

RESOLUTION AND ORDER NO. 09-16-853

OF THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS APPROVING LEASES OF PERMITTED EDWARDS GROUNDWATER RIGHTS FROM THE PERMIT HOLDERS AS LISTED HEREIN TO THE EAA FOR THE AQUIFER STORAGE AND RECOVERY PROJECT OF THE SAN ANTONIO WATER SYSTEMS IN SUPPORT OF THE EDWARDS AQUIFER HABITAT CONSERVATION PLAN, AND PROVIDING AUTHORIZATION TO THE GENERAL MANAGER TO EXECUTE THE LEASES.

WHEREAS, the Edwards Aquifer Authority ("EAA") was created in 1993 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 1.22(a) and (b) the EAA may acquire permitted rights use groundwater from the Aquifer; and

WHEREAS, under Section 1.14(a)(6), and (7) of the Act, the EAA is required to protect aquatic and wildlife habitat, and protect species that are designated as threatened or endangered under federal or state law; and

WHEREAS, under Section 1.14(h) of the Act, the EAA is required to implement a plan to ensure that springflows at Comal Springs and San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law; and

WHEREAS, under Section 49.218(a) Texas Water Code, the EAA may acquire an interest in land, permit rights or interests, contractual rights to use other real property considered necessary for the purpose of accomplishing any one or more of the EAA's purposes; and

WHEREAS, Article 10.02(b) of the EAA Bylaws requires that any agreement, contract, or any other procurement instrument whose value exceed \$100,000 be approved by a written resolution of the EAA Board of Directors ("Board"); and

WHEREAS, Section 5.5.1 of the Edwards Aquifer Habitat Conservation Plan ("EAHCP")

requires the EAA to acquire leases of Permitted Edwards Groundwater Rights for injection into the Aquifer Storage and Recovery Project of the San Antonio Water Systems ("ASR Project") implementation of the use of the ASR Project for springflow protection; and

WHEREAS, the EAA desires to enter into Leases of Permitted Edwards Groundwater Rights in support of the EAHCP; and

WHEREAS, the EAA's Permits/Enforcement Committee, on August 23, 2016, voted to recommend the Board approve the Leases listed below and provide authorization to the General Manager to execute the Leases; and

WHEREAS, the template lease upon which the Leases is based has been reviewed by the EAA legal counsel prior to Board approval; and

WHEREAS, the individual lease for the Laguna Water II, Ltd. lease has been reviewed by the EAA legal counsel prior to Board approval; and

WHEREAS, a regular meeting of the Board of the EAA was held on September 13, 2016, at 3:00 p.m., notice of public meeting having been duly and properly posted in accordance with Chapter 551, Texas Government Code; and

WHEREAS, the Board considered the Agenda Item that is the subject of this Resolution and Order; and

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

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

WHEREAS, it is in the public interest that the EAA enter into the Leases.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS 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 Leases of Permitted Edwards Groundwater Rights for the ASR Project in support of the EAHCP as summarized below:

Permit No.	Owner Name	Transfer Amount (acre-feet)	Term (years)	Annual Lease Cost	Total Lease Cost
104-190	Vernell Louise Burch	300.000	10	\$48,000.00	\$480,000.00
100-017	Laguna Water II, Ltd.	250.000	10	\$40,000.00	\$400,000.00
100-078	Laguna Water II, Ltd.	86.500	10	\$13,840.00	\$138,400.00
100-116	Laguna Water II, Ltd.	50.000	10	\$8,000.00	\$80,000.00
100-141	Laguna Water II, Ltd.	40.000	10	\$6,400.00	\$64,000.00
100-144	Laguna Water II, Ltd.	85.000	10	\$13,600.00	\$136,000.00
100-185	Laguna Water II, Ltd.	90.000	10	\$14,400.00	\$144,000.00
100-212	Laguna Water II, Ltd.	75.000	10	\$12,000.00	\$120,000.00
100-294	Laguna Water II, Ltd.	359.600	10	\$57,536.00	\$575,360.00
100-296	Laguna Water II, Ltd.	9.580	10	\$1,532.80	\$15,328.00
100-369	Laguna Water II, Ltd.	355.910	10	\$56,945.60	\$569,456.00
100-408	Laguna Water II, Ltd.	54.000	10	\$8,640.00	\$86,400.00
100-461	Laguna Water II, Ltd.	15.000	10	\$2,400.00	\$24,000.00
100-529	Laguna Water II, Ltd.	60.000	10	\$9,600.00	\$96,000.00
100-532	Laguna Water II, Ltd.	212.000	10	\$33,920.00	\$339,200.00
100-558	Laguna Water II, Ltd.	28.705	10	\$4,592.80	\$45,928.00
100-568	Laguna Water II, Ltd.	1,259.240	10	\$201,478.40	\$2,014,784.00
100-852	Laguna Water II, Ltd.	100.000	10	\$16,000.00	\$160,000.00
100-894	Laguna Water II, Ltd.	70.500	10	\$11,280.00	\$112,800.00
100-910	Laguna Water II, Ltd.	87.008	10	\$13,921.28	\$139,212.80
100-923	Laguna Water II, Ltd.	100.000	10	\$16,000.00	\$160,000.00
100-976	Laguna Water II, Ltd.	500.000	10	\$80,000.00	\$800,000.00
101-013	Laguna Water II, Ltd.	350.000	10	\$56,000.00	\$560,000.00
101-062	Laguna Water II, Ltd.	100.000	10	\$16,000.00	\$160,000.00
101-114	Laguna Water II, Ltd.	60.000	10	\$9,600.00	\$96,000.00
101-122	Laguna Water II, Ltd.	146.200	10	\$23,392.00	\$233,920.00
101-135	Laguna Water II, Ltd.	206.000	10	\$32,960.00	\$329,600.00
101-153	Laguna Water II, Ltd.	12.000	10	\$1,920.00	\$19,200.00
101-201	Laguna Water II, Ltd.	415.000	10	\$66,400.00	\$664,000.00
101-246	Laguna Water II, Ltd.	34.000	10	\$5,440.00	\$54,400.00
101-251	Laguna Water II, Ltd.	74.200	10	\$11,872.00	\$118,720.00
101-253	Laguna Water II, Ltd.	97.500	10	\$15,600.00	\$156,000.00
101-351	Laguna Water II, Ltd.	35.000	10	\$5,600.00	\$56,000.00
101-353	Laguna Water II, Ltd.	35.000	10	\$5,600.00	\$56,000.00
101-388	Laguna Water II, Ltd.	140.000	10	\$22,400.00	\$224,000.00
101-415	Laguna Water II, Ltd.	15.000	10	\$2,400.00	\$24,000.00
101-418	Laguna Water II, Ltd.	35.000	10	\$5,600.00	\$56,000.00
101-481	Laguna Water II, Ltd.	50.000	10	\$8,000.00	\$80,000.00
101-492	Laguna Water II, Ltd.	16.000	10	\$2,560.00	\$25,600.00

101-495	Laguna Water II, Ltd.	34.850	10	\$5,576.00	\$55,760.00
101-499	Laguna Water II, Ltd.	200.000	10	\$32,000.00	\$320,000.00
101-545	Laguna Water II, Ltd.	7.500	10	\$1,200.00	\$12,000.00
101-575	Laguna Water II, Ltd.	62.000	10	\$9,920.00	\$99,200.00
101-686	Laguna Water II, Ltd.	60.000	10	\$9,600.00	\$96,000.00
102-532	Laguna Water II, Ltd.	125.000	10	\$20,000.00	\$200,000.00
	TOTAL :	6,498.293		\$1,039,726.88	\$10,397,268.80

Section 3. The General Manager is hereby given authority to execute the above-listed Leases on behalf of the EAA, deliver the Leases referred to herein, and release payments as required by the Leases.

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

PASSED AND APPROVED BY THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS THIS 13TH DAY OF SEPTEMBER, 2016.

Luana Buckner
Chairman, Board of Directors

ATTEST:

Enrique P. Valdivia
Secretary, Board of Directors

APPROVED AND TO FOR:



Darcy Alan Brown
General Counsel