.W.10.00 Pro-Rata Charge Requirement.**

Developer shall be required to pay a Pro-Rata Charge pursuant to the USR, as amended, prior to connection to the SAWS water system if Developer is tying into a main that is subject to a prorate refund.

**S.C.W.11.00 Controlling Provisions.**

To the extent of any irreconcilable conflict between the Agreement, the Attachments, and/or the General Conditions and the Special Conditions, the provisions of the Special Conditions shall apply.

**S.C.W.12.0 Recycled Water**

The Parties intend to discuss and negotiate in good faith the terms of a separate agreement for the provision of recycled water to the Tract.

**SPECIAL CONDITIONS OF THE UTILITY SERVICE AGREEMENT**

**WASTEWATER SERVICE**

**S.C.WW.1.00 Tract Location and Ultimate Demand.**

The Tract is inside the City limits, is located south of SW Loop 410, west of Pleasanton Rd., and east of S. Zarzamora, as shown in Attachment VI and lies within SAWS' Lower Collection and Treatment Area (LCTA). The tract is not located over the Edwards Aquifer Recharge or Contributing Zone and is not located within the 5-mile Awareness Zone of Camp Bullis. The proposed Tract is located inside SAWS' CCN and does not require oversizing by SAWS for wastewater service, therefore, Board Action is required with respect to wastewater service.

The ultimate demand on the SAWS' facilities under this Agreement shall not exceed 12,483 equivalent dwelling units (EDUs) of wastewater discharge for the proposed development, being hereby allocated as follows: 9,700 EDUs of wastewater discharge for the Verano Tract, and 2,783 EDUs of wastewater discharge for the TAMU-SA Tract.

**S.C.WW.1.01 2009 SAWS USA.**

(1) The San Antonio Water System previously executed a Utility Service Agreement (USA) for the Verano Tract (2,523.47-Acres) on October 15, 2009 for 12,483 EDUs – i.e., the 2009 SAWS USA. This Agreement replaces and terminates the 2009 SAWS USA.

(2) The 2009 SAWS USA called for SAWS to (i) fund the design and construction of certain wastewater infrastructure more fully described in the 2009 SAWS USA, (ii) waive certain impact fees of TAMUS, and (iii) be reimbursed for certain cost and expenses as set forth in the 2009 SAWS USA.

(3) The amounts expended by SAWS pursuant to the 2009 SAWS USA are as follows:

Expenditures to serve the Verano Tract:	\$	[REDACTED]
Expenditures to serve the TAMU-SA Tract:	\$	[REDACTED]
TOTAL:	\$2,479,129.35	[SAWS is checking this number.]

(4) With respect to such matters, the Parties agree as follows:

A. In consideration of Developer's obligations herein, and subject to the Conditions Precedent in S.C.WW.1.01.(5) below, SAWS shall:

- fund a maximum amount of \$ [REDACTED] to serve the TAMU-SA Campus, which is not reimbursable to SAWS; provided, however, that the portion of the funding for the design/engineering services shall not exceed 10% of the bid price;



- recover up to \$ [REDACTED] million from the TIF Fund (as defined below) first available to Developer from the TIRZ (as defined below) or from the Development Agreement (as defined below) for expenditures by SAWS in connection with the construction of portions of Phase 1 (as defined in the 2009 SAWS USA); and
- recover a maximum of \$ [REDACTED] from Developer through the collection of a Local Benefit Impact Fee of \$125 per EDU from the Verano Tract for expenditures by SAWS in connection with the construction of portions of Phase 1;
- recover from the TIF Fund first available to Developer from the TIRZ or from the Development Agreement (i) any impact fees for the TAMU-SA Tract pursuant to S.C.WW.1.01.(4)D below, and (ii) any costs pursuant to S.C.WW.1.01.(4)B.3 below;
- If required by TAMUS, fund the design and construction of Phase 3 (as defined in the 2009 SAWS USA, or some other sewer infrastructure that SAWS determines is necessary, sized solely for the future needs of the TAMU-SA Irrigation and Technology Center, but SAWS will not fund the design or construction of the sewer infrastructure capacity for any adjoining property, including the Verano Tract.

B. Developer agrees, and will ensure any of its successors in interests or assigns agree (developers, builders or otherwise), to the following:

1. allow SAWS the right to recover up to \$ [REDACTED] million from the TIF Fund first available to Developer from the TIRZ or from the Development Agreement or any other appropriate document or agreement;
2. allow SAWS the right to recover from the TIF Fund first available to Developer from the TIRZ (in the same manner and in addition to the \$ [REDACTED] million) for (i) costs incurred by SAWS if and to the extent it is necessary for SAWS to repair or reconstruct any infrastructure designed and constructed by Developer within two (2) years from the date of completion of said infrastructure, and (ii) any impact fees for the TAMU-SA Tract pursuant to S.C.WW.1.01.(4)D below;
3. pay SAWS an additional local benefit impact fee of \$125 per EDU for the Verano Tract, up to a maximum of \$ [REDACTED]; the local benefit impact fee of \$125 per EDU is an impact fee by agreement and Developer expressly agrees to pay this additive impact fee for this area and fully understands and agrees that SAWS is exempted from the procedural and substantive steps required to impose an impact fee under Chapter 395 of Texas Local Government Code;
4. to pay, with respect to the Verano Tract, all other then current waste water impact fees already imposed by the City of San Antonio and SAWS, and as may be amended from time to time;
6. commit that no future waivers of impact fees will be sought by Developer or their agents, employees, successors or assigns for the Verano Tract, which obligation shall run with the land;

7. identify reasonable triggers for the engineering and construction of the identified sewer infrastructure for Phase 3 (as defined in the 2009 SAWS USA). If SAWS is to undertake Phase 3, the trigger for the engineering and construction for the Phase 3 segments and facilities shall be fifteen (15) months prior to the need for service to the TAMUS ITC facility.
  8. complete all design and construction in accordance with the oversizing requirements set out in G.C.10.
- C. It is the understanding of SAWS and Developer that the City of San Antonio has or will:
1. approve and/or modify any relevant and necessary TIRZ/TIF documents or agreements to ensure that the first \$ [REDACTED] million in reimbursements and any additional repair and reconstruction reimbursements otherwise available to Developer for the construction of this infrastructure and is payable to SAWS; and
  2. ensure that the \$ [REDACTED] million in reimbursements described above plus (i) costs incurred by SAWS if and to the extent it is necessary for SAWS to repair or reconstruct any infrastructure designed and constructed by Developer within two (2) years from the date of completion of said infrastructure, and (ii) impact fees pursuant to S.C.WW.1.01.(4)D below, shall not be subject to any termination of the TIRZ/TIF documents or agreements.
  3. provide to the SAWS CFO or a person of his selection periodic financial reports that would include at a minimum an accounting of all TIF revenue collection and disbursements.
  4. ensure that the SAWS CFO or a person of his selection access to the TIF revenue and disbursement tracking system, which includes the "COSA CIMS Portal".
- D. Commencing on the date of the 2009 SAWS USA and continuing until the earlier of (i) twenty five (25) years following the date of the 2009 SAWS USA, or (ii) commitment or utilization of the water EDUs reserved and allocated to the ITC Tract and the wastewater EDUs reserved and allocated to the TAMU-SA Tract in this Agreement (100 EDUs for water to the ITC Tract and 2,783 EDUs for wastewater to the TAMU-SA Tract), all water impact fees attributable solely to the ITC Tract up to a maximum of 100 EDU's of water service and all wastewater impact fees attributable solely to the TAMU-SA Tract up to a maximum of 2,783 EDU's of wastewater service shall be recovered by SAWS from the TIF Fund first available to Developer from the TIRZ or the Development Agreement rather than same being paid by TAMUS. Thereafter, payment of impact fees shall be a condition of Service for the TAMU-SA Tract.
- E. SAWS and Developer acknowledge and agree that the sources of funds from which SAWS may receive reimbursement pursuant to this Agreement (the TIF Fund and the Local Benefit Impact Fees) may have different balances from time-to-time during the term of this Agreement. Notwithstanding anything in this Agreement to the contrary, SAWS and Developer agree that SAWS may recover the actual costs for the construction of portions of Phase 1 under the 2009 SAWS USA from the TIF Fund (not to exceed \$ [REDACTED] million, subject to increase as provided herein) and/or the Local Benefit Impact

Fees (not to exceed \$ \_\_\_\_\_). SAWS shall be eligible to receive reimbursement from either the TIF Fund or the Local Benefit Impact Fees, as SAWS determines in its sole discretion; provided, however, that SAWS shall not be entitled to reimbursement for more than its actual expenditures for the work. In addition, SAWS and Developer agree to complete a reconciliation of expenditures and reimbursements from each of the sources of funds on at least an annual basis, and shall jointly report and monitor the expenditures and reimbursements provided for in this Agreement during the Term of this Agreement.

F. SAWS fully discharged its obligations under the 2009 SAWS USA with respect to the construction of the Phase 1 infrastructure (as described in the 2009 SAWS USA).

G. SAWS will not construct or fund the construction of the Phase 2 or Phase 2A infrastructure as outlined in the 2009 SAWS USA (i.e., segments S-2, S-3, S-4BFM, S-5B, Lift Station #1, S-15, S-18A)

(5) There has been assigned to SAWS (a) up to \$2.7 million of the amount that due to be received as reimbursement for wastewater improvements, (b) any impact fees for the TAMU-SA Tract pursuant to S.C.WW1.01(4)D above, and (c) any costs pursuant to S.C.WW1.01(4)B.3 above, from the Tax Increment Financing (the "TIF") Fund established for the Tax Increment Reinvestment Zone No. 28, City of San Antonio, Texas (the "Verano TIRZ") and such amounts shall be paid to SAWS. The Developer agrees that these reimbursements shall be made directly from the City of San Antonio (the "City") to SAWS and shall take precedence over any other reimbursement that the Developer is entitled to under the Development Agreement under the Verano TIRZ (the "Development Agreement"), the TIF Fund and/or the Verano TIRZ. The Developer shall designate SAWS as the direct payee on all invoices for work completed on SAWS Phase 1 that are submitted to the Verano TIRZ Board of Directors (the "TIRZ Board") for reimbursement. This Agreement and SAWS obligations to provide the Services are contingent upon (i) the Developer providing to SAWS, in a form reasonably acceptable to SAWS, an assignment with warranty of rights to the TIF Funds as set forth in this Agreement (which has been accomplished) and any amendment to such assignment reasonably requested by SAWS; (ii) City Council of the City having taken action to approve payment from the TIF Fund to SAWS as set forth herein (which has been accomplished), (iii) the City Council of the City and/or TIRZ Board, as necessary, having taken action to include the reimbursement to SAWS, but only from tax increment in the TIF Fund that has been contributed by or for the City, for invoices on SAWS Phase 1 and prior to the reimbursement to the Developer in the priority of payments from the TIF Fund (which has been accomplished); (iv) notification to the other taxing entities contributing to the TIF Fund that none of their tax increment will be used to reimburse SAWS (which notification has been accomplished); (v) any such other documents as may be reasonably necessary to carry out the intent and purposes of this Agreement; and (vi) the City, the Developer and the TIRZ Board providing written evidence to SAWS that they will not terminate the Verano TIRZ or the TIF Fund until SAWS is reimbursed the full amount of all reimbursements to which it may be entitled under this Agreement (which has been accomplished) and TAMU has constructed its first facility on the TAMU-SA campus (which has been accomplished). The form of any document or agreement modifications to the Verano TIRZ must include the appropriate approvals by the Developer, the City, the TIRZ Board or other agencies as necessary to ensure SAWS' right to reimbursements from the TIF Fund is valid and enforceable.

(6) This Section 1.01 specifically supersedes Article 1.4 of the Utility Service Regulations

**S.C.WW.2.00 Infrastructure Requirements.**

The Tract is situated within SAWS' Lower Collection and Treatment Area (LCTA) and lies within the Palo Blanco Creek - Medina River and Lower Leon Creek Watershed. The capacity of a 33-inch gravity main at 0.08 percent minimum slope is required to provide wastewater service to the tract, in conformance with SAWS' USR.

Notwithstanding anything in this Agreement to the contrary, (i) nothing herein shall constitute an approval for a Lift Station, which shall be approved only in accordance with the SAWS Utility Service Regulations and compliance with the terms thereof, and (ii) Developer shall be solely responsible for any relocation or adjustment of utilities required as a result of the change of grade of any land.

In general, as provided in S.C.WW.6.00, Developer will be required to acquire any right-of-way and easements, and install all Off-Site utility infrastructure, necessary to serve the Tract, and will, and will be required to install all On-Site utility infrastructure, and upgrade existing lift stations, necessary to serve the Verano Tract, all in accordance with SAWS' USR, solely at the Developer's cost. Other On-Site utility infrastructure requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract. TAMUS will be required to provide all On-Site infrastructure for the TAMU-SA Tract. Except as may be expressly provided in this Agreement, SAWS shall have no responsibility for construction of On-Site infrastructure for any portion of the Tract.

The following represents currently envisioned infrastructure work to accomplish the foregoing, but changes from the following do not require an amendment to this Agreement, but will be made based on the overall Utility Master Plan, and any subsequent revisions thereto:

**Option I:**

**Northern Region (Bound by SW Loop 410 to the north, S Zarzamora to the west, Verano Parkway to the south and the Union Pacific Railroad to the east)**

The Developer will be required to construct the proposed Verano Phase II lift station and 10-inch force main system along the eastern boundary of the Northern Region. This proposed lift station/force main system will discharge into the existing 15-inch gravity main along Verano Parkway. The Developer will construct a series of 8-inch, 10-inch and 15-inch gravity sewer mains throughout the portion of the Verano North Tract within the Northern Region and discharge into the proposed Verano Phase II lift station/force main system. TAMUS will construct and maintain wastewater infrastructure within the portion of the Main Campus within the Northern Region at its discretion and discharge into the proposed Verano Phase II lift station/force main system.

If the Developer chooses to construct this Verano Phase II lift station and 10-inch force main system, then the Developer is not required to prepare and submit a present value analysis of the cost of constructing any potential gravity solution to the cost of the proposed lift station/force main system, pursuant to SAWS USB section 11.4.3.

**Western Region (Bound by the Union Pacific Railroad to the east, Verano Parkway to the north and Mauermann Road to the south)**

The Developer will be required to construct a series of 8-inch, 10-inch and 12-inch gravity sewer mains throughout the portion of the Verano North Tract within the Western Region to connect the existing on-site 27-inch, 24-inch, 18-inch and 8-inch gravity sewer mains traversing through the Western Region. TAMUS will construct and maintain wastewater infrastructure within the portion of the Main Campus within the Western Region at its discretion to connect the existing on-site 27-inch, 24-inch, 18-inch and 8-inch gravity sewer mains traversing through the Western Region.

**Eastern Region (Bound by Pleasanton Road to the east, Mauermann Road to the south and the Union Pacific Railroad to the west)**

The Developer will be required to construct approximately 7,500 LF of 10-inch gravity sewer main along Pleasanton Road and connect to the existing 15-inch main approximately 5,000 LF southeast of this Tract along Pleasanton Road. Note: This existing 15-inch main connects to the existing MRSO 96-inch main. The Developer will then construct a series of 8-inch gravity mains throughout the Eastern Region and connect to the proposed 10-inch gravity main along Pleasanton Road.

**Southern Region (south of Mauermann Road)**

There is a proposed 60-inch gravity sewer main traversing through the southwestern portion of the property (Job No. 10-6501). Upon SAWS acceptance of Job No. 10-6501, the Developer will be required to construct a series of 8-inch mains throughout the Verano South Tract to connect to the proposed 60-inch gravity sewer main, and TAMUS will construct and maintain wastewater infrastructure within the ITC Tract at its discretion to connect to the proposed 60-inch gravity sewer main.

Furthermore, the Developer may connect under this Agreement a maximum of 9,700 EDUs, and TAMUS may connect a maximum of 2,783 EDUs, of total wastewater capacity to a combination of the proposed and existing infrastructure as described in the aforementioned requirements of Option I.

**Option II:**

**Northern Region (Bound by SW Loop 410 to the north, S Zarzamora to the west, Verano Parkway to the south and the Union Pacific Railroad to the east)**

The Developer will be required to construct the proposed Verano Phase II lift station and 10-inch force main system along the eastern boundary of the Northern Region. This proposed lift station/force main system will discharge into the existing 15-inch gravity main along Verano Parkway. The Developer will construct a series of 8-inch, 10-inch and 15-inch gravity sewer mains throughout the portion of the Verano North Tract within the Northern Region and discharge into the proposed Verano Phase II lift station/force main system. TAMUS will construct and maintain wastewater infrastructure within the portion of the Main Campus within the Northern Region in its discretion and discharge into the proposed Verano Phase II lift station/force main system.

If the Developer chooses to construct this Verano Phase II lift station and 10-inch force main system, then the Developer is not required to prepare and submit a present value analysis of the cost of constructing any potential gravity solution to the cost of the proposed lift station/force main system, pursuant to SAWS USR section 11.4.3.

**Western Region (Bound by the Union Pacific Railroad to the east, Verano Parkway to the north and Mauermann Road to the south)**

The Developer will be required to construct a series of 8-inch, 10-inch and 12-inch gravity sewer mains throughout the portion of the Verano North Tract within the Western Region to connect to the existing on-site 27-inch, 24-inch, 18-inch and 8-inch gravity sewer mains traversing through the Western Region. TAMUS will construct and maintain wastewater infrastructure within the portion of the Main Campus within the Western Region at its discretion to connect the existing on-site 27-inch, 24-inch, 18-inch and 8-inch gravity sewer mains traversing through the Western Region.

**Eastern Region (Bound by Pleasanton Road to the east, Mauermann Road to the south and the Union Pacific Railroad to the west)**

The Developer will be required to construct a lift station and 6-inch force main system (LS-A) near the southeast corner of the Eastern Region. This proposed LS-A will discharge into the proposed 12-inch gravity sewer mains within the Western Region.

The Developer will then construct a series of 8-inch and 10-inch gravity sewer mains throughout the southern portion of the Eastern Region and discharge into LS-A.

The Developer will also be required to construct a second lift station and 6-inch force main system (LS-B) along Pleasanton Road, as illustrated in the sewer exhibit of Attachment III. This proposed LS-B will discharge into the proposed 8-inch gravity sewer mains within the southern portion of the Eastern Region.

The Developer will then construct a series of 8-inch gravity sewer mains throughout the northern portion of the Eastern Region and discharge into LS-B.

If the Developer chooses to construct these Lift station/force main systems, then the Developer is required to prepare and submit a present value analysis of the cost of constructing the gravity solution of Option I to the cost of the proposed lift station/force main system, in conformance with SAWS USR section 11.4.3.

**Southern Region (south of Mauermann Road)**

There is a proposed 60-inch gravity sewer main traversing through the southwestern portion of the property (Job No. 10-6501). Upon SAWS acceptance of Job No. 10-6501, the Developer will be required to construct a series of 8-inch mains throughout the Verano South Tract to connect to the proposed 60-inch gravity sewer main, and TAMUS will construct and maintain wastewater infrastructure within the ITC Tract at its discretion to connect to the proposed 60-inch gravity sewer main.

Furthermore, the Developer may connect under this Agreement a maximum of 9,700 EDUs, and TAMUS may connect a maximum of 2,783 EDUs, of total wastewater capacity to a combination of the proposed and existing infrastructure as described in the aforementioned requirements of Option II.

**S.C.WW.3.00 SAWS Master Plan and Oversizing Requirements.**

N/A.

**S.C.WW.4.00 Impact Fee Credit Eligibility.**

The Verano Phase 2 lift station and 10-inch force main system (i.e., S-2, S-3, S-4BFM, S-5B, and Lift Station #1, as described in the 2009 SAWS USA) was included as a Capital Improvement Project in the current impact fees. Therefore, the Developer is eligible for impact fee credits for its cost for the Verano Phase 2 lift station and 10-inch force main system. If the Verano Phase 2A main (i.e., S-15 and S-18A, as described in the 2009 SAWS USA) is included as a capital improvement project in the then current impact fee Capital Improvement Plan at the time the Verano Phase 2A main is constructed, the Developer or TAMUS (as the case may be) will be eligible for impact fee credits for its cost for the Verano Phase 2A main.

Such impact fee credits will be transferrable and will not have an expiration date.

**S.C.WW.5.00 Engineering Study Report and/or Pro-Rata Refund Eligibility.**

The engineering study report “Verano, Utility Service Agreement Engineering Report”, by Big Red Dog, dated June 2015 is included as Attachment VI.

**S.C.WW.6.00 Developer On-Site and/or Off-Site Requirements.**

Developer will be required to acquire any right-of-way and easements, and install all Off-Site utility infrastructure, necessary to serve the Tract, and will, and will be required to install all On-Site utility infrastructure, and upgrade existing lift stations, necessary to serve the Verano Tract, all in accordance with SAWS’ USR, solely at the Developer’s cost. Other On-Site utility infrastructure requirements within the Tract will be determined at such time as the engineer submits an overall Utility Master Plan, and any subsequent revisions, for the Tract. TAMUS will be required to provide all On-Site infrastructure for the TAMU-SA Tract. Except as may be expressly provided in this Agreement, SAWS shall have no responsibility for construction of On-Site infrastructure for any portion of the Tract.

**S.C.WW.7.00 Lift Stations and Force Mains.**

Lift stations and force mains are only allowed by prior written supplemental agreement with SAWS. Applicable fees, as set out in the supplemental agreement, must be paid in full prior to service connection. Except as expressly provided above, whenever a lift station is proposed, a Present Value analysis of the lift station vs. gravity solutions, shall be included in the Engineering Report/Study in conformance with the requirements of SAWS’ USR.

**S.C.WW.8.00 Time for Wastewater Impact Fee Assessment and Payment.**

Wastewater Impact Fees will be assessed at the rates in effect at the time of plat recordation or the latest date allowed by law. Wastewater Impact Fees will be collected at either the time of plat recordation or connection to the SAWS wastewater system, at the discretion of the Developer.

**S.C.WW.9.00 Wastewater Impact Fee Estimates Based Upon Current Charges.**

Following is an estimate of impact fees for the provision of Services contemplated under the Agreement, which are based on impact fee rates in effect as of the Effective Date of the Agreement. This estimate shall not constitute an assessment of impact fees and impact fee rates are subject to change by action of the San Antonio City Council as permitted by law.

**Note: There shall be no waiving of wastewater impact fees for this Development except as specifically provided in Section S.C.WW1.01(4)D of this Agreement.**

<b>Type of Impact Fee</b>	<b>EDUs</b>	<b>\$/EDUs</b>	<b>Current Total</b>
Wastewater Collection Lower	12,483	\$719.00	\$8,975,277.00
Wastewater Treatment Dos Rios/Leon Creek	12,483	\$786.00	\$9,811,638.00
<b>Total</b>			<b>\$18,786,915.00</b>

**S.C.WW.10.00 Pro-Rata Payment Fee Requirement.**

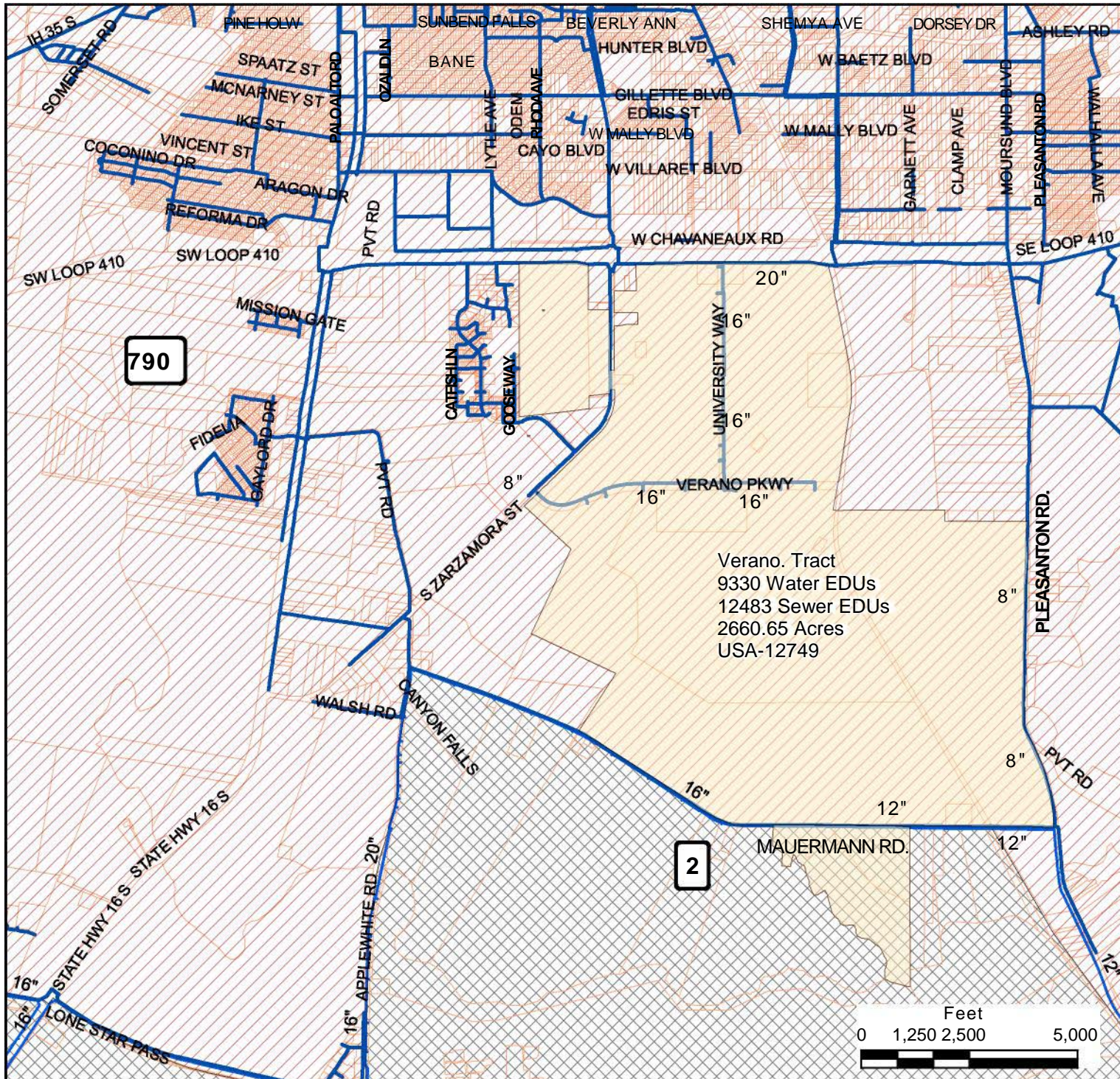


Developer shall be required to pay a pro-rata fee pursuant to the USR, as amended, prior to connection to the wastewater system, if Developer is tapping into a main that is subject to a pro-rata refund.

**S.C.WW.11.00          Amendment of Existing Easements.**

Developer will comply with the reasonable requests of SAWS with regard to amending existing waterline line easements on the Verano Tract to include wastewater lines, and amending existing wastewater line easements on the Verano Tract to include water lines, and to adjust legal descriptions with respect to such easements to better correspond to the actual location of water lines and wastewater lines, so long as such requests do not unreasonably interfere with Developer's development plans with respect to the Verano Tract.





Attachment III:  
 USA-12749  
 VeranoTract  
 Proposed Water Infrastructure Map  
 2660.65 Acres







Verano Tract  
 9330 Water EDUs  
 12483 Sewer EDUs  
 2660.65 Acres  
 USA-12749




**SAWS UTILITY MAP DISCLAIMER**  
This utility map is for reference only. The information may not represent what actually has been constructed. SAWS explicitly disclaims any representation of the accuracy of the information on this map. SAWS assumes no liability for any errors, omissions, or inaccuracies in the map regardless of how caused. Field verification should be done as necessary. SAWS prohibits the reproduction or sale of this document. This SAWS utility map may not under any circumstances, be copied, reproduced, or published in any form or media, or transferred to another without the written permission of the San Antonio Water System (SAWS).

### Legend

Existing Water Main

-  USA
-  Parcels Update
-  PZ 2
-  DSP 790

### Project Location



The map shows a network of utility lines in red and purple across the city of San Antonio. A yellow star is placed in the southern-central part of the city to indicate the project location. A north arrow is located in the bottom right corner of the map.

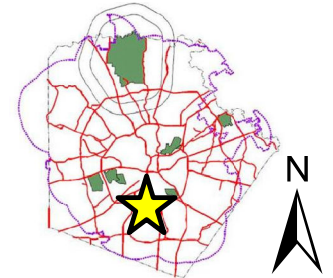


**Legend**

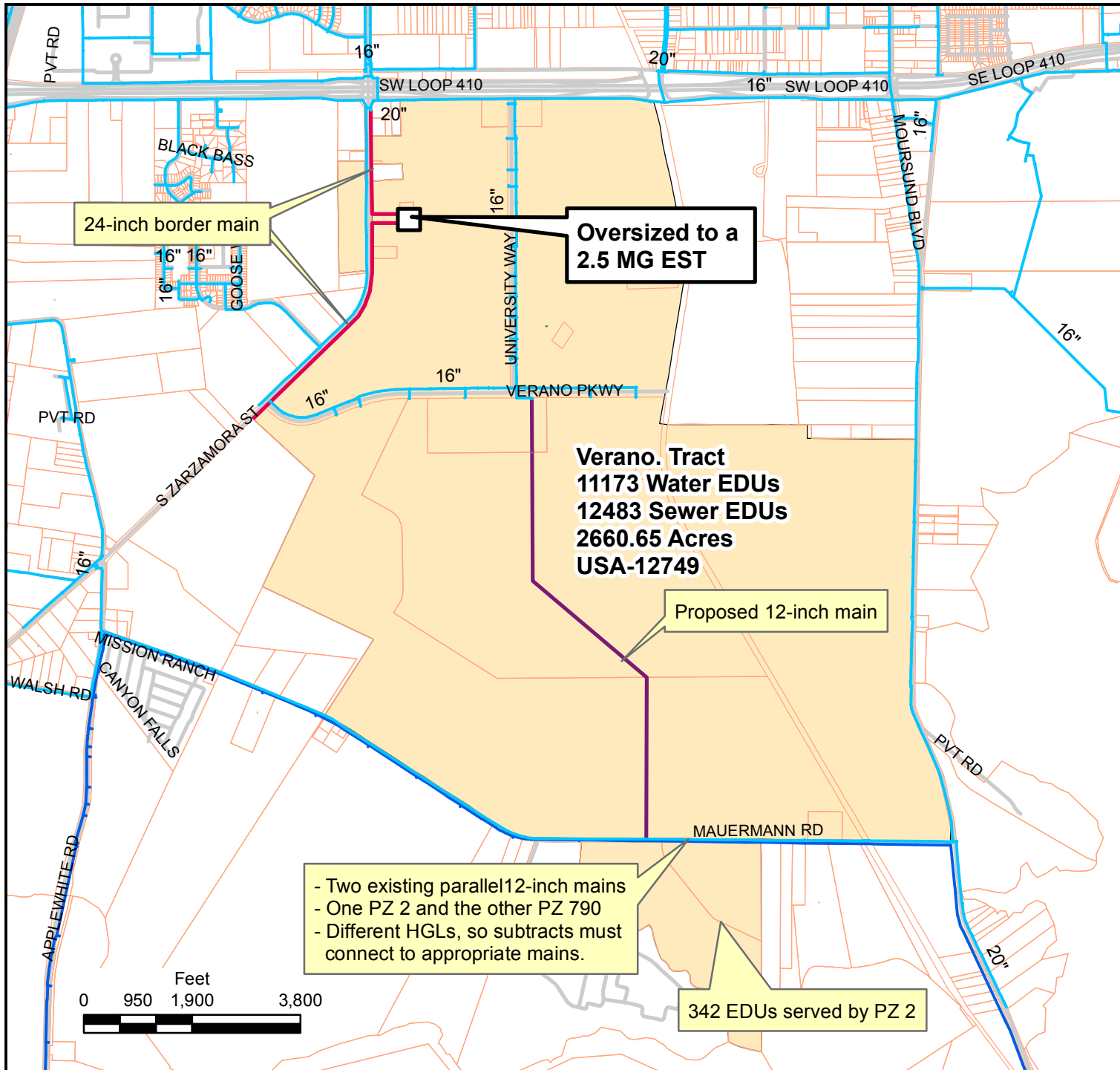
- SAWS PZ 2
- DSP PZ 790
- USA
- Parcels Update

- USA Proposed water DIAMETER**
- 12-inch
  - 24-inch

**Project Location**



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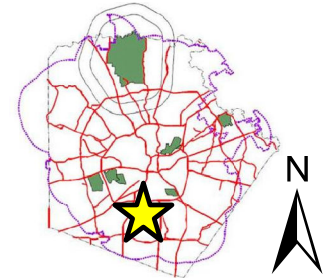




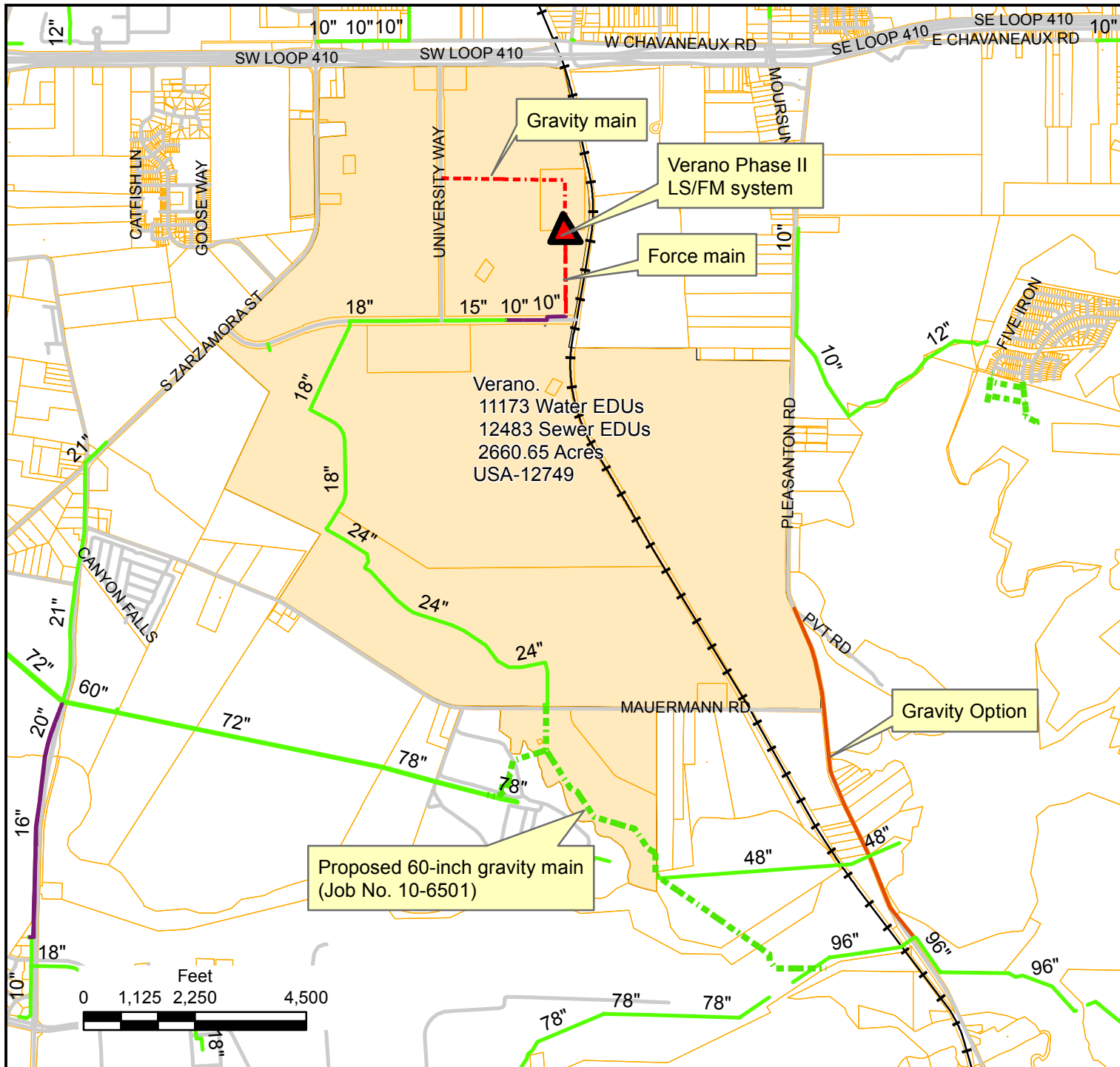
**Legend**

- - - CIP MP Sewer
- Existing Infrastructure**
- FORCE MAIN
- GRAVITY MAIN
- OUTFALL MAIN
- USA
- USA Proposed sewer

**Project Location**



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## **EXHIBIT B**

## ASSIGNMENT OF RIGHTS

This Assignment of Rights ("Assignment") is made as of \_\_\_\_\_, 2013, by and between VERANO LAND GROUP, LP, a Nevada limited partnership ("Verano" or "VLG") and VTLM TEXAS LP, a Texas limited partnership ("VTLM").

### RECITALS

WHEREAS, the City of San Antonio's Verano Tax Increment Reinvestment Zone Twenty-Eight ("TIRZ") was designated on December 6, 2007; and

WHEREAS, in connection with the TIRZ, VTLM entered into a Development Agreement (as amended as described below, the "Development Agreement") with the City of San Antonio, a Texas municipal corporation in Bexar County, Texas (the "City"), Bexar County, a political subdivision of the State of Texas (the "County"), and the Board of Directors for Reinvestment Zone Number Twenty-Eight, City of San Antonio, Texas, a tax increment reinvestment zone (the "Board"); and

WHEREAS, said Development Agreement was amended pursuant to Ordinance No. 2008-11-20-1016, passed and approved by the City Council of the City on the 20th day of November, 2008, by the County, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 2nd day of June, 2009, and by the Board on the 25<sup>th</sup> day of March, 2009; and

WHEREAS, said Development Agreement was further amended by that one certain Second Amendment to Development Agreement by and among the City, the County, the Board and VTLM, approved by the City pursuant to Ordinance No. 2010-06-24-0621, passed by the City Council of the City on the 24<sup>th</sup> day of June, 2010, by the County, acting through its County Judge pursuant to authority granted by the Bexar County Commissioners Court on the 10<sup>th</sup> day of August, 2010, and by the Board on the 9<sup>th</sup> day of June, 2010; and

WHEREAS, the San Antonio Water System ("SAWS") and VTLM are parties to the following agreements:

Consent Agreement dated October 15, 2009, by and among the City, SAWS, the Board, VTLM and VLG;

Assignment of Right to Receive Reimbursements dated September 10, 2009, by and among VLG, VTLM, and SAWS (the "SAWS Assignment"); and

WHEREAS, SAWS and The Texas A&M University System ("TAMUS") are parties to a Utility Services Agreement dated October 15, 2009; and

WHEREAS, SAWS, as successor in interest to Bexar Metropolitan Water District, is party to the following agreements with either VTLM or VLG:

The Utility Services Agreement dated January 26, 2009, by and between San Antonio Water System, as successor in interest to Bexar Metropolitan Water District, and VTLM (“the BexarMet USA Agreement”);

The Texas A & M University Support Agreement dated July 31, 2008, by and among the San Antonio Water System, as successor in interest to Bexar Metropolitan Water District and VLG (“TAMU Support Agreement”); and

The Memorandum of Understanding dated January 28, 2008, by and between SAWS, as successor in interest to Bexar Metropolitan Water District, VLG, and TAMUS (“the BexarMet MOU”);

WHEREAS, VTLM wishes to assign its rights under the Development Agreement and under certain related documents enumerated herein, and Verano wishes to accept such assignment, all on the terms as set forth below;

NOW, THEREFORE, in consideration of the premises and the mutual agreements set forth in this Assignment, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and confessed, VTLM and Verano hereby agree as follows:

#### I. ASSIGNMENT AND ASSUMPTION

1.1 Assignment. Subject to Section 1.3 below, VTLM hereby assigns to Verano VTLM’s rights and obligations under the following documents (collectively, the “TIRZ Documents”), with such obligations being only those obligations that are expressly set forth in writing within the TIRZ Documents:

- A. The Development Agreement;
- B. Tax Increment Reinvestment Zone Twenty-Eight Final Project Plan dated November 20, 2008, Amended June 24, 2010;
- C. Tax Increment Reinvestment Zone Twenty-Eight Final Finance Plan dated November 20, 2008, Amended June 24, 2010;
- D. Interlocal Agreement by and between the City, the County, and the Board, dated effective December 16, 2008, as amended by Amendments to Interlocal Agreement approved by the Board on April 14, 2009, and as further amended by Second Amendment to Interlocal Agreement dated August 10, 2010;



E. Interlocal Agreement by and between the City, San Antonio River Authority and the Board, as further amended by Second Amendment to Interlocal Agreement dated August 16, 2010;

F. Interlocal Agreement by and between the City, Alamo Community College District and the Board, dated effective August 23, 2010;

G. Consent Agreement dated October 15, 2009 by and among the City, SAWS, the Board, VTLM, and VLG;

H. Assignment of Right to Receive Reimbursements dated September 10, 2009 by and among VLG, VTLM, and SAWS (the "SAWS Assignment");

I. Utility Services Agreement dated October 15, 2009, by and among VLG, VTLM, SAWS, and TAMUS (the "SAWS USA Agreement") (agreements identified above as G-I are collectively referred to as the "SAWS Agreements");

J. The BexarMet USA Agreement;

K. The TAMU Support Agreement;

L. The BexarMet MOU.

M. University Way Funding Agreement dated February 1, 2009 by and between the San Antonio Water System, as successor in interest to Bexar Metropolitan Water District and VTLM Texas LP ("University Way Agreement").

N. East-West Street Funding Agreement dated August 7, 2009 by and between the San Antonio Water System, as successor in interest to Bexar Metropolitan Water District and VTLM Texas LP ("East-West Agreement").

Such assignment does not, however, assign or encumber the Reimbursements (as that term is defined in the SAWS Assignment) so long as SAWS has the right to receive the Reimbursements under the SAWS Assignment.

1.2 Assumption. Subject to Section 1.3 below, Verano hereby specifically agrees to assume all of the obligations of VTLM under the TIRZ Documents. Accordingly, Verano hereby agrees for the benefit of the City, the Board, SAWS, and TAMUS to be bound by and to perform the terms, covenants, and conditions of the TIRZ Documents. Such assumption of obligations and agreement to be bound and to perform is strictly limited to obligations, terms, covenants and conditions expressly set forth in the TIRZ Documents and does not apply to any other agreement, contract, arrangement, obligation, or undertaking, whether entered into or arising in connection with the Development Agreement, the other TIRZ Documents, or otherwise; and Verano specifically does not by this Assignment assume any obligations under any such other agreement, contract, arrangement, obligation, or undertaking not specifically enumerated in Section 1.1.

Furthermore, and notwithstanding any of the foregoing, Verano does not assume VTLM's obligations with respect to: (i) any reports that were required to be made before the date of execution of this Assignment under any of the TIRZ Documents, and/or (ii) completion or warranties as to University Way and/or Verano Parkway. As to any agreements, contracts, arrangements, obligations or undertaking entered into or arising in connection with the Development Agreement, the other TIRZ Documents, or otherwise, to which VTLM is a party, but which agreements are not specifically assigned to and assumed herein by Verano, VTLM expressly acknowledges that it remains a party to all such agreements, contracts, arrangements, obligations or undertaking.

1.3 Approval and Consent of City, Board, SAWS, and TAMUS. The assignment by VTLM in Section 1.1 above and the assumption and agreements by Verano in Section 1.2 above will not become effective until such time that the City, the Board, SAWS, and TAMUS have executed a written approval of and consent to such assignment. In addition, because the SAWS Agreements are not assignable by their terms, SAWS specifically has the right to negotiate amendments to said agreements with Verano which must be approved by the SAWS Board as a condition to SAWS' consent to this Assignment.

## II. REPRESENTATIONS

2.1 VTLM's Representations. VTLM hereby represents and warrants that:

A. VTLM has good title to the rights assigned by VTLM pursuant to this Assignment, and except as expressly set forth in the TIRZ Documents, there has been no assignment, transfer, pledge, hypothecation or grant of a lien on or security interest in any rights of VTLM with respect to the TIRZ or any of the TIRZ Documents, either voluntarily, involuntarily, by operation of law or otherwise;

B. VTLM is a limited partnership duly organized and existing in good standing under the laws of the state of Texas;

C. VTLM has the power and requisite authority, and has taken all action necessary, to execute, deliver and perform its obligations under this Assignment; and

D. No consent, approval, authorization, or order of any governmental authority or other person is required in connection with VTLM's execution of this Assignment or the assignments by VTLM set forth in this Assignment, except for the approvals and consents of the City and the Board referred to in Section 1.3 of this Assignment.

2.2 Verano's Representations.

A. Verano is a Nevada limited partnership duly organized and existing in good standing under the laws of the state of Texas;

B. Verano has the power and requisite authority, and has taken all action necessary to execute, deliver, and perform its obligations under this Assignment;

C. No consent, approval, authorization, or order of any governmental authority or other person is required in connection with Verano's execution of this Assignment or the assumption and agreements by Verano set forth in this Assignment, except for the approvals and consents of the City and the Board referred to in Section 1.3 of this Assignment; and

### III. GENERAL

3.1 Headings. Section and subsection headings in this Assignment are included herein for convenience of reference only and shall not constitute a part of this Assignment for any other purpose or be given any substantive effect.

3.2 Applicable Law. THIS ASSIGNMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS. Venue for any actions related to this Assignment shall be Bexar County, Texas.

3.3 Successors and Assigns. This Assignment shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and their respective successors and assigns.

3.4 Counterparts. This Assignment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

3.5 Public Information. Verano and VTLM each acknowledge that this instrument and all documents ancillary to it are public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be disclosed to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

3.6 Prohibited Interest in Contracts. The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (i) a City officer or employee;

(ii) his parent, child or spouse;

(iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;

(iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

Verano warrants and certifies as follows:

(i) Verano and its officers, employees and agents are neither officers nor employees of the City.

(ii) Verano has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

Verano acknowledges that City's reliance on the above warranties and certifications is reasonable.

### 3.7 Incorporation of Attachments

Each of the Attachments listed below is hereby incorporated by reference within this Agreement for all purposes.

#### ATTACHMENTS:

Attachment A – Consent of City of San Antonio, Verano TIRZ Board, San Antonio Water System, and The Texas A&M University System


Attachment B – Release and Indemnity Agreement

*[remainder of the page intentionally left blank; signature page follows]*

EXECUTED as of the date first written above.

VTLM TEXAS, LP, a Texas limited partnership

By: Texas Manager, LLC, a Nevada limited liability company, its General Partner

By:   
Robert Lozzi, Manager

VERANO LAND GROUP, LP  
a Nevada limited partnership

By: South San Antonio Management, LLC,  
A Nevada limited liability company,  
its General Partner

By:   
Joseph M. Desimone, Jr.  
Managing Member

**ATTACHMENT A**

**APPROVAL AND CONSENT OF THE CITY, THE VERANO TIRZ BOARD,  
SAN ANTONIO WATER SYSTEM. AND THE TEXAS A&M UNIVERSITY  
SYSTEM**

The City, by Ordinance 2013-\_\_\_\_-\_\_\_\_-\_\_\_\_, approved \_\_\_\_\_,  
\_\_\_\_\_, the Board, San Antonio Water System, and The Texas A&M University  
System hereby approve and consent to the assignment to Verano of VTLM's rights under  
the Development Agreement and under the other TIRZ Documents as set forth in this  
Assignment. SAWS therefore waives, as to this Assignment only, any prohibition or  
limitation on assignment set forth in the SAWS USA Agreement or the BexarMet USA  
Agreement.

**CITY OF SAN ANTONIO**

**BOARD OF DIRECTORS  
TAX INCREMENT REINVESTMENT  
ZONE NUMBER TWENTY-EIGHT,  
CITY OF SAN ANTONIO, TEXAS**

\_\_\_\_\_  
Sheryl Sculley  
City Manager  
Date: \_\_\_\_\_

\_\_\_\_\_  
Title: Presiding Officer, Board of Directors  
Date: \_\_\_\_\_

**ATTEST/SEAL:**

\_\_\_\_\_  
\_\_\_\_\_  
City Clerk  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michael D. Bernard  
City Attorney  
Date: \_\_\_\_\_

**SAN ANTONIO WATER SYSTEM**

**THE TEXAS A&M UNIVERSITY  
SYSTEM, an agency of the State  
of Texas**

\_\_\_\_\_  
Robert R. Puente  
President/CEO  
Date: \_\_\_\_\_

\_\_\_\_\_  
John Sharp  
Chancellor  
Date: \_\_\_\_\_

**ATTEST/SEAL:**

**ATTACHMENT B  
RELEASE AND INDEMNITY AGREEMENT**



**FULL AND FINAL RELEASE AND INDEMNIFICATION AGREEMENT**

This Full And Final Release and Indemnification Agreement (hereinafter referred to as "Agreement") is made by and between VTLM TEXAS LP, a Texas limited partnership ("VTLM"), VERANO LAND GROUP, a Nevada limited partnership ("Verano") (collectively, the "Verano Parties"), and CITY OF SAN ANTONIO, SAN ANTONIO WATER SYSTEM and as successor in interest to Bexar Metropolitan Water District, and THE TEXAS A&M UNIVERSITY SYSTEM (collectively, the "Consenting Parties"), effective as of \_\_\_\_\_, \_\_\_\_\_ ("Effective Date"), which agreement is set forth as follows:

WHEREAS, the Verano Parties have requested that the Consenting Parties consent to that certain Assignment of Rights, by which VTLM is assigning to Verano its rights and obligations under the Verano Tax Increment Reinvestment Zone # 28 TIRZ Documents set forth in the Assignment of Rights, and Verano is agreeing to assume such rights and obligations from VTLM; and

WHEREAS, the City Council of the City of San Antonio has consented to the Assignment of Rights subject to the Parties entering into this Agreement, pursuant to Ordinance \_\_\_\_\_, approved \_\_\_\_\_, \_\_\_\_\_;

WHEREAS, the Board of Trustees of the San Antonio Water System has consented to the Assignment of Rights subject to the Parties entering into this Agreement pursuant to Resolution \_\_\_\_\_; and

WHEREAS, The Texas A&M University System has consented to the Assignment of Rights subject to the Parties entering into this Agreement pursuant to Attachment A to the Assignment of Rights;

WHEREAS, the Parties to this Agreement wish to finalize the Assignment of Rights and Consent thereto in order to proceed with the Development Agreement and related TIRZ documents;

NOW THEREFORE IN CONSIDERATION OF THE ABOVE AND FOREGOING RECITALS and the Consenting Parties' Consent to the Assignment of Rights, the Verano Parties agree as follows:

1. The Verano Parties, all and each of them, and their administrators, agents, assigns, attorneys, executors, heirs, insurers and representatives, FULLY AND FINALLY RELEASE AND FOREVER DISCHARGE the Consenting Parties and their administrators, agents, assigns, employees, executors, heirs, insurers and representatives, FROM ALL CLAIMS AND/OR ALLEGATIONS RELATING TO OR ARISING OUT OF THE Assignment of Rights and the Consenting Parties' Consent thereto, whether ACCRUED OR UNACCRUED, LIQUIDATED OR UNLIQUIDATED, KNOWN OR UNKNOWN, including but not limited to claims for attorney's fees and court costs.

2. Verano further **AGREES TO INDEMNIFY AND HOLD FOREVER HARMLESS AND DEFEND SAN ANTONIO WATER SYSTEM and THE TEXAS A&M UNIVERSITY SYSTEM FROM ANY CLAIMS OR LAWSUITS OF ANY KIND BY ANY INDIVIDUAL OR ENTITY, AT LAW OR IN EQUITY, REGARDING OR ARISING OUT OF the Assignment of Rights and the Consenting Parties' Consent to the Assignment of Rights.**


**V'TLM TEXAS, LP**, a Texas limited partnership

By: Texas Manager, LLC, a Nevada limited liability company, its General Partner

By:   
Robert Lozzi, Manager

**VERANO LAND GROUP, LP**  
a Nevada limited partnership

By: South San Antonio Management, LLC,  
A Nevada limited liability company,  
its General Partner

By:   
Joseph M. Desimore, Jr.  
Managing Member





## AMENDMENT OF UTILITY SERVICE AGREEMENT

This Amendment of Utility Service Agreement ("Amendment") is entered into as of \_\_\_\_\_, \_\_\_\_\_ by and among the SAN ANTONIO WATER SYSTEM BOARD OF TRUSTEES ("SAWS"), THE TEXAS A&M UNIVERSITY SYSTEM ("TAMUS"), VERANO LAND GROUP, LP, a Nevada limited partnership (formerly a Texas limited partnership) ("Owner"), and VTLM TEXAS, LP, a Texas limited partnership ("VTLM"). SAWS, TAMUS, Owner and VTLM are referred to herein collectively as the "Parties" and each separately as a "Party".

### RECITALS

WHEREAS, the Parties entered into that one certain Utility Services Agreement dated October 15, 2009 (the "SAWS USA Agreement"); and

WHEREAS, the SAWS USA Agreement states in Section G.C.6.00 of Attachment 1 thereto that the SAWS USA Agreement may not be assigned in whole or in part; and

WHEREAS, the Parties wish to amend the SAWS USA Agreement to provide that the SAWS USA Agreement may be assigned by a Party with the written consent of the other Parties;

NOW, THEREFORE, in consideration of the premises and the mutual agreements set forth in this Amendment, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and confessed, the Parties agree as follows:

### I. AMENDMENT

1.1 Amendment to Allow Assignment with Consent. The Parties hereby amend the SAWS USA Agreement, including (without limitation) said Section G.C.6.00, to provide that the SAWS USA Agreement may be assigned by a Party with the written consent of the other Parties.

### II. GENERAL

2.1 Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

2.2 Applicable Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

2.3 Successors and Assigns. This Amendment shall be binding upon the Parties hereto and their respective successors and permitted assigns and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

2.4 Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

3.5 Public Information. The Parties each acknowledge that this instrument and all documents ancillary to it may be public information within the meaning of Chapter 552 of the Texas Government Code and accordingly may be subject to disclosure to the public. Nothing in this agreement waives an otherwise applicable exception to disclosure.

*[remainder of the page intentionally left blank; signature page follows]*

EXECUTED as of the date first written above.

SAN ANTONIO WATER SYSTEM

THE TEXAS A&M UNIVERSITY SYSTEM, an agency of the State of Texas

\_\_\_\_\_  
Robert R. Puente  
President/CEO  
Date: \_\_\_\_\_

\_\_\_\_\_  
John Sharp  
Chancellor  
Date: \_\_\_\_\_

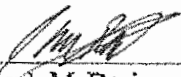
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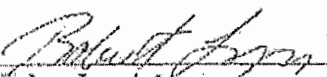
VERANO LAND GROUP, LP  
a Nevada limited partnership

VILM TEXAS, LP, a Texas limited partnership

By: South San Antonio Management, LLC,  
a Nevada limited liability company, its  
General Partner

By: Texas Manager, LLC, a Nevada  
limited liability company, its General  
Partner

By:   
\_\_\_\_\_  
Joseph M. Desimone, Jr.  
Managing Member

By:   
\_\_\_\_\_  
Robert Lozzi, Manager

Date: 12/20/2013

Date: 12-11-13