

**RESOLUTION NO. 24-01**

**A RESOLUTION OF THE INITIAL BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION APPROVING THE CORPORATION'S BYLAWS; ELECTING OFFICERS OF THE CORPORATION'S BOARD OF DIRECTORS; APPROVING OTHER PROVISIONS RELATING TO MATTERS INCIDENTAL AND RELATED THERETO; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City Council (the *Council*) of the City of Kerrville, Texas (the *City*) authorized and approved the creation of the Kerrville Public Utility Board Public Facility Corporation (the *Corporation*) under Chapter 303, as amended, Texas Local Government Code (the *Act*), for the purpose of assisting the City in financing, refinancing, or providing "public facilities" (as defined in the Act), including power supply projects to support the Kerrville Public Utility Board ("*KPUB*"), or facilities directly related thereto, at the request of the Council, relating to the acquiring, constructing, rehabilitating, renovating, repairing, equipping, furnishing, placing into service, financing, refinancing, or providing, owning and operating public facilities, including electric power supply facilities to be devoted to public use by the City's electric, light and power system (the "*System*"), as managed by KPUB, by any and all available means as authorized by or permitted under applicable law, as further described and detailed in the Corporation's Articles (as hereafter defined); and

**WHEREAS**, the City approved Resolution 28-2024 on June 25, 2024, approving the Articles of Incorporation (a copy of which is attached hereto as Exhibit A, the *Articles*) and Bylaws (a copy of which is attached hereto as Exhibit B) for the Corporation; and

**WHEREAS**, the Corporation's incorporators delivered to the Texas Secretary of State (the *Secretary of State*) the Articles, which the Secretary of State approved and, on the basis thereof, issued a Certificate of Incorporation, File Number 805648068, on July 31, 2024, evidencing the commencement of the Corporation's existence and acknowledging that all conditions precedent required to be performed by its incorporators as having been performed; and

**WHEREAS**, at the call of a majority of the of the incorporators, and after delivery of adequate notice in compliance with the Act, the Corporation's board of directors (the *Board*) convened in this organizational meeting (the *Meeting*), for the purposes of approving its Bylaws, electing its officers, and undertaking other matters necessary and incidental the Corporation's organization; now, therefore,

**BE IT RESOLVED BY BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION:**

**Section 1.** The initial Bylaws of the Corporation, which Bylaws are unchanged in comparison to those Bylaws heretofore approved by the Council, are hereby adopted by the Corporation.

**Section 2.** The individuals named in Article SEVEN of the Articles shall be deemed to have been appointed, and are hereby appointed, as the initial directors, constituting the initial Board, of the Corporation (and which initial directors are hereafter identified), and by the Board's approval of this Resolution, shall be deemed and determined to have taken all necessary action (including requisite oot of office) that may serve as a prerequisite to the hereafter-named individuals serving in such capacity:

Larry Howard	Director
Bill Thomas	Director
Glenn Andrew	Director
Rachel Johnston	Director
Joe Herring, Jr.	Director
Dalton Rice	Director
Michael Wittler	Director

**Section 3.** The Bylaws require that the Corporation at all times maintain a President, a Vice President, a Secretary, an Executive Director, and a Treasurer, and specifies that these positions shall be held by:

President  
Vice President  
Secretary  
Executive Director  
Treasurer

**Section 4.** Accordingly, the Board hereby names the following individuals to serve in the indicated offices as the initial officers of the Corporation:

Larry Howard	President
Bill Thomas	Vice President
Glenn Andrew	Secretary
Michael Wittler	Executive Director
Rachel Johnston	Treasurer

**Section 5.** The Corporation is hereby designated as a duly constituted authority and instrumentality of the City (within the meaning of those terms in the regulations of the United Department of the Treasury and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to sections 103, 142 and 144 of the Internal Revenue Code of 1986, as amended) and shall be authorized to act on behalf of the City from time to time for the public purposes identified in the first preamble hereof, but the Corporation is not intended to be and shall not be a political subdivision or a political corporation within the meaning of the

Constitution and laws of the State of Texas, including without limitation Article III, Section 52 of the State Constitution, and no attributes of sovereignty, including the power to tax, the power of eminent domain, and police power, are delegated to the Corporation.

**Section 6.** The City shall not lend its credit or grant any public money or thing of value in aid of the Corporation. Furthermore, obligations issued by the Corporation with the approval of the City shall be deemed not to constitute a debt of the State of Texas, the City, or of any other political corporation, subdivision or agency of the State or a pledge of the faith and credit of any of them, but such obligations shall be payable solely as provided in the Act.

**Section 7.** Upon dissolution of the Corporation, all rights, title, and other interests in and to any real or personal property owned by the Corporation at such time shall be transferred to the City.

**Section 8.** All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 9.** This Resolution shall be construed and enforced in accordance with the laws of the State and the United States of America.

**Section 10.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 11.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was, open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code and in accordance with the Corporation's Bylaws.

**Section 12.** This Resolution shall become effective immediately upon passage by the Board.

**PASSED, APPROVED AND ADOPTED on this 25<sup>th</sup> day of September, 2024**

**KERRVILLE PUBLIC UTILITY BOARD  
PUBLIC FACILITY CORPORATION**

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**President, Board of Directors**

**ATTEST:**

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**Secretary, Board of Directors**

(CORPORATE SEAL)

EXHIBIT A

Articles of Incorporation

## **CERTIFICATE OF FORMATION**

**of**

### **KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION**

We, the undersigned natural persons, each of whom has power to contract for himself or herself, acting as incorporators and organizers of a public facility corporation under the Texas Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “*Act*”), with the approval of the City Council of the City of Kerrville, Texas (the “*Sponsor*”), do hereby adopt the following certificate of formation for such corporation:

#### **ARTICLE ONE NAME**

The name of the corporation is the “Kerrville Public Utility Board Public Facility Corporation.”

#### **ARTICLE TWO CHARACTER**

The corporation is a nonprofit public corporation.

#### **ARTICLE THREE DURATION**

The period of duration of the corporation is perpetual.

#### **ARTICLE FOUR PURPOSE AND LIMITATIONS**

(a) The corporation is organized to assist the Sponsor in financing, refinancing, and providing public facilities, as defined in the Act, including power supply projects to support the Kerrville Public Utility Board. For so long as any indebtedness of the corporation issued to acquire any such public facilities is outstanding, (1) the corporation shall provide such assistance solely by acquiring, constructing, rehabilitating, renovating, repairing, equipping, furnishing, placing into service, financing, refinancing, or providing, owning and operating public facilities, as defined in the Act, including electric power supply facilities to be devoted to public use by the Sponsor’s electric, light and power system (the “*System*”), as managed by the Kerrville Public Utility Board (“*KPUB*”), (2) the corporation shall not incur, assume, or guarantee any obligations except indebtedness permitted by the indenture or other contracts executed in connection with such indebtedness, and (3) the corporation shall not consolidate or merge with or into any other entity or convey or transfer all or substantially all of its assets or properties unless the entity formed by or surviving such consolidation or merger or to which such assets or properties are conveyed or transferred (i) is organized pursuant to a charter, articles of incorporation, certificate of formation, trust instrument, bylaws, or other governing instrument that contains provisions substantially the

same as this sentence and (ii) has expressly assumed all of the obligations of the corporation secured by any such indenture or contract. The corporation is a public corporation, a constituted authority, and a public instrumentality within the meaning of the Act, the United States Treasury Department, the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Sections 103 and 141 of the Internal Revenue Code of 1986, as amended. The corporation is authorized to act on behalf of KPUB for the benefit of the System.

(b) The corporation is authorized to issue “bonds,” as defined and permitted by the Act, provided, however, no such bonds, notes, interim certificates, or other evidence of indebtedness may be issued by the corporation unless such obligations are first approved by a resolution of the Sponsor and KPUB. Notwithstanding the foregoing, the corporation may enter into any contracts and agreements, and incur such other obligations, as permitted under the Act, without first receiving Sponsor and KPUB approval.

(c) In the fulfillment of its corporate purpose, the corporation shall have and may exercise the powers described in paragraph (a) of this Article, together with all of the other powers granted to the corporations that are incorporated under the Act and to the extent not in conflict with the Act. The corporation shall additionally have and may exercise all of the rights, powers, privileges, authorities, and functions given by the general laws of the State of Texas to nonprofit corporations under the Texas Nonprofit Corporation Law, Chapter 22 of the Texas Business Organizations Code, as amended, or any other applicable laws of the State.

(d) The corporation shall have the purposes and powers permitted by the Act, but the corporation does not have, and shall not exercise the powers of sovereignty of the City, including the power to tax, eminent domain, and police power. However, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practice and Remedies Code, as amended) the Corporation is a governmental unit and its actions are governmental functions.

(e) No bonds or other obligations, contracts, or agreements of the corporation are or shall ever be deemed to be or constitute the contracts, agreements, bonds, other debt instruments, or other obligations or the lending of credit, or a grant of the public money or things of value, of, belonging to, or by the States of Texas, the City, KPUB, or any other political corporation, subdivision or agency of the States of Texas, or a pledge of the faith and credit of any of them. Any and all of such contracts, agreements, bonds, other debt instruments, and other obligations, contracts, and agreements shall be payable solely and exclusively from the revenues and funds received by the corporation from the sources authorized by the Act and from such other sources as may be otherwise lawfully available and belonging to the corporation from time to time.

(f) The Sponsor, in its sole discretion, may alter the corporation’s structure, name, organization, programs, or activities, consistent with the Act and subject to limitations provided by law relating to the impairment of contracts entered into by the corporation.

## **ARTICLE FIVE MEMBERS**

The corporation shall have no members and is a non-stock corporation.

**ARTICLE SIX  
REGISTERED OFFICE AND AGENT**

The street address of the initial registered office of the corporation is 2250 Memorial Boulevard, Kerrville, Texas 78028. The name of the initial registered agent of the corporation at that address is Kerrville Public Utility Board.

**ARTICLE SEVEN  
DIRECTORS**

The number of directors on the initial board of directors of the corporation shall be seven. The board shall consist entirely of the members of the KPUB Board of Trustees, the City Manager of the City of Kerrville, Texas, and the Chief Executive Officer of KPUB. The names and addresses of the initial board of directors are set forth below, and they shall serve for terms ending, as follows:

<u>Name</u>	<u>Address</u>	<u>Expiration of Term</u>
Larry Howard	2250 Memorial Blvd., Kerrville, TX 78028	April 21, 2025
Bill Thomas	2250 Memorial Blvd., Kerrville, TX 78028	April 21, 2026
Glenn Andrew	2250 Memorial Blvd., Kerrville, TX 78028	April 21, 2027
Rachel Johnston	2250 Memorial Blvd., Kerrville, TX 78028	April 21, 2029
Joe Herring, Jr.	701 Main Street, Kerrville, TX 78028	Concurrent with Mayoral Seat
Dalton Rice	701 Main Street, Kerrville, TX 78028	April 21, 2027
Michael Wittler	2250 Memorial Blvd., Kerrville, TX 78028	April 21, 2027

**ARTICLE EIGHT  
INCORPORATORS/ORGANIZERS**

The name and street address of each incorporator and organizer of the corporation is:

<u>Name</u>	<u>Address</u>
Dalton Rice, City Manager	701 Main Street, Kerrville, TX 78028
Shelly McElhannon, City Secretary	701 Main Street, Kerrville, TX 78028



**ARTICLE NINE  
SPONSOR**

The name of the corporation's sponsor, as defined in the Act, is the City of Kerrville, Texas. Its address is 701 Main Street, Kerrville, Texas 78028.

**ARTICLE TEN  
SPONSOR APPROVAL**

The Sponsor has specifically authorized the corporation to act on its behalf to further the public purpose set forth in this certificate of formation and has approved this certificate of formation.

**ARTICLE ELEVEN  
NOT FOR PROFIT**

No part of the corporation's net earnings shall inure to the benefit of, or be distributable to, any director, officer, or other private person, but the corporation may pay reasonable compensation for services rendered or property provided. No part of the corporation's net earnings remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit any person other than the Sponsor.

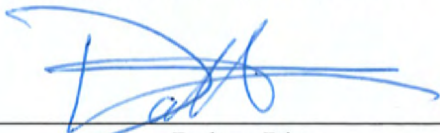
No substantial part of the corporation's activities shall be carrying on propaganda or otherwise attempting to influence legislation. The corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

**ARTICLE TWELVE  
INDEMNIFICATION**

The corporation shall indemnify each director, officer, employee, agent, and former director, officer, employee, or agent of the corporation for expenses and costs, including attorney's fees, actually or necessarily incurred by the person in connection with a claim asserted against the person, by action in court or other forum, because of the person's being or having been a director, officer, employee, or other agent, except that the corporation may not provide indemnity in a matter if the director, officer, employee, or agent is guilty of negligence or misconduct in relation to the matter. The corporation shall also indemnify each director as required by law, including Section 8.051 and 8.052, Texas Business Organizations Code.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, we have hereunto set our hands this July 8<sup>th</sup>, 2024.



\_\_\_\_\_  
Dalton Rice

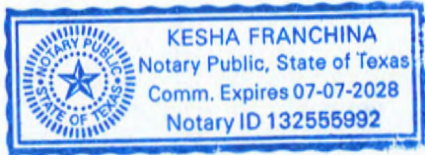


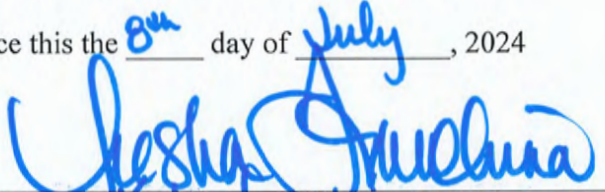
\_\_\_\_\_  
Shelly McElhannon

THE STATE OF TEXAS    §  
  §  
COUNTY OF KERR §

Before me, the undersigned authority, on this day personally appeared Dalton Rice and Shelly McElhannon, whose names are subscribed to the foregoing instrument and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this the 8<sup>th</sup> day of July, 2024



  
Name: Kesha Franchina  
Notary Public in and for the State of Texas

[NOTARY]

EXHIBIT B

Bylaws

## BYLAWS

of

### KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION

#### ARTICLE 1 GENERAL

**1.1. Name.** The name of the corporation is Kerrville Public Utility Board Public Facility Corporation.

**1.2. Sponsor.** The corporation is created under the authority of the Texas Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “Act”). The sponsor of the corporation, within the meaning of the Act, is the City of Kerrville, Texas (the “Sponsor”).

**1.3. Purpose.** The corporation is organized pursuant to the Act to assist the Sponsor in financing, refinancing, or providing, owning and operating public facilities, as defined in the Act, including electric power supply facilities to be devoted to public use by the Sponsor’s electric, light and power system, as managed by the Kerrville Public Utility Board (“KPUB”), and, from time to time, one or more other municipal corporations, political subdivisions, or state agencies with which the corporation or KPUB, acting on behalf of the corporation for the benefit of the Sponsor, may contract. For so long as any indebtedness of the corporation issued to acquire any such electric power supply facilities or interests is outstanding, the corporation shall provide such assistance solely by acquiring, owning, operating, maintaining, selling, transferring, and assigning electric power supply facilities and output therefrom and other interests therein, and similar property and engaging in activities that are incidental or convenient thereto. The corporation shall have and possess the broadest possible powers to enter into contracts and agreements to acquire, construct, rehabilitate, renovate, repair, equip, furnish, place into service, finance, refinance, own and operate electric power supply facilities, in accordance with existing law, including the Act. The corporation is a public corporation, a constituted authority, and a public instrumentality within the meaning of the Act, the United States Treasury Department, the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 and 141 of the Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of KPUB as provided in the Certificate of formation.

**1.4. Nonprofit Corporation.** No part of the corporation’s net earnings shall inure to the benefit of, or be distributable to, any director, officer, or other private person, but the corporation may pay reasonable compensation for services rendered or property provided. No part of the net earnings of the corporation remaining after payment of its bonds and expenses in accomplishing its public purpose may benefit any person other than the Sponsor.

No substantial part of the corporation’s activities shall be carrying on propaganda or otherwise attempting to influence legislation. The corporation shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

**1.5. Limitation on Action.** For so long as any indebtedness of the corporation issued to acquire public facilities, as defined in the Act, is outstanding, (1) the corporation shall not incur, assume, or guarantee any obligations except indebtedness permitted by the indenture or other contracts executed in connection with such indebtedness, and (2) the corporation shall not consolidate or merge with or into any other entity or convey or transfer all or substantially all of its assets or properties unless the entity formed by or surviving such consolidation or merger or to which such assets or properties are conveyed or transferred (a) is organized pursuant to a charter, articles of incorporation, certificate of formation, trust instrument, bylaws, or other governing instrument that contains provisions substantially the same as this sentence and (b) has expressly assumed all of the obligations of the corporation secured by any such indenture or contract.

## **ARTICLE 2 BOARD OF DIRECTORS**

### **2.1. Authority, Number, Term, Removal, and Vacancy.**

(a) **Authority.** The corporation's affairs shall be governed by a board of directors.

(b) **Number.** The board of directors shall be comprised of seven directors.

(c) **Terms.** The seven directors of the board shall consist of the five members of the KPUB Board of Trustees, the City Manager of the City of Kerrville, Texas, and the Chief Executive Officer of KPUB; provided, however, the City Manager of the City of Kerrville, Texas and the Chief Executive Office of KPUB shall be non-voting members of the board of directors. The directors constituting the initial board shall be the directors named in the Certificate of Formation. Successor directors shall have the qualifications and shall be appointed to the terms set forth in the Certificate of Formation.

(d) **Removal.** Any director may be removed from office by the governing body of the Sponsor for cause or at any time without cause.

(e) **Vacancies.** Any seat on the board of directors shall be vacant when the incumbent of such seat has resigned, died, or been removed or the board of directors has determined that the incumbent has become so disabled that he or she will be incapable of participating in the governance of the corporation for a continuous period of six months or more.

**2.2. Appointment.** Each successor to a director whose term shall have expired or who shall have died, resigned, been removed, or become incapacitated, and each new director whose seat has been created by increase in the number of directors, shall be appointed by the governing body of the Sponsor. Any director whose term of office has expired may succeed himself or herself.

### **2.3. Meetings of Directors.**

(a) **Place.** Meetings of the board of directors may be held at such place or places in the State of Texas as the board of directors may from time to time determine. In

the absence of any such determination, meetings of the board of directors shall be held at the City Hall of the Sponsor.

(b) **Regular Meetings.** Regular meetings of the board of directors shall be held annually or more frequently on such dates and at such times as the board of directors may determine. Regular meetings of the board of directors may be held without notice to directors. Subject to applicable law, any matter may be considered and acted upon at a regular meeting.

(c) **Special Meetings.** Special meetings of the board of directors shall be held whenever called by or at the request of the president of the corporation or any two directors. Except in the event of an emergency, at least three days notice of the date, time, and place of each special meeting of the board of directors shall be given to each director. At least two hours notice of each emergency meeting of the board of directors shall be given to each director. Unless otherwise indicated in the notice thereof and subject to applicable law, any matter may be considered and acted upon at a special meeting. At any meeting at which every director shall be present, any matter may be considered and acted upon consistent with applicable law.

(d) **Notices.** Whenever any notice is required to be given to a director, such notice shall be deemed to be given when deposited in a post office box in a sealed postpaid wrapper addressed to the director at his or her post office address as it appears on the books of the corporation or when successfully transmitted by facsimile to the facsimile number of the director as it appears on the books of the corporation or by email to the most recent email address provided to the secretary by the director. Notice may also be delivered in person or by delivery service or orally by telephone. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, *except* attendance of a director at a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the board of directors need be specified in the notice to directors or waiver of notice of such meeting, unless required by the board of directors. A waiver of notice in writing, signed by the person or persons entitled to the notice, whether before or after the time that would have been stated therein, shall be deemed equivalent to the giving of notice.

(e) **Open Meetings Act.** All meetings and deliberations of the board of directors shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

**2.4. Quorum.** A majority of the number of directors fixed by these bylaws shall constitute a quorum to transact business at all meetings convened in accordance with these bylaws. The act of a majority of the directors present at a meeting at which a quorum is present shall constitute the act of the board of directors; provided, however, the City Manager of the City of Kerrville, Texas and the Chief Executive Office of KPUB shall not be entitled to vote on matters before the board of directors.

**2.5. Conduct of Business.**

(a) **Procedures.** At meetings of the board of directors, matters pertaining to the business of the corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the board of directors.

(b) **Presiding Officer.** At all meetings of the board of directors, the president of the corporation shall preside. In the absence of the president, the vice president of the corporation shall preside. In the absence of both the president and vice president, a director selected by the board of directors shall preside.

(c) **Chair Votes.** The presiding officer or director shall be entitled to vote on all matters before the board of directors.

(d) **Minutes.** The secretary of the corporation shall act as secretary of all meetings of the board of directors. In the absence of the secretary, the presiding officer may appoint any person to act as secretary of the meeting. The secretary of the meeting or his or her designee shall keep minutes of the meetings of the board of directors.

**2.6. Committees of the Board of Directors.**

(a) **Executive Committees.** By resolution adopted by a majority of the number of directors fixed by these bylaws, the board of directors may designate one or more committees consisting of two or more directors to exercise the authority of the board in the management of the corporation to the extent provided by the resolution.

(b) **Other Committees.** The president or the board of directors may appoint other committees without power to exercise the authority of the board of directors. Such committees need not be limited to directors.

(c) **Committee Meetings.** Each committee of the corporation shall keep minutes of the transactions of its meetings and shall cause such minutes to be recorded in books kept for that purpose in the principal office of the corporation. Any such meetings shall be called, convened, held, and conducted, and notice thereof shall be given to the public, in accordance with Chapter 551, Texas Government Code, as amended.

**2.7. Compensation of Directors.** Directors shall not receive any salary or compensation for their services as directors, but shall be reimbursed for actual expenses incurred by them in the performance of their duties as directors.

**ARTICLE 3  
OFFICERS**

**3.1. Offices Generally.**

(a) **Offices.** The officers of the Corporation shall be a president, a vice president, a secretary, an executive director and such other officers as the board of directors may from time to time determine to be necessary. A person may simultaneously hold more



than one office, *except* that same person may not simultaneously hold the offices of president and secretary.

(b) **Term**. Each officer shall serve for a term of two years ending simultaneously with the term of one or more directors. At the expiration of their terms, officers may be reappointed or re-elected to the same or different offices.

(c) **Qualifications**. Only directors shall be eligible to serve as president or vice president. A member of the governing body or officer or employee of the Sponsor who serves as a director of the corporation may serve as an officer of the corporation.

(d) **Election**. All officers shall be elected by the board of directors.

(e) **Removal**. Officers may be removed from office at any time by the board of directors if it believes that the best interests of the corporation will be served by the removal.

**3.2. President**. The president shall be the chief executive officer of the corporation and, subject to the authority of the board of directors, shall have general charge of the properties and affairs of the corporation. The president shall see that all orders and resolutions of the board of directors are given effect. The president shall execute all legal documents and instruments in the name of the corporation when authorized to do so by the board of directors and shall perform such other duties as may be prescribed from time to time by the board of directors or these bylaws.

**3.3. Vice President**. The vice president shall have such powers and duties as may be prescribed from time to time by the board of directors and shall perform the duties of the president during the president's absence or disability. Any action taken by the vice president in the performance of the duties of the president shall be conclusive evidence of the absence or disability of the president at the time such action is taken.

**3.4. Secretary**. The secretary shall give and serve all notices required by these bylaws, may attest to the signature and office of other officers signing any legal document or instrument, shall have charge of the corporate books, records, legal documents, and instruments of the corporation, and shall discharge such other duties as shall be prescribed from time to time by the board of directors or these bylaws. The board of directors or the president may appoint one or more assistant secretaries to perform the duties of the secretary during the absence or disability of the secretary.

**3.5. Executive Director**. The executive director of the corporation shall provide administrative support services to the corporation and shall perform such other duties as shall be prescribed from time to time by the board of directors.

**3.6. Compensation**. Officers who are directors shall not receive any salary or compensation for their services, but shall be reimbursed for reasonable and necessary actual expenses incurred by them in the performance of their official duties as officers.

**ARTICLE 4  
MISCELLANEOUS**

**4.1. Principal Office.** The principal office and registered office of the corporation shall be the office of KPUB, 2250 Memorial Blvd, Kerrville, Texas 78028.

**4.2. Fiscal Year.** The fiscal year of the corporation shall be each 12-month period ending September 30.

**4.3. Resignations.** Any director or officer may resign at any time by written notice to the president or the secretary of the corporation. The resignation shall take effect at the time specified therein or, if no time is specified, at the time of its receipt by the president or secretary. Acceptance of the resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

**4.4. Indemnification.** The corporation shall indemnify each director, officer, employee, agent, and former director, officer, employee, or agent of the corporation to the fullest extent provided in the certificate of formation. The corporation shall also indemnify each member of the governing body, officer, and employee of the Sponsor as if such person was a director, officer, or employee of the corporation, respectively, to the fullest extent provided in the certificate of formation.

**4.5. Dissolution.** In the event of the dissolution of the corporation, its assets shall be applied and distributed as follows:

(a) **Discharge of Liabilities.** All liabilities and obligations of the corporation shall be paid, satisfied, and discharged, as set forth in the Texas Non-Profit Corporation Law, Chapters 20 and 22 (and the provisions of Title 1 applicable to non-profit corporations), Texas Business Organization Code, as amended.

(b) **Residual Interests.** Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with those requirements.

(c) **Distribution to Sponsor.** The remaining assets shall be distributed to the Sponsor.

**ARTICLE 5  
AMENDMENTS**

**5.1. Amendments.** These bylaws may be amended by the board of directors with the approval of the governing body of the Sponsor.

Adopted: \_\_\_\_\_, 2024

**RESOLUTION NO. 24-02**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION APPROVING THE CORPORATION'S ENGAGEMENT OF SPECIALIZED PUBLIC FINANCE INC., TO PROVIDE FINANCIAL ADVISORY SERVICES TO THE CORPORATION AND THE ENGAGEMENT OF NORTON ROSE FULBRIGHT US LLP TO PROVIDE BOND COUNSEL SERVICES TO THE CORPORATION, RESPECTIVELY; AUTHORIZING THE CORPORATION'S EXECUTION OF ENGAGEMENT AGREEMENTS WITH EACH OF THE FOREGOING; AUTHORIZING BOND COUNSEL TO SERVE AS THIRD-PARTY DESIGNEE FOR CERTAIN PURPOSES; AND OTHER MATTERS NECESSARY OR INCIDENTAL IN CONNECTION THEREWITH**

**WHEREAS**, the City Council (the *Council*) of the City of Kerrville, Texas (the *City*) authorized and approved the creation of the Kerrville Public Utility Board Public Facility Corporation (the *Corporation*) under Chapter 303, as amended, Texas Local Government Code (the *Act*), for the purpose of financing or providing for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of "public facilities" (as defined in the *Act*), including electric power supply facilities to be devoted to public use by the City's electric, light and power system (the "*System*"), as managed by the Kerrville Public Utility Board ("*KPUB*") in an orderly, planned manner and at the lowest possible costs (collectively, the *Public Purposes*); and

**WHEREAS**, at the call of a majority of the incorporators of the Corporation, and after delivery of adequate notice in compliance with the *Act*, the Corporation's board of directors (the *Board*) approved Bylaws, elected its officers, and undertook other matters necessary and incidental the Corporation's organization; and

**WHEREAS**, to achieve the Public Purposes heretofore described, the Board determines that it is in the public interest and to the benefit of the Corporation that a financial advisor and bond counsel be engaged to provide financial advisory and legal services to the Corporation, respectively, and

**WHEREAS**, to Board deems it beneficial that such bond counsel should serve as third-party designee on behalf of the Corporation to facilitate the application of an Employee Identification Number with the Internal Revenue Service, or such other evidences of tax-exempt status as may be necessary; and

**WHEREAS**, the Board hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the City; now, therefore,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION:**

**Section 1.** Specialized Public Finance Inc., Dallas, Texas, is hereby engaged as financial advisor (the *Financial Advisor*) to the Corporation. The Executive Director is authorized to executed the engagement agreement with the Financial Advisor attached hereto in substantially final form as Exhibit A to memorialize such engagement as the act and deed of the Corporation.

**Section 2.** Norton Rose Fulbright US LLP, Austin, Texas, is hereby engaged as bond counsel (*Bond Counsel*) to the Corporation. The Executive Director is authorized to executed the engagement agreement with Bond Counsel attached hereto in substantially final form as Exhibit B to memorialize such engagement as the act and deed of the Corporation.

**Section 3.** The Financial Advisor and Bond Counsel are hereby authorized to coordinate with and assist Corporation, KPUB and City staff, acting on the Corporation's behalf, in the Corporation's negotiation for review and consideration by the Board of term sheets and agreements to facilitate the construction and management of public facilities identified by the Board, apply for any grant and/or loan, to effectuate the sale of any public securities by the Corporation, to apply for and facilitate the acquisition of a bond insurance policy, if any, concerning the repayment of the Corporation's debt, to apply for and receive ratings on public securities from national rating services, if any, and to otherwise coordinate the financial aspects relating to future bond transactions to ensure that the Corporation's financial goals are accomplished in the most efficient and advantageous manner available, given then-prevailing market conditions, and to comply with all regulations and rules promulgated by the United States Securities and Exchange Commission and the Municipal Securities Rule Making Board.

**Section 4.** The Executive Director, Treasurer, and City Attorney, as appropriate, are authorized to consult and assist the Financial Advisor, Bond Counsel, in the preparation of any financing documents.

**Section 5.** Bond Counsel is hereby authorized to act as third-party designee of the Corporation to prepare an application for an Internal Revenue Service Employer Identification Number, or any other evidence of tax-exempt status, with the Internal Revenue Service, the Texas Secretary of State, and the Texas Comptroller of Public Accounts, as appropriate.

**Section 6.** All prior acts of the Executive Director, Bond Counsel, and the Financial Advisor and his designees in support of the purposes authorized by this Resolution are hereby confirmed and ratified by the Board.

**Section 7.** All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 8.** This Resolution shall be construed and enforced in accordance with the laws

of the State and the United States of America.

**Section 9.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 10.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was, open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code and in accordance with the Corporation's Bylaws.

**Section 11.** This Resolution shall become effective immediately upon passage by the Board.

**PASSED, APPROVED AND ADOPTED on this 25<sup>th</sup> day of September, 2024**

**KERRVILLE PUBLIC UTILITY BOARD  
PUBLIC FACILITY CORPORATION**

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**President, Board of Directors**

**ATTEST:**

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**Secretary, Board of Directors**

(CORPORATE SEAL)

EXHIBIT A

ENGAGEMENT AGREEMENT FOR FINANCIAL ADVISORY SERVICES

September 25, 2024

**VIA E-MAIL**

Norton Rose Fulbright US LLP  
98 San Jacinto Boulevard, Suite 1100  
Austin, Texas 78701-4255  
United States of America

Mr. Mike Wittler  
General Manager and CEO  
Kerrville Public Utility Board  
2250 Memorial Boulevard  
Kerrville, Texas 78028

**Stephanie Leibe**  
**Partner**  
Direct line +1 512 536 2420  
stephanie.leibe@nortonrosefulbright.com

Tel +1 512 474 5201  
Fax +1 512 536 4598  
nortonrosefulbright.com

Re: Engagement Agreement for Bond Counsel Services to Kerrville Public Utility Board  
Public Facility Corporation

Dear Mr. Wittler:

**Terms of engagement**

This Letter of Engagement and the attached Norton Rose Fulbright Standard Terms of Engagement (“**Standard Terms**”) set out the terms that govern the relationship between Kerrville Public Utility Board Public Facility Corporation (the “Corporation”) and Norton Rose Fulbright US LLP (**we** or **us** or **firm**) and the additional Norton Rose Fulbright Verein member firms described in the Standard Terms, who may be engaged to represent you in connection with the Matters as defined below.

Norton Rose Fulbright US LLP has made no promises or guarantees to the Corporation about the outcome of the representation or the Matters, and nothing in these terms of engagement shall be construed as such a promise or guarantee. Any expressions on our part concerning the outcome of the Matters are based on our professional judgment and are not guarantees. Such expressions, even when described as opinions, are necessarily limited by our knowledge of the facts and are based on our views of the state of the law at the time they are expressed.

We recognize our obligation to preserve the confidentiality of attorney-client communications as well as client confidences, as required by the governing rules of professional responsibility. If the Matters involves transactions, litigation or administrative proceedings or like proceedings in which we appear as counsel of record for the Corporation in publicly available records, we reserve the right to inform others of the fact of our representation of the Corporation in the Matters and (if likewise reflected of record in publicly available records) the results obtained, unless the Corporation specifically directs otherwise.

**Client**

We have been retained by the Corporation. Unless we agree otherwise in writing, and subject to satisfactory conflict clearances, we are not representing any other related entities or individuals, such as the Corporation’s shareholders, directors and officers, employees, partners, members.

## **Scope of engagement**

We confirm that we have been retained by you as Bond Counsel in connection with the issuance, sale, and delivery of one or more series of the Corporation's special obligation debt (collectively, the "Debt"). In addition, the issuance or incurrence of Debt is referred to herein as the "Matters"; our representation in connection with the Matters is referred to herein as the "Representation". Our acceptance of the Representation becomes effective upon the execution and return of the enclosed copy of this letter.

Except as expressly stated otherwise, we will advise and act at all times in accordance with and in respect of federal and/or appropriate state law only and are not responsible for advising you as to the effect or enforceability of any documents or matters which may be subject to or governed by the laws of any other jurisdiction.

## **Personnel**

I will be working on the Matter as lead attorney, but will add to this team with others who are necessary to complete the applicable Representation with respect to a particular Matter. You may call, write, or e-mail any of us whenever you have any questions about the Representation. Other firm personnel, including paralegals and other administrative staff, will participate in the Representation if and to the extent, in our judgment, their participation is necessary or appropriate.

## **Fees and other charges**

Legal fees and costs are difficult to estimate. Except as discussed herein, accordingly, we have made no commitment concerning the maximum fees and charges that will be necessary to resolve or complete the Representation.

From time to time, we may furnish estimates of legal fees and other charges that we anticipate will be incurred in connection with the Matter. Such estimates are by their nature inexact because of the potential for unforeseeable circumstances; and therefore, our actual fees and other charges may vary from such estimates.

Our fees will generally be based on the time spent by firm personnel, primarily firm lawyers or paralegals, who participate in the Representation and on the basis of the complexity of a Matter. For portions of the Representation that do not involve the issuance of Debt, we will agree with you to a fee arrangement that may be fixed fee or hourly in nature prior to our commencement of any work related to such portion of the Representation. Certain fees may be reimbursable to the Corporation depending on the type of economic development project. For portions of the Representation that do involve the issuance of Debt, a fee schedule is attached hereto as Exhibit A-1.

In addition to our fees for rendering professional services, our statement will include other charges for expenses and services incurred incident to the performance of our legal services, such as photocopying, delivery charges, travel expenses, overtime for secretaries and other nonlegal staff, Texas Attorney General filing fee of up to \$9,500 per series of Debt (that we will pay on behalf of, subject to reimbursement by, the Corporation), specialized computer applications such as



computerized legal research and filing fees. Our current recharge schedule (which is subject to change from time to time) is attached hereto as Exhibit A-2.

### **Invoicing and reporting**

Our billing rates are based on the assumption of prompt payment. Consequently, fees for our legal services and other charges will be billed upon the conclusion of the Matter.

### **Conflicts of interest**

Before accepting the engagement, we have undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest that would prevent us from representing the Corporation related to bond counsel services as contemplated by the Corporation. We reviewed that issue in accordance with the rules of professional responsibility adopted in Texas. You agree to the applicability of those rules in regard to all matters relating to this engagement and that, in future matters involving the Corporation, potential conflicts of interest will be evaluated under the local rules of professional responsibility applicable to the Norton Rose Fulbright office handling that future matter. Based on the information available to us, we are not aware of any conflicts.

In addition to our representation of other companies and individuals, we also regularly represent lawyers and law firms. As a result, opposing counsel in the Matter may be a lawyer or law firm that we may represent now or in the future. Likewise, opposing counsel in the Matter may represent our firm now or in the future. Further, we have professional and personal relationships with many other attorneys, often because of our participation in bar associations and other professional organizations. It is our professional judgment that such relationships with other attorneys do not adversely affect our ability to represent any client. The acceptance of these terms of engagement represents an unqualified consent to any such relationships between our firm and other lawyers or law firms, even counsel who is representing a party that is adverse to the Corporation in the Matter that is the subject of this engagement or in some other matter.

During the course of the firm's representation of the Corporation, we may need to analyze or address matters relating to our professional duties or responsibilities, and to consult with lawyers of the firm who have been identified internally to serve as the firm's in-house counsel about such matters. To the extent that any conflict of interest might be deemed to exist as between the firm and the Corporation because of these consultations, you hereby waive any such conflict, consent to such consultations, and agree that we have no obligation to disclose information relating to such consultations to the Corporation. You also agree that these consultations are protected from disclosure by the firm's attorney-client privilege and, as appropriate, the firm's work product protection and that the Corporation will not seek to discover or inquire into them. Nothing in the foregoing shall otherwise diminish or affect our obligation to keep the Corporation informed of material developments in your representation.

Due to the size, geographic scope, breadth and diversity of our practice, it is likely that current and future clients of ours will come into contact with you, and it is important that we agree with you on certain matters in relation to conflicts of interest to preserve our ability to represent you while also preserving the right of our other clients or potential clients to choose us to commence

or continue as their counsel. In that regard, you consent to, and waive any conflicts of interest with respect to, our representation of any current or future clients (including any parties adverse to you in this Matter) in any matter that is not substantially related to this Matter, even if their interests are directly adverse to you or your interests in such other matter. Such current and future clients may include your financial advisors, debtors, creditors or others who have interests that are contrary to your interests.

We agree, however, that your consent and waiver does not permit us to represent another client in a matter if we have obtained your non-public proprietary or other confidential information from you that could be used by the other client to your material disadvantage, unless we take timely and adequate steps to protect your confidential information. For the avoidance of doubt, your agreement to these terms and conditions and the consent and waiver will have no adverse impact upon our representation of your interests in this Matter.

### **Applicable law**

The laws of Texas (exclusive of its conflict of laws principles) govern these terms of engagement, and the parties submit to the exclusive jurisdiction of the courts sitting in the District of Houston, Harris County, Texas in any matter arising from or relating to this engagement or anything contained in this engagement letter including the attached Standard Terms, and consent to venue in such court and waive any objection of inconvenient forum as to such court. You agree that any legal process relating to this engagement may be served upon you by us by first-class mail addressed to the mailing address set forth on the first page of this letter and/or by e-mail to the e-mail address set forth on the first page of this letter, or to such additional or alternative addresses as you may provide for such purposes. Each professional is subject to the ethical and professional conduct rules applicable to the jurisdiction in which that lawyer is authorized to practice.

### **Standards of Professionalism and Attorney Complaint Information**

Pursuant to rules promulgated by the Texas Supreme Court and the State Bar of Texas, we are to advise our clients of the contents of the Texas Lawyer's Creed, a copy of which is attached. In addition, we are to advise clients that the State Bar of Texas investigates and prosecutes complaints of professional misconduct against attorneys licensed in Texas. A brochure entitled Attorney Complaint Information is available at all of our Texas offices and is likewise available upon request. A client that has any questions about State Bar's disciplinary process should call the Office of the General Counsel of the State Bar of Texas at 1 800 932 1900 toll free.

### **Termination**

At any time, the Corporation may, with or without cause, terminate the representation by notifying us of the Corporation's intention to do so.

We are subject to the codes or rules of professional responsibility for the jurisdictions in which we practice. There are several types of conduct or circumstances that could result in our withdrawing from representing a client, including, for example, the following: nonpayment of fees or charges; misrepresentation of or failure to disclose material facts; fraudulent or criminal conduct; action contrary to our advice; and conflict of interest with another client. The right of Norton Rose

Fulbright US LLP to withdraw in such circumstances is in addition to any rights created by statute or recognized by the governing rules of professional conduct. Further, a failure by the Corporation to meet any obligations under these terms of engagement shall entitle us to terminate the representation. We try to identify in advance and discuss with our clients any situation that may lead to our withdrawal.

Termination of the representation will not affect the Corporation's obligation to pay for legal services rendered and expenses and charges incurred before termination, as well as additional services and charges incurred in connection with an orderly transition of the Matter. Further, in the event of termination of the representation, the Corporation's will take all steps necessary to release Norton Rose Fulbright US LLP of any further obligations in the representation in the Matter, including, without limitation, the execution of any documents necessary to effectuate our withdrawal from the representation in the Matter.

After termination or completion of the representation, changes may occur in the applicable laws or regulations that could affect the Corporation's future rights and liabilities in regard to the Matter. Unless we are actually engaged after termination or completion of the representation to provide additional advice on such issues, the firm has no continuing obligation to give advice with respect to any future legal developments that may pertain to the Matter.

### **Confidential Firm Information**

The Corporation recognizes that, in forming the attorney-client relationship or otherwise, we may provide or may have provided the Corporation with information marked "Confidential." The Corporation agrees to maintain the confidential nature of that information and not to disclose it to third parties.

### **Conclusion and acceptance**

You can accept this agreement by signing and returning to us the enclosed copy of this letter or by continuing to retain us.

This letter and the attached Standard Terms constitute the entire terms of the engagement of Norton Rose Fulbright US LLP in connection with the Matter. These written terms of engagement are not subject to any oral agreements or understandings, and they can be modified only by further written agreement signed both by the Corporation and Norton Rose Fulbright US LLP. Unless expressly stated in these terms of engagement, no obligation or undertaking shall be implied on the part of either the Corporation or Norton Rose Fulbright US LLP.

Very truly yours,



Stephanie Leibe

SVL/lc  
Enclosures

Mr. Mike Wittler  
September 25, 2024  
Page 6

cc: Arthur Kimball-Stanley (Firm)  
Matt Lee (Firm)  
Chris Guevara (Firm)

Kerrville Public Utility Board Public Facility Corporation acknowledges and accepts the terms of engagement set out in this letter and its attachments.

.....  
*Signed*

.....  
*Title*

.....  
*Name*

.....  
*Date*

## **NORTON ROSE FULBRIGHT STANDARD TERMS OF ENGAGEMENT**

Norton Rose Fulbright Verein (the **Verein**) is a Swiss verein which does not itself engage in the practice of law or other business. The member firms in the Verein are Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP, Norton Rose Fulbright South Africa Inc and Norton Rose Fulbright US LLP (the **Members** or, individually, a **Member**), who, with their subsidiaries or associated entities, engage in a coordinated international legal practice, even though they are separate law firms each of which, absent specific contractual agreement with a client on an individual matter, is solely responsible for its own work and not for the work of any other of them.

Each of the Members is committed to providing its clients with the highest quality legal services and to building a lasting relationship with its clients as a trusted adviser.

To that end, these Standard Terms of Engagement will apply to all engagements between a Member or its subsidiary or associated entity and a client unless otherwise agreed in writing by the client and an authorized representative of such Member, subsidiary or associated entity. These Standard Terms of Engagement are supplemented by additional standard provisions and/or a letter or contract of engagement relevant to the jurisdiction of the Contracting Party (as below defined).

### **1 Defined Terms**

1.1 The following documents will constitute the entire agreement relating to the engagement of a Contracting Party by a client: (i) any letter or contract of engagement, (ii) any additional standard provisions referred to above, (iii) these Standard Terms, (iv) any other terms and conditions agreed between the Contracting Party and the client, and (v) any amendments or supplements to any of the foregoing agreed from time to time. In the event of any conflict between the terms of the foregoing, the documents shall be construed in the order of priority in which they are referred to above, but subject to any amendments as referred to in (v).

1.2 In the above-mentioned documents:

- (a) Any individual entity that is a Member or subsidiary or associated entity of a Member is referred to as a Norton Rose Fulbright Entity. The Norton Rose Fulbright Entity with which a client engages at any time is referred to as the Contracting Party.
- (b) We, our and us refer to the Contracting Party together with any other Norton Rose Fulbright Entity to which part or all of your instructions have been referred pursuant to paragraph 2.1(h) of these Terms; you and your refer to the client (jointly, if more than one, and not individually) with which the Contracting Party engages. Unless otherwise specifically agreed, you and your do not refer to and no attorney/client or solicitor/client relationship will exist as to persons or entities related to the client such as parent companies, subsidiaries, affiliates, employees, officers, directors, shareholders, partners, members, commonly owned corporations or partnerships, or other such persons, entities or affiliates.

### **2 Your relationship with us**

2.1 When you instruct us on an individual matter, we will write to you to set out:

- (a) which Norton Rose Fulbright Entity is the Contracting Party;
- (b) the scope of the work we have agreed to undertake and any assumptions on which it is based;
- (c) who will be the responsible partner or director and other key team members whom we will try not to replace, although unforeseen circumstances may require that;
- (d) the fees and invoicing arrangements;
- (e) any applicable limitation of liability; and
- (f) the governing law applicable to the contractual relationship with you and the choice of jurisdiction for resolving any issues.
- (g) Your contractual relationship for individual matters is between you and the Contracting Party, not any other Norton Rose Fulbright Entity nor any individual. You understand that we do not make any promises or warranties as to the outcome of the representation.
- (h) If, with your agreement, the Contracting Party has referred all or part of your instructions on any individual matter to one or more other Norton Rose Fulbright Entities, legal services provided by other Norton Rose Fulbright Entities will be governed by the terms of our engagement, which will apply as between you and such Norton Rose Fulbright Entity or Entities, to the fullest extent permitted by the laws and professional regulations applicable in the jurisdictions in which such other Norton Rose Fulbright Entity or Entities operate as regards such other Norton Rose Fulbright Entity's or Entities' representation of you, as well as by, if any are issued, additional standard provisions and any letter or contract of engagement relevant to the other Norton Rose Fulbright Entity or Entities.

### **3 Our fees**

- 3.1 Our bills are payable on receipt and in the currency in which they are submitted. If you ask us to provide bills using an e-billing solution you understand that: (i) we will send your information to our and your third party supplier(s) to enable us to comply with your request and the transfer is at your risk; (ii) any costs arising out of use of your third party supplier shall be borne by you; and (iii) our compliance with your request shall not reduce the fee otherwise chargeable by us.
- 3.2 If you are required by law to deduct any amount when paying a bill, you will pay to us an additional amount so as to ensure that we receive a net sum equal to the amount of the bill.
- 3.3 We need to approve in advance any proposal for any part of one of our bills to be paid by a third party. Notwithstanding our approval, you agree that you will remain responsible for paying the whole bill and any interest accrued on it.
- 3.4 Unless otherwise agreed, any other Norton Rose Fulbright Entity or Entities to whom the Contracting Party has referred instructions under paragraph 2.1(h) may provide statements of their fees and charges to the Contracting Party, who will include such fees and charges in its statements to you, which you will be obligated to pay in order that it can remit payment to such other Norton Rose Fulbright Entity or Entities.

- 3.5 If a bill remains unpaid 30 days after delivery:
- (a) you agree that we may be entitled to charge interest, if any, on it at such rate and under such arrangements allowable under the laws and professional regulations applicable to us or as may be provided for in applicable additional standard provisions or an agreement between us and you, and
  - (b) on giving written notice to you, we may cease work on the matter to which the bill relates and any of your other matters. You agree that we are not responsible for any loss resulting from such inactivity. If the matter is litigious, we may also remove ourselves from the Court or tribunal record.
- 3.6 You agree that we may exercise a lien over your files and documents until all bills due to us from you have been paid in full, subject to the laws and professional regulations applicable to us.
- 3.7 If we are required by any governmental or regulatory body, or by a service provider appointed by you, to submit one of our bills to audit, to produce documents or provide information on any individual matter on which you have instructed us, we shall be entitled to bill you for the work involved (and any disbursements incurred) at the rates agreed for the relevant matter. If legal privilege attaches to any such documents, you will either waive privilege or instruct us to review them in your interests.
- 3.8 We advise and you acknowledge that the Members of the Verein have an arrangement between them that where a matter is referred by one Member to another, the referring Member and one or more of its partners or directors may be financially rewarded for having so referred the matter. This is an entirely internal arrangement as between the Members of the Verein, and their respective partners and directors, and it does not require you to pay any amount in addition to the fees, disbursements and other charges which apply under the agreed terms of your engagement of us and, if applicable, any other Norton Rose Fulbright Entity.

#### **4 Disbursements and other charges**

- 4.1 We may consider it to be in your interests to instruct counsel or engage correspondent lawyers, experts or others on your behalf and at your expense. We will consult you before doing so if such instructions or engagements will result in significant fees becoming payable.
- 4.2 We may also charge for photocopying, telephone calls, travel, searches, court fees, hosting on-line data or deal rooms and for other services at our or their standard rates from time to time and for other expenses. These charges will be included in our bills and will not include any mark-up of expenses for which the precise cost can be readily determined but may vary from or exceed our or their direct cost for services for which the precise cost cannot be readily determined.

#### **5 Money held on account for you**

- 5.1 We will deposit any money we hold on your behalf with a regulated financial institution and manage it in accordance with the laws and professional regulations applicable to us. You agree that we are not responsible for any loss of funds so deposited and managed.

5.2 If you deposit money with us on account of our fees, the principal and interest accrued, if any, will be applied to your final bill, rendered when we complete your instructions. Unless you and we have agreed otherwise, we may also apply any part of the money in settlement of any outstanding interim bills we submit to you.

## **6 Communicating with us**

6.1 When you seek and receive legal advice from us on your rights and obligations, legal advice or attorney-client privilege will attach to our communications related to that advice. If we act for you in contemplated or actual legal proceedings, litigation or attorney-client privilege will attach to our communications related to those proceedings.

6.2 You agree that we may communicate with you using electronic means, knowing that certain risks (including, for example, interception, unauthorized access and risk of viruses) are associated with such means.

## **7 Confidentiality, conflict of interests, and our relationships with other clients**

7.1 We will keep all information obtained from you, which is not in the public domain, confidential, and will only otherwise disclose it with your authority or if required to do so by the laws and professional regulations applicable to us or if permitted under paragraph 9.3. Nevertheless, you agree that we may disclose any relevant information in order to protect and/or defend ourselves in any actual or threatened legal, civil or regulatory proceeding and may also disclose any relevant information in confidence to our insurers, insurance brokers, auditors, bankers and other advisers if and to the extent such disclosure may occur without waiving or losing any applicable legal privilege.

7.2 You will provide us, and will instruct your other advisers and any co-venturer or other co-participants to provide us, on any matter on which we are instructed, with all relevant information and documents, all of which will have been properly obtained and on which we may rely without verification. You agree that, unless you instruct us otherwise, we may disclose any relevant information to your other professional advisers.

7.3 Norton Rose Fulbright is a large coordinated international legal practice with multiple offices around the world. Because of the size, geographic scope, breadth and diversity of the practice, it is inevitable that current and future clients of ours will come into contact with you, and it is important that we agree with you on certain matters in relation to conflicts of interests to preserve our ability to represent both you and other clients. You agree that we may represent current or future clients (including any parties adverse to you in this Matter) in any other matter (including in litigation, arbitration, or other dispute resolution proceedings) that is not substantially related to your Matter, even if their interests are directly adverse to you or your interests in that other matter. We agree, however, that we will not represent another client in a matter if we have obtained non-public proprietary or other confidential information from you that could be used by that other client to your material disadvantage in that matter. You agree and accept that you have access to independent advice on the effect of this paragraph 7.3 and that your signature by way of acceptance of the provisions of the engagement letter to which these Terms apply is confirmation that you understand the scope and application of this paragraph and that you have no questions or concerns in that respect.

7.4 You agree that we or any other Norton Rose Fulbright Entity may act for other clients in transactions or disputes in which you or any affiliated entity of yours has an interest



provided that we or such other Norton Rose Fulbright Entity do not thereby breach our or their duty of confidentiality to you.

- 7.5 You agree that we are under no duty to disclose to you or use on your behalf any information in respect of which we or any other Norton Rose Fulbright Entity owe a duty of confidentiality to another client or any other person.
- 7.6 You agree that we may disclose our role as legal advisers in any matter on which we are instructed following its completion, for the purposes of publicity, unless you instruct us otherwise. You also agree that, unless you instruct us otherwise, we may publicize the fact that we have a relationship with you.

## **8 Complaints**

- 8.1 Any concerns or complaint about our work should be directed initially to the partner/director responsible for carrying out your instructions or, if you prefer, to the relationship partner/director. We maintain internal procedures that can be employed should a concern require escalation beyond the responsible partner/ director. The laws and professional regulations applicable to us may also provide formal complaint procedures.
- 8.2 In particular, you should raise any queries regarding any of our bills with the partner or director responsible for the matter as soon as possible. If any part of one of our bills is queried by you or the relevant payer, you agree to immediately pay, or procure payment of, those parts not subject to query.

## **9 Data protection, exchange of information and storage of documents**

- 9.1 We act as a data controller in the provision of our legal services. We will process personal data provided to us by you or your employees or agents in relation to any instruction in accordance with data protection standards required by applicable law and will implement appropriate technical and organizational security measures to protect against unauthorized or unlawful processing of that personal data and against accidental loss of, or damage to, that personal data. Please see our Privacy notice for further information on our processing of personal data: <http://www.nortonrosefulbright.com/privacy-notice/>
- 9.2 Each party (you and we) will assist the other party in complying with its respective obligations under applicable data protection law and will ensure that the provision of personal data to the other party is fair and lawful. You agree that you will make our Privacy notice available to your employees or other individuals whose personal data you share with us where this provision of information is required by applicable data protection law. We in turn agree that we will promptly notify you either: (i) upon receipt of a request or complaint from a regulatory authority or an individual exercising a data subject right; or (ii) in the event of loss, disclosure or unauthorized or unlawful processing of personal data that you have provided to us or that we have obtained on your behalf. We will cooperate with you and provide all reasonable assistance as may be required in either case.
- 9.3 In the course of providing our services to you, personal data (if any) with respect to persons in the European Economic Area (EEA) may be accessible to and used by other Norton Rose Fulbright Entities and their contractors and/or agents, including those located outside the EEA where data protection laws may not be as comprehensive as in the EEA, but as to such personal data we will ensure compliance with the data protection standards

of the EU General Data Protection Regulation 2016 or higher standards under other laws applicable to such personal data.

- 9.4 We will also share your contact details, and those of your staff with whom we have contact, with other Norton Rose Fulbright Entities in order to provide you with information relevant to your business, and to ensure your continuous access to publications, events and news in areas of interest to you. Where your employees supply their contact details to us, we will only use that personal data in accordance with our Privacy notice referenced above or as otherwise consented to by them.
- 9.5 We will not exchange information that will result in waiver or loss of any client privilege with other Norton Rose Fulbright Entities. Otherwise, you agree that the Contracting Party may exchange your information (including personal data) with other Norton Rose Fulbright Entities, including for the purposes of conflict checking, compliance, financial planning, billing, business development and matter management. Arrangements are in place among all Norton Rose Fulbright Entities to protect the confidentiality of the information exchanged.
- 9.6 We may outsource certain functions associated with servicing clients to a service center dedicated to Norton Rose Fulbright located outside of the EEA or to other third party providers. For example, we may outsource information and document management, office support, technology and IT services, word processing, photocopying, and translation services.
- 9.7 Some of your data may be stored using cloud technology managed by a third party service provider. We have agreements in place with the third party service providers referred to in paragraphs 9.6 and 9.7 where applicable and also employ technical and organizational measures to protect the confidentiality and security of any information shared with them.
- 9.8 We do not undertake to store or retain your files (whether paper or electronic) for any particular period of time, but will do so for at least the minimum number of years required by applicable laws and professional regulations or local business custom. Files may be destroyed at any time after the expiry of such period, without notice, except those files you ask be delivered to you.

## **10 Copyright and intellectual property**

- 10.1 We retain all copyright and other intellectual property rights in all material developed, designed and created by us in the course of a matter. You may only use and copy material created by us for you, or which we have developed independently of our work for you and used in the course of your matter, in accordance with our advice or specific license terms. All material must be kept confidential by you unless we agree otherwise.
- 10.2 We may use all material created and/or modified by us in the course of any matter for legal training, forms, service development (including in the training of artificial intelligence technologies in which event the materials may be hosted on a third party system) and research purposes, without reference to you.

## **11 Our compliance with certain laws and regulations**

- 11.1 We may require you to provide identifying documents and information concerning yourself and individuals and/or entities associated with you in order to comply with anti-money laundering laws and regulations, and to keep those documents and information up to date.

We may be unable to carry out your instructions if we are unable to verify your identity or, in some instances, the identities of your directors, shareholders and eventual beneficial owners. We shall only process such identifying documents and information for the purposes of preventing money laundering or terrorist financing and to fulfil any other legal and regulatory obligation and shall retain it for the period necessary in accordance with permitted or required retention and limitation periods and in accordance with our data protection obligations as set out at paragraph 9 above.

- 11.2 We may be required by law or regulation to report to a governmental or regulatory authority our knowledge and/or suspicion that certain criminal offences have been committed, regardless of whether such an offence has been committed by a client of ours or by a third party. We may not be able to discuss such reports with you because of restrictions imposed by those laws and regulations, and we may have to cease acting for you in those circumstances. You agree that we are not responsible for any adverse consequences you may suffer as a result of our compliance with such laws and regulations.

## **12 Force majeure**

Neither you nor we will be responsible for failure to perform our respective obligations concerning your instructions (save for your responsibility to pay our bills in full) if the failures are due to causes outside, respectively, your or our control.

## **13 Amendments**

From time to time, we may need to amend these terms of engagement. If this occurs, we will notify you of the changes by means of a notice in the Legal Notices section of our website but they will not affect any matter on which we are then currently instructed.

## **14 Limitations**

If the validity or enforceability of any of these terms of engagement is in any way limited by the laws and professional regulations applicable to us, those laws and professional regulations will take precedence over these terms of engagement but they will be valid and enforceable to the fullest extent permitted by such laws and professional regulations, and such limitation shall not affect the validity or enforceability of any other term.

## **15 Integrity and ethics**

Our policy is to act at all times in accordance with the highest professional, ethical and business standards, and we expect you to act in like manner in all your dealings with us and your business counter-parties. We do not countenance bribery or corruption in any form and you agree (i) not to expect or request any conduct from us that might bring our name into disrepute or compromise our integrity, (ii) that you and your employees and agents will refrain from any practices involving bribery or any other corrupt activities, and (iii) that you have taken or will take internal steps or procedures designed to ensure that the risk of corruption and bribery during the course of our relationship is eliminated.

## **16 Termination**

- 16.1 Either you or we may terminate our engagement at any time by giving reasonable prior notice in writing, subject, in our case, to any applicable laws or regulations. We will only stop acting for you if we believe we have a good reason to do so, including in the

circumstances contemplated by paragraph 3.5 (b), but we retain sole discretion regarding any such decision.

- 16.2 If our engagement is terminated for any reason, you agree to pay in full our bills representing fees, costs, disbursements and other charges up to the time of the engagement's termination.
- 16.3 A solicitor/client or attorney/client relationship exists between you and us only if, at the relevant point in time, we are working under instructions from you; we shall have no duty to provide you advice at any other time concerning changes in laws, rules or regulations that might affect your rights. Further, if we are not under instructions from you at a given point in time, you agree that, unless prohibited by applicable laws or regulations, we are entitled to accept at that time other instructions to act in respect of the subject matter of your previous instructions although we will not disclose to, or use to the benefit of, another client any information or documents in respect of which we owe you a duty of confidentiality.
- 16.4 We and other Norton Rose Fulbright Entities may send you general information on legal developments without charge, or may include you in general mailings, after our or their engagement with you has been terminated. This will not change the fact that our or their engagement has been terminated.

## THE TEXAS LAWYER'S CREED — A MANDATE FOR PROFESSIONALISM

The Texas Supreme Court and the Texas Court of Criminal Appeals adopted this Creed, with the requirement that lawyers advise their clients of its contents when undertaking representation.

I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.

**I. OUR LEGAL SYSTEM.** A lawyer owes to the administration of justice, personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism. I am passionately proud of my profession. Therefore, "My word is my bond." I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life. I commit myself to an adequate and effective pro bono program. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed. I will always be conscious of my duty to the judicial system.

**II. LAWYER TO CLIENT.** A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest. I will advise my client of the contents of this Creed when undertaking representation. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice. I will advise my client that civility and courtesy are expected and are not a sign of weakness. I will advise my client of proper and expected behavior. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party. I will advise my client that we will not pursue tactics which are intended primarily for delay. I will advise my client that we will not pursue any course of action which is without merit. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

**III. LAWYER TO LAWYER.** A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct. I will be courteous, civil, and prompt in oral and written communications. I will not quarrel over matters of form or style, but I will concentrate on matters of substance. I will identify for other counsel or parties all changes I have made in documents submitted for review. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when

meetings, conferences or closings are canceled. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence. I will not arbitrarily schedule a deposition, Court appearance, or hearing until a good faith effort has been made to schedule it by agreement. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party. I will refrain from excessive and abusive discovery. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

**IV. LAWYER AND JUDGE.** Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol. I will conduct myself in court in a professional manner and demonstrate my respect for the Court and the law. I will treat counsel, opposing parties, witnesses, the Court, and members of the Court staff with courtesy and civility and will not manifest by words or conduct bias or prejudice based on race, color, national origin, religion, disability, age, sex, or sexual orientation. I will be punctual. I will not engage in any conduct which offends the dignity and decorum of proceedings. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage. I will respect the rulings of the Court. I will give the issues in controversy deliberate, impartial and studied analysis and consideration. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

## Exhibit A FEE SCHEDULE

### Standard Fee Schedule:

Our proposed fee schedule will be based on 1% of the product of the proceeds of any debt obligation (each, an *Obligation*).

\* Variable Rate Obligations (without third-party liquidity) will be billed at our standard fee scale.

\* Remarketings of outstanding variable rate Obligations to new variable rate term periods or fixed rate conversions will be billed at 50% of our standard fee schedule (plus \$5,000 for additional federal income tax expertise in the event that any such remarketing or conversion results in a reissuance of Obligations under federal tax law).

\* To the extent that our Firm is responsible for preparing the offering documents relating to the issuance or remarketing of any Obligations, an additional fee of \$7,500 will be charged.

\* Lease-purchase equipment obligation will be billed on an hourly basis, subject to a minimum charge of \$15,000.

\* Individual expense reimbursements for any issuance of Obligations shall be capped at \$2,500 per series of Obligation.

\* Redemptions or defeasances not associated with an Obligation transaction are billed at a fixed fee of \$2,500.

\* Separately negotiated hourly or fixed fee arrangement for all derivative product structures, variable rate bond programs with third party liquidity, and conduit debt.

\* Legal fees and costs are difficult to estimate. Accordingly, we have made no commitment concerning the maximum fees and charges that will be necessary to resolve or complete the Representation. Therefore, case-by-case exceptions (to increase or decrease the fees noted above) may be made to the above based on (a) the negotiations and structuring of any financings or (b) a Corporation request to perform services beyond the scope of Bond Counsel and, in each event, shall be based upon the time spent by firm personnel, primarily firm lawyers or paralegals, who participate in the Representation.

**NORTON ROSE FULBRIGHT US LLP**  
(Austin)

**Expenses and Services Summary**

<i><b>EXPENSE/SERVICE</b></i>	<i><b>CHARGE</b></i>
Binding	\$1.75 per book (Pricing varies in other office locations)
Data Base Research Lexis, Westlaw, Information America	Costs allocated by the firm
Deliveries	
Overnight/Express	Direct cost
Outside Courier	Direct cost
Courthouse Messengers	Outside courier rates – Direct cost (Pricing varies in other office locations)
Document Scanning	\$.12 per page – Direct cost
Duplicating	
Photocopy	\$0.15 per page
Color photocopy	\$0.85 per page
Microfilm/Microfiche	Direct cost
Videography (duplication)	Direct cost
Electronic Mail (via Internet)	No charge
Library Research by Library Staff	\$85.00 - \$120.00 per hour
Weekend & Late Evening Air Conditioning	\$19.19 per hour (Only if necessitated by client requirements) (Pricing varies in other office locations)
Postage	Direct cost
Secretarial Overtime	\$28.00 per hour (Pricing varies in other office locations)
Facsimile (Outgoing)	No charge
Telephone	
Long Distance (Domestic)	No charge
Long Distance (International)	No charge
Telephone Conference	Direct cost (Third-party provider's charge -\$0.05 per participant per minute)
File Storage Retrieval	Direct cost (Pricing varies in other office locations) Price may vary depending on time constraints - Rush/After Hour

**EXPENSE/SERVICE****CHARGE**

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Transportation	
Mileage (personal automobile)	Applicable IRS allowable rate per mile
Lodging	Direct cost
Meals	Direct cost
Car Rental/Airline/Rail/Etc.	Direct cost
CD-ROM Research	Rate varies based on length of search
Graphic Arts	\$150.00 - \$175.00 per hour, plus direct cost of supplies. If sent to outside vendor - Direct cost
Practice Support	\$200.00 per gigabyte per month
E-Discovery	Direct cost
Firm hosting of on-site document review performed by outside contract attorneys	\$10.00 per hour



EXHIBIT B

ENGAGEMENT AGREEMENT FOR BOND COUNSEL SERVICES

## FINANCIAL ADVISORY SERVICES AGREEMENT

This Financial Advisory Services Agreement (the “Agreement”) is made and entered into by and between the Kerrville Public Utility Board Public Facilities Corporation (“Issuer”) and Specialized Public Finance Inc. (“SPFI”) effective as of the date executed by the Issuer as set forth on the signature page hereof.

### WITNESSETH:

WHEREAS, the Issuer will have under consideration from time to time the authorization and issuance of indebtedness in amounts and forms which cannot presently be determined and, in connection with the authorization, sale, issuance and delivery of such indebtedness, the Issuer desires to retain an independent financial advisor; and

WHEREAS, the Issuer desires to obtain the professional services of SPFI to advise the Issuer regarding the issuance and sale of certain evidences of indebtedness or debt obligations that may be authorized and issued or otherwise created or assumed by the Issuer (hereafter referred to collectively as “Debt”) from time to time during the period in which this Agreement shall be effective; and

WHEREAS, SPFI is willing to provide its professional services and its facilities as financial advisor in connection with all programs of financing as may be considered and authorized by the Issuer during the period in which this Agreement shall be effective.

NOW, THEREFORE, the Issuer and SPFI, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, do hereby agree as follows:

### SECTION I DESCRIPTION OF SERVICES

Upon the request of the Issuer, SPFI agrees to perform the financial advisory services stated in the following provisions of this Section I; and for having rendered such services, the Issuer agrees to pay to SPFI the compensation as provided in Section V hereof.

1. Financial Planning. Provide financial planning services related to Debt plans and programs.
2. Debt Elements. Provide recommendations regarding Debt under consideration, including such elements as timing, structure, security provisions, and such other provisions as may be appropriate.
3. Method of Sale. Make a recommendation as to an appropriate method of sale, including but not limited to competitive sale, negotiated sale or private/limited offering.

4. Auditors. Coordinate verification by an independent auditor of any calculations incident to the Debt, as required.
5. Printing. Coordinate all work incident to printing of the offering documents and other documents required by the Issuer.
6. Closing. Provide the Issuer a post sale/closing booklet or update for the Debt and other outstanding debt, as needed.

## **SECTION II CONTINUING DISCLOSURE**

It is understood and agreed that the Issuer, in connection with the sale and delivery of Debt, will be required to comply with certain continuing disclosure undertakings, including preparation and submission of annual reports (the “annual reports”) and reporting of certain specified material events (the “material events”) pursuant to written undertakings of the Issuer and in accordance with the provisions of Securities and Exchange Commission Rule 15c2-12, as amended (the “Rule”). SPFI shall provide continuing disclosure services on the terms and conditions, for the time period and for the compensation set forth herein.

1. This Agreement shall apply to all Debt delivered subsequent to the effective date of the continuing disclosure undertakings of the Issuer and as specified in the Rule, to the extent that any particular issue of Debt does not qualify for exceptions to the continuing disclosure requirements of the Rule.
2. SPFI agrees to perform annual reporting and material event notification duties required by the undertakings of the Issuer and the Rule at a flat rate of \$350 per material event filing.
3. The fees of SPFI for providing the foregoing continuing disclosure services shall be negotiated annually (not to exceed \$1,500 per similarly-secured type of Debt). The fees of SPFI for providing material event notification services shall be negotiated separately at the time such notifications may be required.

## **SECTION III TERM OF AGREEMENT**

This Agreement shall become effective as of the date executed by the Issuer as set forth on the signature page hereof and, unless terminated by either party pursuant to Section IV of this Agreement, shall remain in effect thereafter for a period of five (5) years from such date. Unless SPFI or the Issuer shall notify the other party in writing at least thirty (30) days in advance of the applicable anniversary date that this Agreement will not be renewed, this Agreement will automatically renew on the fifth anniversary of the date hereof for an additional one (1) year period and thereafter will automatically renew on each anniversary date for successive one (1) year periods under the same terms as the initial 5-year period.

**SECTION IV  
TERMINATION**

This Agreement may be terminated with or without cause by the Issuer or SPFI upon the giving of at least thirty (30) days' prior written notice to the other party of its intention to terminate. In the event of such termination, it is understood and agreed that only the amounts due SPFI for services provided and expenses incurred to the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement.

**SECTION V  
COMPENSATION AND EXPENSE REIMBURSEMENT**

The fees due to SPFI for the services set forth and described in Section I of this Agreement with respect to each issuance of Debt during the term of this Agreement shall be calculated in accordance with the schedule set forth on Appendix A attached hereto. Unless specifically provided otherwise on Appendix A or in a separate written agreement between the Issuer and SPFI, such fees, together with any other fees as may have been mutually agreed upon and all expenses for which SPFI is entitled to reimbursement, shall become due and payable concurrently with the delivery of the Debt to the purchaser.

**SECTION VI  
MISCELLANEOUS**

1. Choice of Law. This Agreement shall be construed and given effect in accordance with the laws of the State of Texas. Proper venue for any legal action arising out of this Agreement shall be Kerr County, Texas.
2. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the Issuer and SPFI, their respective heirs, executors, personal representatives, successors and assigns; provided however, neither party hereto may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party.
3. Texas State Law Certifications.
  - (a) *No Israel Boycott Certification.* SPFI represents that, to the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, neither SPFI, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the SPFI (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

(b) *No Energy Company Boycott Certification.* SPFI represents that, pursuant to Texas Government Code, 2274, as enacted in Senate Bill 13 by the 87<sup>th</sup> Legislature, if SPFI is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with Issuer is \$100,000 or more, SPFI represents and warrants to Issuer that SPFI does not boycott energy companies and will not boycott energy companies during the term of this Agreement. “Boycott energy companies” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations with a company because the company engages in the exploration, production utilization, transportation, sale or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law.

(c) *No Discrimination of Firearm Entities or Trade Associations Certification.* SPFI represents that, pursuant to Texas Government Code, Chapter 2274, as enacted in Senate Bill 19 by the 87<sup>th</sup> Legislature, if SPFI is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with Issuer is \$100,000 or more, SPFI represents and warrants to Issuer that SPFI does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. A “firearm entity” means a firearm, firearm accessory, or ammunition manufacture, distribute, wholesaler, supplier or retailer, or a sport shooting range. A “firearm trade association” means any person, corporation, unincorporated association, federation, business league or business organization that is not organized or operated for profit for which none of its net earning inures to the benefit of any private shareholder or an individual that has two or more firearm entities as members or is exempt for federal income taxation under Section 501(c) of the Internal Revenue Code.

(d) *Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization.* In accordance with Texas Government Code, Chapter 2252, Subchapter F, Issuer is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By execution of this Agreement, SPFI certifies to Issuer that it is not a listed company under any of those Texas Government Code provisions. SPFI hereby voluntarily and knowingly acknowledges and agrees that this Agreement shall be null and void should facts arise leading Issuer to believe that SPFI was a listed company at the time of this Agreement.

4. Entire Agreement. This instrument contains the entire agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this Agreement shall be of no force or effect except for a subsequent modification in writing signed by all parties hereto.

Specialized Public Finance Inc.

By: \_\_\_\_\_  
Managing Director

Kerrville Public Utility Board Public  
Facilities Corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

*The Issuer acknowledges that the decision to engage SPFI was reached based solely upon the expertise of SPFI to perform the duties outlined in this Agreement. The Issuer further acknowledges that no non-public information was relied upon in the decision to engage SPFI.*

## APPENDIX A

### Fee Schedule:

Base fee, any issue \$10,000  
Plus \$8 per \$1,000 funds delivered up to \$5,000,000 funds delivered,  
Plus \$6 per \$1,000 funds delivered for the next \$5,000,000, for a total of \$10,000,000 funds delivered,  
Plus \$4 per \$1,000 funds delivered for the next \$5,000,000 for a total of \$15,000,000 funds delivered,  
Plus \$2 per \$1,000 funds delivered thereafter over \$15,000,000.

The above charges shall be multiplied by 1.25 times for the completion of an application to a federal or state government agency or for the issuance of refunding bonds, reflecting the additional services required.

The charges for ancillary services shall be levied only for those services which are reasonably necessary in completing the transaction and such charges were incurred at the specified direction of the Issuer.

*The payment of charges for financial advisory services in Section I of the foregoing Agreement shall be contingent upon the delivery of bonds and shall be due at the time that bonds are delivered. The payment of charges for services described in Section II of the foregoing Agreement shall be due and payable in accordance with the mutual agreement therefor between SPFI and the Issuer.*

The Issuer shall be responsible for the following expenses, if and when applicable:

Bond counsel  
Bond ratings  
Computer structuring  
Continuing Disclosure, as per Section II  
Credit enhancement  
Verification agent  
Official statement preparation  
Official statement printing  
Paying agent/registrar/trustee  
Travel related expenses  
Underwriter and underwriters' counsel  
Delivery, copy, conference call charges and other miscellaneous charges

*The payment of reimbursable expenses that SPFI has assumed on behalf of the Issuer shall NOT be contingent upon the delivery of bonds and shall be due at the time that services are rendered and payable upon receipt of an invoice therefor submitted by SPFI.*

**RESOLUTION NO. 24-03**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION AUTHORIZING THE CORPORATION TO NEGOTIATE TERM SHEETS TO FACILITATE THE CONSTRUCTION AND MANAGEMENT OF A POWER GENERATION PROJECT**

**WHEREAS**, the City Council of the City of Kerrville, Texas (the *City*) authorized and approved the creation of the Kerrville Public Utility Board Public Facility Corporation (the *Corporation*) under Chapter 303, as amended, Texas Local Government Code (the *Act*), for the purpose of financing or providing for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of “public facilities” (as defined in the Act), including electric power supply facilities to be devoted to public use by the City’s electric, light and power system (the “*System*”), as managed by the Kerrville Public Utility Board (“*KPUB*”) in an orderly, planned manner and at the lowest possible costs (collectively, the *Public Purposes*); and

**WHEREAS**, at the call of a majority of the incorporators of the Corporation, and after delivery of adequate notice in compliance with the Act, the Corporation’s board of directors (the *Board*) approved Bylaws, elected its officers, and undertook other matters necessary and incidental the Corporation’s organization; and

**WHEREAS**, the Board determines that it is in the public interest and to the benefit of the City’s residents that term sheets be negotiated with KPUB and developers and service providers to facilitate the construction and Management of a Gas-Fired Reciprocating Internal Combustion Engine (RICE) Facility Project (the “*Project*”), as further described in Exhibit A of this Resolution, in order to effectuate the Public Purposes in a timely and cost-effective manner; and

**WHEREAS**, to Board deems it beneficial that such bond counsel should serve as third-party designee on behalf of the Corporation to facilitate the application of an Employee Identification Number with the Internal Revenue Service, or such other evidences of tax-exempt status as may be necessary; and

**WHEREAS**, the Board hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the City; now, therefore,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION:**

**Section 1.** The negotiation of terms sheets with KPUB and developers and service providers to facilitate the construction and management of the Project will support the Public Purposes of the Corporation.



**Section 2.** The Executive Director, or his designee, is authorized to negotiate term sheets for future consideration of approval by the Board with KPUB and developers and service providers to facilitate the construction of a Gas-Fired Reciprocating Internal Combustion Engine (RICE) Facility Project in order to effectuate the Public Purposes in a timely and cost-effective manner.

**Section 3.** All prior acts of the Executive Director and his designees in support of the purposes authorized by Section 2 of this Resolution are hereby confirmed and ratified by the Board.

**Section 4.** This Resolution shall be construed and enforced in accordance with the laws of the State and the United States of America.

**Section 5.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 6.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was, open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code and in accordance with the Corporation's Bylaws.

**Section 7.** This Resolution shall become effective immediately upon passage by the Board.

**PASSED, APPROVED AND ADOPTED on this 25<sup>th</sup> day of September, 2024**

**KERRVILLE PUBLIC UTILITY BOARD  
PUBLIC FACILITY CORPORATION**

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**President, Board of Directors**

**ATTEST:**

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**Secretary, Board of Directors**

(CORPORATE SEAL)

## EXHIBIT A

### PROJECT DESCRIPTION

The generation project (the “*Project*”) contemplated is a new simple cycle natural gas peaking facility with a nominal generating capacity of 122 MW to be located outside the KPUB service area, near natural gas supply. The Project will utilize fast start natural gas-fired reciprocating internal combustion engines capable of reaching full load in less than 10 minutes.

**RESOLUTION NO. 24-04**

**A RESOLUTION RELATING TO ESTABLISHING THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR LAWFUL EXPENDITURE OF FUNDS FROM THE PROCEEDS OF TAXABLE AND TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CORPORATION FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Board of Directors (the "*Governing Body*") of Kerrville Public Utility Board Public Facility Corporation (the "*Issuer*") has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer to finance the costs associated with (i) acquiring, purchasing, constructing, improving, extending, enlarging, and repairing the City of Kerrville, Texas's electric, light, and power system as improved, maintained, and/or operated by the Issuer (the "*Construction Costs*"), (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the "*Engineering Costs*"), (iii) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the "*Architectural Costs*"), and (iv) the payment of various administrative costs, including the fees of bond counsel, financial advisor, project manager, project consultant, other professionals, and bond printer (the "*Administrative Costs*") (the Construction Costs, the Engineering Costs, the Architectural Costs, and the Administrative Costs collectively constitute the costs of the Issuer's projects that are the subject of this Resolution (the "*Project*"); and

**WHEREAS**, the provisions of Section 1201.042, as amended, Texas Government Code ("*Section 1201.042*") provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

**WHEREAS**, the United States Department of Treasury (the "*Department*") released Regulation Section 1.150-2 (the "*Regulations*") which establishes when the proceeds of obligations are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the "*Code*"); and

**WHEREAS**, the Issuer intends, to the extent applicable, to reimburse itself, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of taxable and tax-exempt obligations (the "*Obligations*") that the Issuer currently contemplates issuing in the aggregate principal amount of not to exceed \$\_\_\_\_\_ to finance a portion of the costs of the Project; and

**WHEREAS**, under the regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer must declare its expectation ultimately to make such reimbursement before making the expenditures; and

**WHEREAS**, the Issuer hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer is not inconsistent with the Issuer's budgetary and financial circumstances; and

**WHEREAS**, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the residents of the Issuer; now, therefore,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE KERRVILLE PUBLIC UTILITY BOARD PUBLIC FACILITY CORPORATION:**

**Section 1.** This Resolution is a declaration of intent, to the extent applicable, to establish the Issuer's reasonable, official intent under section 1.150-2 of the Regulations and Section 1201.042 to reimburse itself from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from the Issuer's General Fund or other lawfully available funds of the Issuer.

**Section 2.** The Issuer intends to issue the Obligations and allocate within 30 days after the date of issuance of the Obligations the proceeds therefrom to reimburse the Issuer for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

**Section 3.** The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

**Section 4.** The Issuer intends to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

**Section 5.** This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer with the requirements of Texas law and the Regulations.

**Section 6.** With respect to the proceeds of Obligations, to the extent applicable, allocated to reimburse the Issuer for prior expenditures, the Issuer shall not employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of "replacement proceeds", as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issue of tax-exempt obligations.

**Section 7.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body.

**Section 8.** All orders and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

**Section 9.** This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**Section 10.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 11.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

**Section 12.** This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

**PASSED, APPROVED AND ADOPTED on this 25<sup>th</sup> day of September, 2024**

**KERRVILLE PUBLIC UTILITY BOARD  
PUBLIC FACILITY CORPORATION**

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**President, Board of Directors**

**ATTEST:**

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**Secretary, Board of Directors**

(CORPORATE SEAL)