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| **County Clerk’s Office**  **Place Stamp Here**  **When MCGCD Recording** |

**MEDINA COUNTY GROUNDWATER CONSERVATION DISTRICT**

**GROUNDWATER LEVEL MONITORING EQUIPMENT AGREEMENT**

I. **Parties**. This Groundwater Level Monitoring Equipment Agreement (“Agreement”) is entered into and is effective on the date as set forth in Paragraph XI, by and between {insert name of owner} (“Owner”), {insert address}, the person(s) or entity(ies) shown by the official public records of Medina County as the owner(s) of record of Well No(s).{insert well number}(“Well”) located at {insert latitude and longitude of location of well} on the property described in Paragraph III (“Property”), and the Medina County Groundwater Conservation District (“District”), 1607 Avenue K, Hondo, Texas 78861, a conservation and reclamation district and political subdivision of the State of Texas. Each of these entities is, at times, referred to individually as a “Party,” and both are referred to collectively as “Parties.”

II. **Purpose**. The purpose of this Agreement is to provide the District, and its authorized agents, employees, representatives, and contractors, with permission to access and enter the Property in order to: transport any necessary equipment to the Well on the Property in order to install sensor(s) and related equipment to measure the static groundwater level at the Well(s); to install such equipment; to operate and maintain such equipment; to perform, at the District’s expense, any weather-related repairs and any repairs necessary to correct mechanical defects of the sensor and related equipment; to perform, at the Owner’s expense, any repairs of the sensor and related equipment other than weather-related repairs or repairs necessary to correct mechanical defects; to replace the sensor and related equipment as necessary; and to remove the sensor and related equipment at the end of the term of this Agreement or at any time the District so chooses (“Services”). The Owner desires to have the District perform the Services, and the Parties desire to enter into this Agreement to identify the terms and conditions for providing such Services. The Parties acknowledge that the Services are meant to achieve compliance with Section 13.9 of the District’s rules related to the duty to install monitoring equipment on certain non-exempt wells within the District’s jurisdiction.

III. **The Property**. The Owner acknowledges that it is the present owner of the Property, being more particularly described in Exhibit A, and the Well located thereon, which are subject to this Agreement. It is the intent of this Agreement to cover only the Well located on the Property and the need to perform the Services thereon.

IV. **District Duties**. In consideration for this Agreement, the District agrees to:

1. schedule access to the Well on the Property with the Owner in advance for the performance of the Services;
2. perform the Services;
3. cooperate with and provide assistance to the Owner during the term of this Agreement to achieve compliance with Section 13.9 of the District’s rules; and
4. remove the sensor and related equipment upon the expiration or termination of this Agreement.

V. **Owner’s Duties**. In consideration for this Agreement, the Owner agrees to:

1. perform, at its own cost and expense, all work necessary to prepare the Well(s) for the installation of the sensor(s) and related equipment;
2. perform within a reasonable time period from when requested by the District, and at its own cost and expense, any modifications of the Well(s) that are deemed necessary by the District to allow District to perform the Services;
3. grant to the District, its authorized agents, employees, representatives, and contractors all rights of access necessary to enter the Property at reasonable times to access the Well in order to conduct the Services, and, while upon the Property, to undertake all actions, in the sole opinion of the District, reasonably related, as the District may deem necessary, in the furtherance of the performance of the Services;
4. reimburse the District pursuant to Paragraph VII of this agreement for the cost of any repairs that are necessary to keep the sensor and any related equipment functioning properly but which are not weather-related or necessary to correct mechanical defects;
5. for itself, and for its successors and assigns, release, waive, and forever discharge from any and all liability, and agrees to defend, indemnify and hold harmless, the District and its directors, officers, employees, agents, and contractors from any and all losses, claims, liabilities, demands, costs, damages, including indirect or consequential damages, or causes of action, including its attorney’s fees and costs, whether based upon a tort, negligence, or any other theory of recovery, including but not limited to the claimed breach of this Agreement, for any personal injury, death, property damage or other damages arising from the District’s entry onto the Property or its performance of the Services. This release, and indemnity provision is specifically intended to protect the District and its directors, officers, employees, agents, and contractors to the fullest extent allowable by law.

VI. **Sole Authority to Repair or Remove of Sensor and Associated Equipment, and to Collect Data.** The District shall have the sole authority to repair or remove the sensor and any associated equipment, and to collect data from the sensor, unless the Parties enter into alternative arrangements.

VII. **Invoicing and Payment of Certain Repair Costs.** The District shall provide the Owner with an invoicefor the costs of any repairs that are necessary to keep the sensor and any related equipment functioning properly but which are not weather-related or necessary to correct mechanical defectswithin 60 days of the District having performed such repairs. The Owner shall pay any such invoice in full within 60 days of receipt.

VIII. **Termination.** Either Party shall have the right to terminate this Agreement by providing 30 days advanced notice in writing to the other Party sent the person designated to receive notices in this Agreement.

IX. **Notices.** Any and all notices or invoices required to be provided under this agreement shall be sent to the following persons/addresses:

To the District:

General Manager

Medina County Groundwater Conservation District

1607 Avenue K

Hondo, Texas 78861

To the Owner:

{insert name}

{insert address}

X. **Entire Agreement**. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein created, and supersedes any and all prior agreements, arrangements, or understandings between the Parties. There are no oral understandings, statements, promises or inducements not set forth in this Agreement. This Agreement cannot be changed or terminated orally. No warranties, representations, covenants, amendments, understandings or agreements not expressly set out in this Agreement shall be binding upon the Parties.

XI. **Default**. Upon the default or breach of the terms of this Agreement, the non-defaulting party shall be entitled to all rights and remedies available to it at law or in equity in the State of Texas. Upon default by the Owner, the District shall be entitled to enter the Property and take all action necessary to remove the Meter from the Well and modify the Well such that withdrawals from the Well cannot be made.

XII. **Effective Date; Term.** This Agreement becomes effective on the date it is signed by the last signing Party, and shall continue in full force and effect for ten years from the effective date, unless either of the Parties exercises its right to terminate the Agreement prior to that date in accordance with Paragraph VIII.

XIII. **Survival of Rights**. It is specifically agreed that, upon expiration or termination of this Agreement, the provisions of this Agreement regarding the Owner’s indemnification and release of the District under Paragraph ­V(E), and the District’s rights of access provided for under Paragraph V(C)­­­­ that are needed order solely to complete the removal the sensor and associated equipment, shall survive such termination and continue in full force and effect thereafter.

XIV. **Ownership**. The ownership of the Property and the Well remain in the Owner. Nothing in this Agreement shall be construed to give or obligate the District in any way with regard to the ownership or operation of the Well except as already set forth under applicable laws and regulations and this Agreement. All responsibility and obligations relating to the Well remain in the Owner. The ownership of the sensor and any associated equipment shall remain with the District.

XV. **Governing Law**. This Agreement shall be deemed to have been executed and performed in the State of Texas and shall be construed in accordance with and governed by the laws of the State of Texas. Venue for any disputes or claims arising from this Contract shall be exclusively in the proper court in Medina County, Texas.

XVI. **Binding Effect**. The provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The duties, rights, and obligations of the Owner shall be assigned to and become the duties, rights, and obligations of any assignee or transferee of the Property without the need of any further action by the Parties. This Agreement constitutes an obligation that runs with the land.

XVII. **Severability**. The invalidity of any provision or provisions of this Agreement shall not affect any other provision of this Agreement, which shall remain in full force and effect, nor shall the invalidity of a portion of any provision of this Agreement affect the balance of such provision.

XVIII. **Non-Waiver of Immunity**. Nothing in this Agreement is intended as any waiver by the District of any immunity from suit to which it is entitled under Texas law.

XIX. **Additional Survival**. Termination of this Agreement for breach shall not constitute a waiver of any rights or remedies available at law or in equity to a Party to redress such breach. All remedies, either under this Agreement or at law or in equity, or otherwise available to a Party, are cumulative and not alternative and may be exercised or pursued separately or collectively in any order, sequence or combination. In addition, to these provisions, applicable provisions of this Agreement shall survive any termination of this Agreement.

XX. **Authority to Contract**. Each Party represents and warrants for the benefit of the other Party that: (1) it has the legal authority to enter into this Agreement; (2) this Agreement has been duly approved and executed; (3) no other authorizations or approvals are or will be necessary in order to approve this Agreement and to enable that Party to enter into and comply with the terms and conditions of this Agreement; (4) the person executing this Agreement on behalf of each Party has the authority to bind that Party; and (5) the Party is empowered by law to execute any other agreement or documents and to give such other approvals, in writing or otherwise, as are or may hereafter be required to implement and comply with this Agreement.

**IN WITNESS WHEREOF**, the Parties acting under their respective authorities have caused this Agreement to be duly executed.

**FOR THE OWNER:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

{insert name} date

{insert title} {insert name of business entity} (if applicable}

Acknowledged to me on this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, as witnessed by my hand and seal of office.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

**FOR THE DISTRICT:**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David Caldwell (date)

General Manager

Acknowledged to me on this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, as witnessed by my hand and seal of office.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public, State of Texas

APPROVED AS TO FORM:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Andrew S. “Drew” Miller

General Counsel

Medina County Groundwater Conservation District

**After recording, return to:**

Medina County Groundwater Conservation District

1607 Avenue K

Hondo, Texas 78861

ATTN. GENERAL MANAGER

**Exhibit A**

{insert legal description from deed conveying property upon which Well is located}