

RESOLUTION NO. 2020-01R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT WITH TEXAS STATE UNIVERSITY (EDWARDS AQUIFER RESEARCH AND DATA CENTER) PROVIDING FOR GROUNDWATER QUALITY MONITORING SERVICES IN THE VICINITY OF THE KISSING TREE SUBDIVISION FOR AN INCREASED AMOUNT NOT TO EXCEED \$265,000 OVER A FIVE-YEAR TERM TO BE PAID THROUGH FUNDS COLLECTED BY TIRZ NO. 4; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY; AND DECLARING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

PART 1. The attached amended Interlocal Agreement between the City and Texas State University is hereby approved.

PART 2. The City Manager or his designee is authorized to execute said Interlocal Agreement on behalf of the City.

PART 3. This resolution shall be in full force and effect immediately from and after its passage.

ADOPTED on January 7, 2020.



Jane Hughson
Mayor

Attest:



Tammy K. Cook
Interim City Clerk

INTERLOCAL AGREEMENT
CITY OF SAN MARCOS AND TEXAS STATE UNIVERSITY- SAN MARCOS FOR
COLLECTION AND ANALYSIS OF ORGANIC WASTEWATER CONTAMINANTS

The City of San Marcos ("City") and Texas State University – San Marcos ("Texas State"), Edwards Aquifer Research and Data Center ("EARDC") enter into this Interlocal Agreement under the authority of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended.

Section 1. Purpose of Agreement

The purpose of this Agreement is to provide systematic monitoring of groundwater near the Kissing Tree site from both up gradient and down gradient wells to assess the effects of applying reclaimed water on the golf course, as well as residential herbicides and insecticides over the recharge and contributing zones of the Balcones Fault Zone Edwards Aquifer. Texas State and the City agree that this agreement serves a public purpose.

Section 2. Scope of Services and Payment

a) Texas State agrees to:

1. Monitor water quality during development to assess the effects of local construction, effluent applied to the golf course, and urban runoff that could include insecticides and herbicides used on the development.
2. Continue the systematic water quality monitoring program developed for three wells (one or two up-gradient and one or two down-gradient) among the COSM and San Marcos National Fish Hatchery and Technology Center wells that are located adjacent to the Kissing Tree site.
3. Provide reports of analytical findings and other deliverables to the City and Brookfield Residential on at least an annual basis.

The work to be performed under this Agreement is more specifically described and detailed in the Scope of Services attached hereto and incorporated herein by reference as Attachments A and B

- b) Payment. The City agrees to pay Texas State an amount not to exceed \$265,000 (approximately \$53,000 per year for 5 years) for the satisfactory performance of its services under this Agreement. Texas State will submit periodic invoices to City for the work defined in Attachment A. Payments for services will be made to Texas State within 30 days of receipt of the invoice.

Section 3. Term

The term of this Agreement begins immediately upon execution by both parties and shall continue in effect for 5 years. The parties agree and understand that the term of this agreement and the provision of the data and deliverables may be affected by the phasing or progress of the Kissing Tree development. The interlocal may be modified as needed to conform to Kissing Tree build-out.

Section 4. Miscellaneous Provisions

- a) Interlocal Cooperation: The City and Texas State agree to cooperate with each other in good

faith at all times during the term of this Agreement in order to achieve the purposes of this Agreement. Each party to this Agreement acknowledges and represents that this Agreement has been executed by its duly authorized representative.

- b) Entire Agreement: This Agreement contains the entire agreement between the parties and supersedes all prior understandings and agreements between the parties regarding such matters. This Agreement may not be modified or amended except by written agreement executed by both parties. Neither party may assign this Agreement without the written consent of the other party.
- c) Interpretation: The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Act. All terms and conditions are to be construed and interpreted consistently with the Act.
- d) Invalid Provision: Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and all other provisions which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared to be severable.
- e) Choice of Law and Place of Performance: This Agreement is governed by the law of the State of Texas. Performance and all matters related thereto shall be in Hays County, Texas.
- f) Termination: Either party may terminate this Agreement for convenience by giving 30 days advance written notice to the other party.
- g) Dispute Resolution: The parties will use the dispute resolution process provided for in CHAPTER 2260 OF THE TEXAS GOVERNMENT CODE to attempt to resolve any claim that either party makes for breach of this agreement.
- h) Authority to Contract: Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.
- i) Waiver: Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
- j) Headings, Gender, Number: The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
- k) Agreement Read: The parties acknowledge that they have had opportunity to consult with counsel of their choice, have read, understand and intend to be bound by the terms and conditions of this Agreement.

- l) Multiple Originals: It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
- m) Exhibits/attachments: Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between this Agreement and the provisions of any exhibit or attachment to this Agreement, this Agreement will govern and control.
- n) Funding: Funds for the payment of the City's obligations under this Agreement have been provided through the City budget approved by City Council for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. However, the cost of items or services covered by this Agreement is considered a recurring requirement and is included as a standard and routine expense of the City to be included in each proposed budget within the foreseeable future. City Council expects this to be an integral part of future budgets to be approved during the period of this Agreement except for unanticipated needs or events which may prevent such payments against this Agreement. However, the City cannot guarantee the availability of funds, and enters into this Agreement only to the extent such funds are made available. In the event sufficient funds are not appropriated for the City's continued payment, this Agreement may be terminated without recourse by either party.
- o) Approving Modifications to the Agreement: This agreement may be modified upon mutual written agreement approved by the parties.

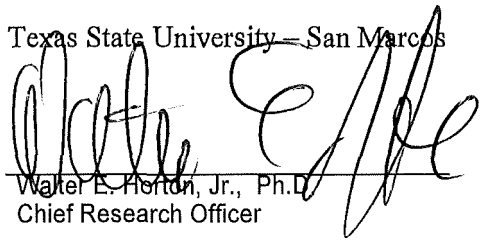
This Agreement will take effect immediately upon execution by both parties hereof and will inure to the benefit and be binding upon the administrators, successors and assigns of the parties hereto.

City of San Marcos


Bert Lomaveras
City Manager

Date: 01/15/2020

Texas State University - San Marcos


Walter E. Horton, Jr., Ph.D.
Chief Research Officer

Date: 3/3/20

Reviewed and Approved to Sign
Joanne Palmer, OTC



Attachment A

Scope of Services: Kissing Tree groundwater monitoring project for City of San Marcos

Introduction/justification:

With the proposed work by Brookfield/Kissing Tree to monitor water quality at three on-site wells, important information will be collected about ground- and surface-water on-site. However, there is still a lack of information about potential contaminants of interest in adjacent up- and down-gradient groundwaters, which would provide information that could be used to determine possible sources of any potential contaminants. The work proposed here will build on prior work by McCalla in 2012, EARDC in 2014-2019, and will complement the Kissing Tree work so that information about potential sources might be determined if contaminants are detected.

1) Texas State University (EARDC) will resume quarterly baseline monitoring at three groundwater wells (combination of COSM and USWS wells (Figure 1), to be determined in cooperation with COSM and USFWS) and will collect samples for basic water quality and chemistry parameters, VOCs, herbicides and pesticides and pharmaceutical and personal care products. The three wells will be chosen so that sampling will occur both up- and down-gradient of the site and the associated construction, and the three on-site wells that Kissing Tree has contracted with SWCA to sample.

2) Sampling and monitoring will occur 4 times during the contract period at approximately quarterly intervals, and will consist of basic water quality and chemistry parameters, as well as VOCs using Gore Sorbers: <https://www.agisurveys.net/AboutUs.html>

a. Herbicides and pesticides plus pharmaceutical and personal care products will also be analyzed on water samples collected during one of the four quarterly events, and from the same wells. Sampling for this set will occur after a significant storm event. During this sampling event, a stormwater sample from the Cottonwood Creek site will also be included. Cottonwood Creek represents a small surface drainage from the Kissing Tree development. If there is not a significant rain event that occurs during the year, the quarterly sampling will be carried out as the previous sample events.

The primary purpose of this monitoring program is to continue building on the background sampling and monitoring performed by EARDC in 2012 (pre-development), and to monitor for potential changes in water quality during construction and buildout of Paso Robles and the associated golf course. Monitoring will occur under both normal flow conditions as well as during and immediately after large storm events that can cause rapid recharge into the Edwards Aquifer.

Sampling methods will largely duplicate those previously used by McCalla (Laura McCalla, MS Thesis, Texas State University, 2012), including appropriate methods and handling for Gore Sorbers and sampling for VOCs. Field and QA/QC methods will duplicate those proposed to COSM by Brookfield/Kissing Tree, with one exception: Gore Sorbers (Passive Diffusion Samplers (PDS)) will be left in the groundwater for at least 48 hours (based on information from the manufacturer, 2 hours is not long enough in groundwaters with potentially very low analyte concentrations).

All data and findings will be reported to COSM within one month after the end of this contract, or after EARDC receives the last data from sample analyses, whichever is later.

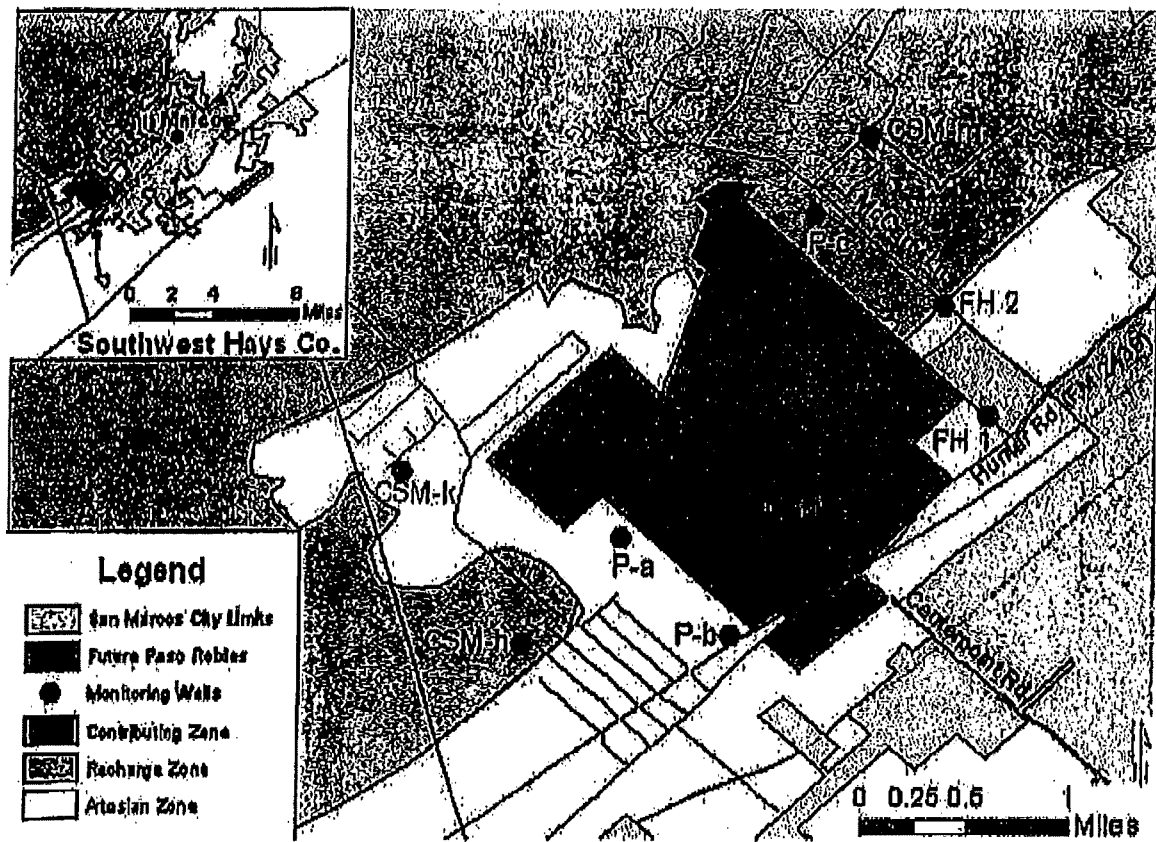


Figure 1: Sampling sites. Three wells will be selected from those labelled CSM-h, CSM-k, CSM-s, CSM-m, FH 1, and FH 2 and will be sampled during this study. All Kissing Tree sampling sites are within the area marked as 'Future Paso Robles'. Surface water sampling will occur at a drainage crossing along Hunter Road. other wells shown in this figure were sampled by McCalla (2012). (Figure from Laura McCalla thesis, MS, December 2012)

Type of Sampling	Item and Description	Frequency	Number of samples per event	Cost per site/Item	Sub-totals
Routine/baseline Quarterly Sampling	Gore modules at 2 COSM wells and 1 USFW well. One of the quarterly sample event will occur during a rain and include Cottonwood Creek. If a significant rain event does not occur then the quarterly sampling will be carried out as the previous sample events.	3	3	\$310.00	\$2,790.00
		1	4	\$310.00	\$1,240.00
Routine/baseline Quarterly Sampling	Basic water chemistry and quality analysis at total of 2 COSM wells and 1 USFW wells. Plus one quarter will include Cottonwood Creek surface water during a significant rain event.	3	3	\$300.00	\$2,700.00
		1	4	\$300.00	\$1,200.00
Routine/baseline Quarterly Sampling	Full suite of herbicide, pesticide, and Pharmaceutical-Personal Care Products (PPCP) analytes at total of 2 COSM wells, 1 USFWS well and Cottonwood Creek (SAT lab-Herb/Pest, ALS lab-PCP)	1	4	\$1,975.00	\$7,900.00
Routine/baseline Quarterly Sampling	Gore module setup fee for additional parameter per sampling event	4		\$100.00	\$400.00
staff salary	Staff salary for 4 weeks time (salary+fringe per week)	4		\$1,522.99	\$6,091.96
GRAND TOTAL					\$22,321.96

Attachment B – amendment for additional sampling on Kissing Tree

Proposed Scope of Services, and Recommendations: On-site Kissing Tree water quality monitoring for City of San Marcos, for amendment to current Interlocal Agreement for off-site water quality monitoring.

Introduction/Justification:

Since 2016, Texas State University's Edwards Aquifer Research and Data Center (EARDC) has performed periodic (roughly quarterly) sampling and analysis of surface- and ground-water samples for the City of San Marcos (COSM) at several sites surrounding the Kissing Tree development. The purpose of this work has been to establish baseline storm- and groundwater quality data at sites both up- and down-gradient from the Kissing Tree site, and to monitor those sites for any potential changes in water quality over time.

The work proposed here is in addition to current work already being performed by Texas State University (EARDC) at sites outside the development, and this described new work is only for monitoring locations inside the Kissing Tree development that were previously monitored by SWCA for Brookfield. The purpose of this additional work is to continue monitoring baseline groundwater quality data at two sites (wells) on the Kissing Tree site, and to monitor those sites for any potential changes in water quality over time.

Reclaimed water is used on the Kissing Tree Development to irrigate portions of the golf course that lie on the Edwards Aquifer Transition Zone. Potable water is used to irrigate all areas lying on the Edwards Aquifer Recharge Zone. Texas State University (EARDC) will also sample and analyze the reclaimed water as described below. The purpose of this work is to ensure that reclaimed water being applied on the surface does not contain contaminants that may either leave the site during storm events or infiltrate and contaminate groundwater.

Recommendations and Proposed Work:

Recommendations:

- 1) Recommendation 1) Stormwater sampling is currently being performed at one site under the existing interlocal agreement with Texas State University (EARDC). This occurs during one storm event per year at the site where Cottonwood Creek flows out of the Kissing Tree property. Prior sampling has not detected contaminants in stormwater (i.e., herbicides and pesticides, or PPCPs), and performing additional on-site sampling is deemed unnecessary duplication. If, in the future, these contaminants are detected at the site where stormwaters exit Kissing Tree, this sampling protocol can be re-evaluated and Texas State University (EARDC) will work with the City of San Marcos to determine whether additional on-site sampling is required, and to estimate any additional costs required to fund this work.

Recommendation 2) Prior work by SWCA included sampling streambed sediments at three sites on the Kissing Tree development and analysis of these sediments for a suite of contaminants, including herbicides and pesticides. However, with no prior detections of these compounds in stormwater

samples, which include high concentrations of transported suspended sediments and dissolved constituents, Texas State University (EARDC) recommends discontinuing these analyses.

Proposed Work and costs:

- 2) Texas State University (EARDC) will collect groundwater samples and field parameters (pH, T, DO, and SC) during four, approximately quarterly, sampling events at two groundwater wells inside of the Kissing Tree development. These two wells were previously sampled and monitored by SWCA, and are labelled "W104-886" and "G16 (Deer Camp Well)" on a map contained in 'Kissing Tree Environmental Monitoring Program; SWCA Project Number 34734". Water samples will be analyzed for a variety of parameters, as described below:
 - a) Groundwater samples will be analyzed for basic water quality (E. coli, ions, dissolved and total nutrients, and TDS) and VOCs using Gore Sorbers: [https://www.agisurveys.net/About Us](https://www.agisurveys.net/About_Us) (Eight samples per year, with four Gore setup charges at \$100 per event, plus \$610.00 per sample: \$5,280.00 per year).
 - b) During one of the quarterly baseline sampling events, two groundwater samples will be analyzed for herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP) analytes (Two samples per year, \$1,975.00 per sample, \$3,950.00 per year).
 - c) Provided weather conditions cooperate, one of the quarterly sampling events will occur after a large storm, with the goal of determining what, if any, changes may occur in groundwater as a result of stormwater infiltration and recharge. In addition to the analytes described in a) above, these two groundwater samples will also be analyzed for herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP) analytes (Two samples per year, \$1,975.00 per sample, \$3,950.00 per year).
- 3) Texas State University (EARDC) will collect water samples and field parameters (pH, T, DO, and SC) during four, approximately quarterly, sampling events from the reclaimed water irrigation system (purple lines) inside of the Kissing Tree development. Water samples will be analyzed as described below:
 - a) Four, approximately quarterly, reclaimed water samples per year will be analyzed for basic water quality (E. coli, ions, dissolved and total nutrients, and TDS) and VOCs using Gore Sorbers. [https://www.agisurveys.net/About Us.html](https://www.agisurveys.net/About_Us.html) (Four samples per year, \$610.00 per sample: \$2,440.00 per year).
 - b) Four, approximately quarterly, reclaimed water samples per year will be analyzed for herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP) analytes (Four samples per year, \$1,975.00 per sample, \$7,900.00 per year)
- 4) Staff salary for four weeks of field and lab time is required, per year, for sample collection, well pumping and sampling, analyses, shipping, and report writing (Four weeks at \$1,523.00 per week: \$6,092.00 per year).

Total Proposed Cost: **\$29,612.00**

Sampling methods will duplicate those used and described in the current Interlocal Agreement between the City of San Marcos and Texas State University (EARDC). These methods largely duplicate those previously used by McCalla during the collection of pre-development background data (Laura McCalla, MS Thesis, Texas State University, 2012), and including appropriate methods and handling for Gore Sorbers and sampling for VOCs. Samples for herbicide, pesticides, and Pharmaceutical-Personal Care Products (PPCP) will be collected according to protocols provided by the analytical lab. Chain of Custody forms will be used to track each sample from the time of collection through analysis.

Reporting:

An interim summary of data and findings will be reported annually to COSM and Brookfield Residential, and monthly results will be forwarded to COSM and Brookfield Residential after all results are obtained. At the end of this contract, a final report and summary of all work will be provided within one month of completion, or within one month of the date that EARDC receives the last data from sample analyses; whichever is later.

Type of Sampling	Item and Description	Frequency	Number of samples per event	Cost per sample/Item	Sub-totals
Quarterly Groundwater Sampling	At 2 wells Inside Kissing Tree - ('W104-886' and 'G16 Deer Camp'): Gore modules for VOCs.	4	2	\$360.00	\$2,880.00
	At 2 wells Inside Kissing Tree - ('W104-886' and 'G16 Deer Camp'): Water sampling for E. coli, Ions, Dissolved and Total Nutrients, and TDS.	4	2	\$300.00	\$2,400.00
Once per year (coincident with quarterly sampling)	At 2 wells Inside Kissing Tree - ('W104-886' and 'G16 Deer Camp'): herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP) analytes <u>during baseflow conditions.</u>	1	2	\$1,975.00	\$3,950.00
Once per year (coincident with quarterly sampling)	At 2 wells Inside Kissing Tree - ('W104-886' and 'G16 Deer Camp'): herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP) analytes <u>after a large recharge event.</u> ***Note: this may or may not occur,	1	2	\$1,975.00	\$3,950.00

	depending on hydrologic conditions.				
Quarterly Reclaimed Water Sampling	At a point of Irrigation for reclaimed water use: Gore modules for VOCs. ***Note: Gore setup fee is Included in quarterly groundwater sampling cost	4	1	\$310.00	\$1,240.00
	At a point of Irrigation for reclaimed water use: Water sampling for E. coli, ions, Dissolved and Total Nutrients, and TDS.	4	1	\$300.00	\$1,200.00
	At a point of Irrigation for reclaimed water use: herbicides, pesticides, and Pharmaceutical-Personal Care Products (PPCP).	4	1	\$1,975.00	\$7,900.00
Staff salary	Staff salary for 4 weeks time (salary+fringe per week for Victor Castillo, III)	4		\$1,523.00	\$6,092.00
GRAND TOTAL					\$29,612.00