

RESOLUTION AND ORDER NO. 10-22-039

OF THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS
TO APPROVE THE PLAN AGREEMENT FOR PLAN YEAR 2023 WITH
THE TEXAS COUNTIES AND DISTRICTS RETIREMENT SYSTEM TO
PROVIDE FOR AND ADMINISTER RETIREMENT FUNDS FOR THE
EMPLOYEES OF THE EAA FOR PLAN YEAR 2023 IN AN AMOUNT NOT
TO EXCEED \$1,087,328 BEGINNING JANUARY 1, 2023, THROUGH
DECEMBER 31, 2023, AND AUTHORIZING THE CHAIRMAN OF THE
BOARD TO EXECUTE THE PLAN AGREEMENT.

WHEREAS, the Edwards Aquifer Authority (“EAA”) was created by the Edwards Aquifer Authority Act of May 30, 1993, 73rd Leg., R.S., ch. 626, 1993 Tex. Gen. Laws 2350, as amended (“Act”); and

WHEREAS, under Section 1.02 of the Act, the EAA is a conservation and reclamation district created by virtue of Article XVI, Section 59 of the Texas Constitution; and is a governmental agency and body politic and corporate vested with the full authority to exercise the powers and to perform the functions specified in the Act; and

WHEREAS, under Section 1.08(a) of the Act, the EAA has all the powers, rights and privileges necessary to manage, conserve, preserve, and protect the Edwards Aquifer (“Aquifer”) and to increase the recharge of, and prevent the waste or pollution of water in, the Aquifer; and

WHEREAS, under Section 1.11(d)(2) of the Act, the EAA may enter into contracts; and

WHEREAS, under Section 1.41(b) of the Act, all files and records of the Edwards Underground Water District (“EUWD”) “pertaining to the control, management, and operation of the district [were] transferred from the [EUWD] to the [EAA] on the effective date of the [Act]”;¹ and

WHEREAS, under Section 1.41(c) of the Act, all contracts and obligations of the EUWD were transferred from the EUWD to the EAA on the effective date of the Act; and

WHEREAS, under Section 49.057(a), Texas Water Code, the EAA may “contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district;” and

WHEREAS, under Section 49.069(a), Texas Water Code, the EAA may provide for and administer retirement funds for the employees of the EAA; and

WHEREAS, under Section 49.211(a), Texas Water Code, the EAA has the functions, powers, authority, rights, and duties that will permit it to accomplish the purposes for which it was created or the purposes authorized by the constitution, the Texas Water Code, or any other law;

¹ The effective date of the Act is June 28, 1996. *See generally Edwards Aquifer Auth. v. Chem. Lime, Ltd.*, 291 S.W.3d 392 (Tex. 2009).

and

WHEREAS, under Section 49.213(b), Texas Water Code, the EAA may enter into contracts with any person or any public or private entity in the performance of any purpose or function permitted by the EAA; and

WHEREAS, under Section 49.213(c)(7), Texas Water Code, the EAA may enter into contracts with persons or any public or private entities on the terms and conditions the Board of Directors of the EAA (“Board”) may consider desirable, fair, and advantageous for, among other things, the exercise of any rights, powers, and duties granted to the EAA; and

WHEREAS, Article 11.02(b) of the EAA Bylaws requires that contracts, or any other procurement instruments, whose value exceeds \$100,000 be approved by a written resolution issued by the Board; and

WHEREAS, in 1978, the EUWD elected to join the Texas County and District Retirement System (“TCDRS”) and be subject to the provisions of Subtitle F (relating to the TCERS) of Title 8 (relating to public retirement systems) of the Texas Government Code; and

WHEREAS, under Sections 841.001(17) and 842.001, Texas Government Code, the EAA is authorized to participate in the TCERS; and

WHEREAS, under Section 842.0075, Texas Government Code, the EAA is authorized to assume the subdivision account and pension liabilities of a political subdivision (such as the EUWD) that no longer exists; and

WHEREAS, on September 27, 2022, the Finance/Administrative Committee voted to recommend the Board adopt a resolution and order approving the 2023 Plan Agreement between the EAA and TCERS, to provide for and administer retirement funds for the employees of the EAA for Plan Year 2023 in an amount not to exceed \$1,087,328 and authorizing the Chairman of the Board to execute the Plan Agreement; and

WHEREAS, the total amount to be paid to TCERS to provide for and administer retirement funds for the employees of the EAA for 2023 will exceed \$100,000; and

WHEREAS, a regular meeting of the Board was held on October 11, 2022, at 4:00 p.m., notice of public meeting having been duly and properly posted in accordance with Chapter 551, Texas Government Code; and

WHEREAS, an agenda item was duly listed in the notice of public meeting that is the subject of this Resolution and Order; and

WHEREAS, a majority of the Directors of the Board were present and constituted a quorum; and

WHEREAS, a vote of the majority of the quorum present passed on, voted in favor of, and adopted the following Resolution and Order; and

WHEREAS, approval of the Plan Agreement is necessary to adequately fund on an ongoing basis EAA retirement benefits currently accrued under the TCDRS; and

WHEREAS, it is in the public interest that the EAA provide for a retirement program for its employees.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY THAT:

Section 1. The recitals set out above are found to be true and correct, and they are hereby adopted by the Board of Directors and are made a part of this Resolution and Order for all purposes.

Section 2. The Board of Directors hereby approves the Plan Agreement for Plan Year 2023 with the TCDRS beginning January 1, 2023, through December 31, 2023.

Section 3. The Chairman of the Board is authorized to execute and deliver the Plan Agreement for Plan Year 2023 with the TCDRS, attached hereto, and any other necessary and related documents, and the General Manager is authorized to release payment as required by the Plan Agreement.

Section 4. This Resolution and Order shall become effective from and after its adoption.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE EDWARDS AQUIFER AUTHORITY THIS 11TH DAY OF OCTOBER 2022.

Luana Buckner
Chairman of the Board

ATTEST:

Benjamin F. Youngblood III
Secretary, Board of Directors

APPROVED AS TO FORM:

Darcy Alan Frownfelter
General Counsel