

RESOLUTION AND ORDER NO. 11-20-986

OF THE EDWARDS AQUIFER AUTHORITY BOARD OF DIRECTORS APPROVING A ONE-YEAR RENEWAL AND EXTENSION OF CONTRACT NO. 17-869-AM BETWEEN THE EAA AND EUROFINS XENCO, LLC (FORMERLY TESTAMERICA LABORATORIES, INC.), TO CONTINUE TO PROVIDE ANALYTICAL LABORATORY SERVICES IN AN AMOUNT NOT TO EXCEED \$210,000, FOR THE PERIOD EXTENDING FROM JANUARY 1, 2021, THROUGH DECEMBER 31, 2021, AND AUTHORIZING THE GENERAL MANAGER TO EXECUTE DOCUMENTS NECESSARY TO EFFECTUATE THE CONTRACT RENEWAL AND EXTENSION.

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 1.27 of the Act, the EAA may conduct research on the Aquifer; and

WHEREAS, under 1.11(d)(2) of the Act, the EAA may enter into contracts; 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 EAA Board of Directors (“Board”) for the conduct of the affairs 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; 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 may consider desirable, fair, and advantageous for, among other things, the exercise of any rights, powers, and duties granted to the EAA; and

WHEREAS, on October 30, 2017, the EAA entered into that certain Contract No. 17-869-AM (“Contract”) between the EAA and TestAmerica Laboratories, Inc. (now Eurofins Xenco, LLC) to provide for analytical laboratory services; and

WHEREAS, Article I, paragraph 1.3 of the Contract authorizes four renewals and extensions of the Contract; and

WHEREAS, the EAA desires to exercise its right to renew and extend for an additional one-year period of time; and

WHEREAS, this renewal and extension is the third of four possible renewal and extension periods provided for under the Contract; and

WHEREAS, on November 3, 2020, the Executive Committee voted to recommend that the Board adopt a resolution and order approving a one-year renewal and extension of the Contract with TestAmerica Laboratories Inc. (now Eurofins Xenco, LLC) to continue to provide analytical laboratory services, in an amount not to exceed \$210,000, for the period extending from January 1, 2021, through December 31, 2021, and authorizing the General Manager to execute the documents necessary to effectuate the renewal and extension of the Contract; and

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

WHEREAS, the total amount to be paid to Eurofins Xenco, LLC under the terms of the renewal and extension of the Contract will exceed \$100,000; and

WHEREAS, the original Contract, and the renewal and extension documents for the Contract, were reviewed by the EAA’s legal counsel prior to Board approval; and

WHEREAS, a regular meeting of the Board was held on November 10, 2020 at 3:00 p.m., notice of the 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;

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

WHEREAS, the Board duly considered and took action on the agenda item that is the subject of this Resolution and Order; and

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

WHEREAS, it is in the public interest that the EAA approve the renewal and extension of the Contract for an additional one-year period.

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

- Section I. 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 renewal and extension of Contract No. 17-869-AM with Eurofins Xenco, LLC for an additional one-year period being the third of four possible renewals and extensions, in an amount not to exceed \$210,000 to continue to provide analytical laboratory services for the period January 1, 2021 through December 31, 2021.
- Section 3. The General Manager is authorized to execute and deliver the documents necessary to effectuate the renewal and extension of the Contract as attached hereto, and release payment as required by the Contract as renewed and extended.
- 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 10TH DAY OF NOVEMBER, 2020

Luana Buckner
Chairman, Board of Directors

ATTEST:

Enrique P. Valdivia
Secretary, Board of Directors

APPROVED AS TO FORM:

Darcy Alan Frownfelter
General Counsel