



Tony Groves
Mayor

Larry Land
Council Member Place 1

Missi Elliston
Council Member Place 2

Jeffrey Sutton
Council Member Place 3

Jane Huffman
Mayor Pro Tem
Council Member Place 4

Jay May
Council Member Place 5

Erin Corbell
Acting City Manager

Tina Keys
City Secretary

Sharon Hicks
City Attorney

MISSION

The City of Brady strives to share its history and encourage the development of diverse housing, employment, infrastructure, and opportunity through transparent management and financing for all residents and employees.

CITY OF BRADY COUNCIL AGENDA REGULAR CITY COUNCIL MEETING MARCH 1, 2022 AT 6:00 PM

NOTICE is hereby given of a meeting of the City Council of City of Brady, McCulloch County, State of Texas, to be held at 6:00 p.m. March 1, 2022, at the City of Brady Municipal Court Building located 207 S. Elm St., Brady, Texas, for the purpose of considering the following items. The City Council of the City of Brady, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

2. INVOCATION & PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS: Reserved for items NOT listed on the agenda

Please limit individual public comments to three (3) minutes. In accordance with TX AG opinion, any public comment addressing items not on the agenda, will only be heard by the City Council. No formal action, deliberation, discussion, or comment will be made by City Council. State Law prohibits any deliberation or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff to place the item on an agenda for a subsequent meeting.

4. CONSENT AGENDA: Reserved for routine items to save time

Any item may be removed from the Consent Agenda at the request of a Council Member and considered separately following the Consent Agenda approval. All items listed on the Consent Agenda are to be with one motion "Move to approve Consent Agenda."

A. Approval of Minutes for Regular Meeting on February 15, 2022

5. PRESENTATIONS

6. PUBLIC HEARING:

None

7. INDIVIDUAL CONCERNS

City Council Members are to deliberate the following items. Staff will present the item and are prepared to answer City Council Member questions. The Mayor will recognize Council Members as the council discuss the item so everyone is heard. Once the City Council Members finish discussion, the Mayor will recognize attendees who have comments. Attendees and council members need to direct comments to the Mayor as they are recognized. When all comments are complete, the Mayor will call for a motion.

- A. Discussion, consideration and possible action authorizing the acting City Manager to execute a long-term service agreement with Water Remediation Technology LLC (WRT), Westminster, CO for proprietary services involving specialties: treatment vessels, ion exchange media and operational support for activation of radium reduction & removal system.
- B. Discussion, consideration and possible action regarding Resolution 2022-004 adopting a City Standard Operating Procedure (SOP) Policy for Electronic Transfer of Funds
- C. Discussion, consideration and possible action to approve Hotel Occupancy Tax (HOT) Funding Application from the Heart of Texas Country Music Association for their annual Heart of Texas Country Music Festival.

8. STAFF REPORTS

A. Upcoming Special Events/Meetings:

March 15	Regular City Council Meeting, 6:00
April 5	Regular City Council Meeting, 6:00
April 15	Good Friday Holiday, Altered Trash Schedule
April 19	Regular City Council Meeting, 6:00
April 23	Happy Birthday Missi Elliston

9. ANNOUNCEMENTS

Pursuant to the Texas Government Code § 551.0415, City Council Members and City staff may make reports about items of community interest during a meeting of the governing body without having given notice of the report. Items of community interest include: Expressions of thanks, congratulations, or condolence; an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision; Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and announcements involving an imminent threat to public health and safety of people in the municipality that has arisen after the posting of the agenda.

10. EXECUTIVE SESSION

None

11. OPEN SESSION ACTION ON ANY ITEMS COMING OUT OF EXECUTIVE SESSION

12. ADJOURNMENT

I certify that this is a true and correct copy of the City of Brady City Council Meeting Agenda and that this notice as posted on the designated bulletin board at Brady City Hall, 201 E. Main St., Brady, Texas 76825; a place convenient and readily accessible to the public at all times, and said notice was posted on _____ by 6:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

Tina Keys, City Secretary

In compliance with the American with Disabilities Act, the City of Brady will provide for reasonable accommodations for persons attending public meetings at City facilities. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 325-597-2152 or tkeys@bradytx.us

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

The City Council of the City of Brady reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations regarding Real Property), 551.073 (Deliberations regarding prospective Gifts or Donations), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), 551.086 (Deliberate, vote or take final action on competitive matters of the public power utility), and 551.087 (Deliberation regarding Economic Development).

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes written interpretation of the Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.104(c) and the meeting is conducted by all participants in reliance on this opinion.

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday February 15, 2022, at 6:00 pm with Mayor Anthony Groves presiding in person. Council Members present were Jane Huffman, Missi Elliston, Jay May, Larry Land, and Jeffrey Sutton. City staff present were Acting City Manager Erin Corbell, Public Works Director Steven Miller, Police Chief Steve Thomas, and City Secretary Tina Keys. Also in attendance were Taylor Hoffpauir, Cameron Turk, Mark Mayfield, James Stewart, James Morris, Rebecca Spinoso and Mark Spinoso.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Council quorum was certified.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member May gave the invocation, and the Pledge of Allegiance was recited.

3. PUBLIC COMMENTS

Cameron Turk – made packets for council and reviewed information regarding sales of her father’s stolen tools. Mayor Groves explained that the Council cannot have a discussion with Mrs. Turk under Public Comments. The comments will be relayed to the City Manager and the police, and they will follow up. Council Member Elliston asked if Council could get a response and Erin Corbell responded and said “not on an open investigation”.

4. CONSENT AGENDA

- A. Approval of Minutes for Regular Meeting on February 1, 2022.
- B. Discussion, consideration and possible action regarding Resolution 2022-003 to request TXDOT/City Street closures for the Chamber of Commerce 2nd Annual Farm to Table Fundraiser Dinner to be held on Saturday, April 23, 2022

Council Member Ellison moved to approve the Consent Agenda. Seconded by Council Member May. All Council Members voted “aye” and none “nay”. Motion passed with a 5 – 0 vote.

5. PRESENTATIONS:

None

6. PUBLIC HEARINGS AND INDIVIDUAL CONCERNS ON PUBLIC HEARING

None

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration and possible action approving Resolution 2022-002 supporting the development and the allocation of housing tax credits for 218 Lynn Gavit and acknowledging that the City of Brady has more than twice the state average of units per capita supported by housing tax credits or private activity bonds. Mayor Groves introduced Mark Mayfield of the Texas Housing Foundation who presented to Council. Council Member Huffman asked if Sagebrush pays property taxes. Mr. Mayfield said they do not. Council Member Huffman asked if they are a non-profit. Mr. Mayfield said they are a public housing authority so they are exempt from ad-valorem taxes. Council Member Elliston moved to approve Resolution 2022-002. Seconded by Council Member Huffman.

Four Council Members voted “aye” with one Council Member, Sutton, voting “nay”. Motion passed with a 4 - 1 vote.

- B. Discussion, consideration and possible action to approve Hotel Occupancy Tax (HOT) Funding Application from Brady Golf Association for the 64th Annual Dr. Harry C. Priess Memorial Day Classic. Taylor Hoffpauir presented. Council Member Land said he would abstain from voting since he’s on the Golf Association board. Council Member Huffman said it would have to be a true conflict of interest, that Land would benefit monetarily, to constitute a conflict of interest. Council Member Huffman told Council Member Land that he must vote. Council Member May moved to approve an amount to award to Brady Golf Association in support of the 64th Annual Dr. Harry C. Priess Memorial Day Classic. Seconded by Council Member Huffman. All Council members voted “aye” and none “nay”. Motion passed with a 5 – 0 vote.
- C. Discussion, consideration and possible action to approve Hotel Occupancy Tax (HOT) Funding Application from McCulloch County Historical Theater Society for their Live from the Palace Theater events. Taylor Hoffpauir and James Stewart presented to Council. Stewart said it is an attempt to bring live events to the theater on a monthly basis on the 2nd weekend of the month. The improvements are lights and sound for stage events and set up and take down. Council Member Elliston moved to approve an amount to award to the Palace Theater in support of the Live from the Palace Theater events. Seconded by Council Member Huffman. All Council members voted “aye” and none “nay”. Motion passed with a 5 – 0 vote.
- D. Discussion regarding golf course fees and contracts. Erin Corbell said Council Member Huffman believes there was a previous discussion regarding membership for a portion of the year so she requested it come back for further discussion. Council Member Huffman had a citizen come to her asking about monthly memberships. Council Member Huffman said she believes we talked about in budget and decided we would allow monthly memberships to allow for people who were elderly and could only play 3 months out of a year. Even college kids, different people would benefit. It came to her attention that it was not being enforced. She was told it would be enforced. Council Member Huffman would like to spell out that discussion. Erin Corbell said it takes year round memberships to maintain the course so it’s playable during the summer months, so it’s difficult to structure to where people are only members during the summer but the full time year round members bear the annual cost. Corbell said she doesn’t think we should make that available to everybody. Council Member Huffman said the decision was made during budget. Council Member Sutton said he questions that because we would be constantly checking if somebody is in college or out of college. The elderly doesn’t bother him if the correct parameters are put in place. Council Member Huffman said it’s good for the community. She thinks it will bring more people in. Council Member Huffman said there is already a student rate that’s not verified anyway. Mayor Groves said City Manager Corbell to collect more information, and since fees are determined by ordinance, Erin Corbell could look at building a draft ordinance and bring back to Council.
- E. Discussion regarding street sanitation fees. Erin Corbell said Council Member Elliston has been talking with a citizen who has city utilities and live in the city limits but we do not maintain their street so they don’t think they should pay the street sanitation fee. Erin Corbell said we do maintain that street in question. It’s possible they simply haven’t seen the street sweeper. Corbell said the only place in the city limits that does not get serviced by the street sweeper is Simpson Lake Club and that was at their request; and they still pay the fee. Corbell said she is working with staff in reconciling. What triggers the street sweeper fee is if you have trash. She’s trying to see who pays but doesn’t get the service. Corbell said currently the truck is down. Council Member Elliston asked

how long it has been down. Steven Miller said before the new year. Miller went on to say we got it fixed, but then the street sweeper employee has been out with COVID off and on. Miller said the street sweeper runs on a weekly basis. Sometimes there's no reason to sweep because the streets haven't had any accumulated debris. Council Member Elliston asked what it costs to maintain that fund. Erin Corbell said it goes to its own fund and it does not make enough money to support itself. Erin said the fund is street maintenance. Steven Miller also confirmed that the road in question, Old Mason Road, is on the schedule for sweeping and is being swept.

8. STAFF REPORTS

A. Monthly Financial / Utility Reports:

B. Tourism Report 2021

C. Upcoming Special Events/Meetings:

February 21	President's Day Holiday – City Offices closed – altered trash schedule
March 1	Regular City Council Meeting – 6:00 p.m.
March 15	Regular City Council Meeting – 6:00 p.m.
April 5	Regular City Council Meeting, 6:00
April 15	Good Friday Holiday, Altered Trash Schedule
April 19	Regular City Council Meeting, 6:00
April 23	Happy Birthday Missi Elliston

9. ANNOUNCEMENTS

City Manager Corbell said she will be in Austin next Tuesday morning to meet with TxDOT on an airport project and will be in Granbury Thursday and Friday for a conference. She will be out of the office but will be available by phone.

10. EXECUTIVE SESSION

The City Council of the City of Brady adjourned into Executive Session for the following:

- A. Pursuant to Section 551.072 (Deliberations about Real Property), the City Council will deliberate the purchase, exchange, lease, or value of real properties of the City as the deliberations in an open meeting will have the detrimental effect on the position of the City in negotiations with a third person
- B. Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: City Manager

Regular Session was closed at 6:50 p.m. Executive Session was opened at 7:00 p.m. and closed at 8:47 p.m. and resumed Open Session.

11. OPEN SESSION ACTION ON ANY ITEMS COMING OUT OF EXECUTIVE SESSION

There was no action as a result of Executive Session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 8:48 p.m.

Mayor Anthony Groves

Attest: _____
Tina Keys, City Secretary

City Council
City of Brady, Texas
Agenda Action Form

AGENDA DATE:	03/01/2022	AGENDA ITEM	7.A.
AGENDA SUBJECT:	Discussion, consideration, and possible action authorizing the acting city manager to execute a long-term service agreement with Water Remediation Technology LLC (WRT), Westminster, CO for proprietary services involving specialties: treatment vessels, ion exchange media and operational support for activation of radium reduction & removal system.		
PREPARED BY:	S. Miller	Date Submitted:	02/25/2022
EXHIBITS:	WRT Radium Reduction and Removal System Agreement Governmental Contract Rider		
BUDGETARY IMPACT:	Required Expenditure:	\$292,220.00	
	Amount Budgeted:	\$292,220.00	
	Appropriation Required:	\$0.00	
CITY MANAGER APPROVAL:			

SUMMARY:
WRT has submitted their long-term service agreement outlining certain operational & maintenance contractual parameters for the reduction and removal of radionuclides (radium) in drinking water to below maximum contaminant levels as defined by USEPA Safe Drinking Water Act or 5pCi/L (picocuries per liter). The agreement is on a volume basis or a maximum of 365,250,000 gallons per year at a base charge of \$0.80/1000gal. The city's 2021 annual average water production equaled 344,000,000 gallons. WRT is the responsible party for custody and disposal of spent media, a low-level radioactive type of waste, including all handling, removal, and transportation to a licensed hazardous waste facility. WRT's long-term service agreement is a 10-year period on a calendar year basis and subject to CPI adjustment per annum; and invoicing is expected to begin in June 2022.
RECOMMENDED ACTION:
Mayor: <u>"Do I have a motion to authorize the city manager to execute the proposed agreement."</u>
Mayor calls for a motion: Move to approve.

**WRT RADIUM REDUCTION AND REMOVAL
SYSTEM AGREEMENT**

BETWEEN

CITY OF BRADY, TEXAS

AND

WATER REMEDIATION TECHNOLOGY LLC

PLEASE NOTE

THE PRICES CONTAINED IN THIS PROPOSED WRT
RADIUM REDUCTION AND REMOVAL SYSTEM
AGREEMENT ARE OFFERED ONLY UNTIL MARCH 1, 2022.

IF THIS PROPOSED AGREEMENT IS NOT EXECUTED
PRIOR TO THAT DATE, THE PRICES MAY BE ADJUSTED

WRT RADIUM REDUCTION AND REMOVAL SYSTEM AGREEMENT

BASIC PROVISIONS

This **WRT RADIUM REDUCTION AND REMOVAL SYSTEM AGREEMENT (Agreement)** is made as of the date of execution, below, between City of Brady, Texas, a municipality under the laws of the State of Texas (the **Client**), and **Water Remediation Technology LLC (WRT)** of Westminster, Colorado. This **Agreement** consists of these **Basic Provisions** (including EXHIBITS A, B, C, AND D) and the **Standard Terms** (including EXHIBIT F), all of which together constitute this **Agreement**.

RECITALS

- A. The **Client** owns or operates the **Client's Water System**, which includes a **Water Source** producing water containing **Radium** in concentrations which exceed the **MCL**. **WRT** provides **WRT Radium Reduction and Removal Systems** which reduce the level of **Radium** in water by contact with **WRT Media** contained in the system. When the **WRT Media** requires exchanging, **WRT** removes it and has it delivered to a **Licensed Facility** for disposal and/or treatment.
- B. The **Client** is separately purchasing a **WRT System**.
- C. The parties wish to enter into an **Agreement** providing the following:
 - (2) The **Client** will make the **Site** available to **WRT** and provide access to and from the **Site**;
 - (3) The **Client** will install the **WRT System** in the **Site**;
 - (4) **WRT** will provide the **Client** with **WRT Media**;
 - (5) **WRT** will undertake the maintenance of the **WRT System**, the installation of **WRT Media** in the **WRT System** from time to time, and the removal and disposal of **Spent Media** from the **WRT System**.

In consideration of the recitals and undertakings set forth in this **Agreement**, the **Client** and **WRT** hereby agree as follows:

ARTICLE 1 TERM

- 1.1 **Term**
 - (a) This **Agreement** will be effective when the parties execute it (**Commencement Date**).
 - (b) Unless the **Term** is changed as permitted in the **Standard Terms**, this **Agreement** ends ten (10) years from the date the first **WRT System** sold to the **Client** begins operation pursuant to this **Agreement**.

ARTICLE 2 CONFIDENTIALITY

- 2.1 **Confidentiality**

The **Client** acknowledges the confidential nature of **WRT Technology**, and agrees not to disclose, use, access or test the **WRT Technology** or **WRT Media**, except as provided in Section 3 of the **Standard Terms**.

ARTICLE 3 WRT SYSTEMS

- 3.1 **Sale of WRT Systems**

The **Client** is separately purchasing the **WRT System** which is the subject of this Agreement.
- 3.2 **WRT Media**

WRT will, throughout the **Term**, provide all **WRT Media** required for the operation of the **WRT System**. **WRT** is responsible for delivery of all required **WRT Media** directly to the **Site** and for arranging for its unloading.
- 3.3 **WRT's Operation, Removal, and Disposal Obligations**
 - (a) **WRT** will be responsible for its tasks included in Part I of Exhibit D before the **WRT System** begins operation.
 - (b) At all times during the **Term** of this **Agreement**, **WRT** will:
 - (i) provide training as set forth in Part 1 of Exhibit D;

- (ii) monitor the **Client's** operation of the **WRT System** as specifically provided in the **Operation and Maintenance Manual**;
 - (iii) maintain the **WRT System** as specifically provided in the **Operation and Maintenance Manual**;
 - (iv) when required, arrange for the removal of **Spent Media** from the **WRT System**, including the prompt clean up of any spilled or released **Spent Media**, and arrange for the transport of all **Spent Media** to, and the disposal of **Spent Media** in, a **Licensed Facility**;
 - (v) when **Spent Media** is removed from the **WRT System**, install replacement **WRT Media**;
 - (vi) ensure that employees and agents of the **Client** will not be required, at any time:
 - A. to install, remove or otherwise handle any **WRT Media** or any **Spent Media**; or
 - B. to install in, apply to, or remove from the **WRT System** any chemical, compound, material or other substance; and
 - (vii) clean up any **WRT Media** or **Spent Media** released at the **Site** resulting from a media exchange, from an accident caused by **WRT**, or from an equipment failure caused by **WRT**; provided that the **Client** shall pay the **WRT Cost** of any cleanup of **WRT Media** or **Spent Media** released at the **Site** for any other reason.
- (c) **WRT** shall ensure that all **Spent Media** removed from the **WRT System** is loaded into a transportation vehicle in a reasonable time, and is transported to a **Licensed Facility** for disposal; and **WRT** shall provide written confirmation of the acceptance for disposal by the **Licensed Facility** of the **Spent Media** together with the name of the **Licensed Facility**, the date of delivery, and the applicable identifying numbers allotted to the receipt and disposal and/or treatment of that **Spent Media**.
- (d) Consistent with the terms of this **Agreement**, **WRT** agrees that at any time a **Compliance Test** shows an **Action Level Concentration**, **WRT** shall remove **Spent Media** or take other action provided for in Section 7 of the **Standard Terms**.
- (e) **WRT** agrees that after the expiration or termination of this **Agreement**, that it will undertake any required **Deactivation** of the **WRT System** and **Site**.
- (f) The parties agree that **WRT** is providing to the **Client** services associated with the removal of **Radium** from water and is not providing treated water to the public or to the **Client's** customers.

3.4 **Required Client Services**

The **Client**, at its cost and expense, will:

- (a) Construct, erect or otherwise provide the **Structure**;
- (b) Install the **WRT System** in the **Structure**;
- (c) Connect the **WRT System** into the **Client's Water System**;
- (d) Provide, during each installation of **WRT Media**, a means of disposal of rinse water used in the installation process.
- (e) Provide, maintain and replace when necessary all pre-filter bags and cartridges installed between the **Water Source** and the **WRT System**.
- (f) Perform daily monitoring of the **WRT System** consistent with the **Operation and Maintenance Manual**, including submitting all monitoring information to **WRT** weekly;
- (g) Conduct all **Compliance Tests** called for in Article 6.1 or required by law and whatever other water tests the **Client** chooses to conduct or have conducted. The **Client** will also collect samples and have them tested as directed by **WRT**, but the cost of such additional testing will be paid by **WRT**. Within three days of receipt, the **Client** will provide copies of the results of all tests of all samples to **WRT**. The **Client** shall also provide in writing, details of monthly flow meter readings for the **WRT System** within seven days of such reading being made;
- (h) Provide, or cause to be provided, all required facility security against vandalism and terrorism for the **Water Source**, **Structure**, and **WRT System** in compliance with national, state and local requirements;
- (i) Be responsible for its tasks set out in Part 2 of Exhibit D and in Section 10 of the **Standard Terms**; and
- (j) Ensure that the **WRT System** is operated by a water operator who is appropriately licensed in the jurisdiction where the **WRT System** is located.

3.5 **Use of WRT System**

The **Client** agrees to make the **WRT System** available throughout the **Term** for use by the **Client** and **WRT** as provided in this **Agreement**. **WRT** will exercise control over the **WRT System** as provided in Section 4.10 of the **Standard Terms**.

3.6 **Ownership of WRT Media**

The **Client** and **WRT** acknowledge and agree that:

- (a) For the purposes of all applicable governmental regulations, and for all purposes of this **Agreement**, the **Radium** and other radioactive materials in the **Client's Water System**, is, and at all applicable times except as specifically provided in Article 3.6(c), shall be deemed to be owned by the **Client**.
- (b) Subject to the confidentiality provisions of this **Agreement**, title to **WRT Media** that **WRT** delivers, or causes to be delivered, to the **Site** will remain with **WRT**; and
- (c) The **WRT Media** and the **Spent Media** including all **Radium** loaded onto the **WRT Media** are the property of **WRT**.

ARTICLE 4 FEES AND CHARGES

4.1 **Base Volume of Water**

The charges due under this Agreement are based on the volume of water produced by the **Water Source**. Exhibit A sets out the **Base Volume** for the **Water Source**, and the **Volume Charge** to be applied when the Base Volume is exceeded.

4.2 **Treatment Charge – Base Treatment Charge**

- (a) The **Client** will pay the **Treatment Charge** plus all **Applicable Taxes** to **WRT** as set forth in Section 5.1 of the **Standard Terms**.
- (b) The **Treatment Charge** set forth in Exhibit A is the same as the **Base Treatment Charge**.

4.3 **Volume Charges- Base Volume Charge**

- (a) In the event the total volume of water treated by the **WRT System** during any calendar year exceeds the **Base Volume**, then the **Client** will pay **WRT** the "**Volume Charge**" for each 1000 gallons in excess of the **Base Volume**.
- (b) The **Volume Charge** set forth in Exhibit A is the same as the **Base Volume Charge**.

4.4 **Adjustments and Additional Charges**

Under certain circumstances there will be adjustments and additional charges. Those circumstances, and the section of the **Standard Terms** in which the adjustments are as follows:

- (a) The **Treatment Charge** and the **Volume Charge** will be adjusted for inflation, as provided in Section 5.3 of the **Standard Terms**;
- (b) If the **Radium** level changes, the **Volume Charge** shall be adjusted as provided in Section 6.14 of Exhibit A, but in no instance shall they be less than the minimum amounts set forth in Sections 3.1 and 3.3 of Exhibit A.;;
- (c) If the water profile changes, a **Water Profile Change Charge (Other)** may become payable, as provided in Section 5.5 of the **Standard Terms**;
- (d) "**Governmental Adjustments**" may become payable as provided in Section 5.6 of the **Standard Terms**; and
- (e) If **WRT** incurs additional costs (including the cost of additional labor) during a media exchange as a consequence of the **Client** providing inadequate **Access and Loading Areas**, as called for in Section 11.3 of the **Standard Terms**, the **Client** will pay to **WRT**, within 30 days of receipt of an invoice from **WRT**, the amount of such additional costs.

4.5 **Additional Services by WRT**

If at any time the **Client** wishes **WRT** personnel to be present at the **Site** or to undertake any additional work or services other than those specified in this Agreement, **WRT** shall use reasonable efforts to do so and the **Client** shall pay to **WRT**, within 30 days of receipt of an invoice from **WRT**, an amount equal to the **WRT Cost** for providing such services.

4.6 **Financial Assurance**

If, for any reason, the **Client** or **WRT** are required, at any time, to provide any type of **Financial Assurance** to or by the **Radiation Protection Agency** or other governmental agency in connection with the use, operation, service and ultimate removal and disposal of the **WRT System**, of **WRT Media** and of **Spent Media** which are the subject of this **Agreement**, the **Client** will provide such **Financial Assurance**.

4.7 **Additional WRT Systems**

- (a) Upon the agreement of the parties, additional **WRT Systems** may be added to this **Agreement**. In order to incorporate additional **WRT Systems** into this **Agreement**, the parties will do the following:
 - (i) For each additional **Water Source**, the parties will agree upon the **Design Flow Range**, the **Agreed Radium Concentration**, the **Agreed Water Profile**, the **Base Treatment Charge**, the **Base Volume**, the **Base Volume Charge**, the **System Equipment Charge**, the **Base Index Date**, the **Inflation Increase Date**, any **One Time Charges**, and the amount of any **Deactivation Payments**.

- (ii) The parties' agreement to these terms will be documented in the same form as Exhibits A, B, C and D, hereto, along with a writing, executed by the parties, manifesting their agreement to the addition of the **WRT System** and the terms contained in the exhibits.
- (iii) Each new **WRT System** will be considered a separate system unless otherwise specified in the exhibits and/or the executed writing incorporating such **WRT System** into this **Agreement**.
- (b) For each **WRT System** incorporated into this **Agreement** after the **Commencement Date**, the **Term** of this **Agreement** will be extended so that, for each such **WRT System**, a new **Term** as defined in Article 1.1, above, will begin on the date the **WRT System** begins operation. The addition of a new **WRT System** to this **Agreement** will not extend the **Term** as to any pre-existing **WRT System**.

ARTICLE 5 TERMINATION

5.1 Termination of this Agreement by Client

The **Client**, at its option, may elect to terminate this **Agreement** upon payment of the **Deactivation Payment**, as provided in Section 6.1 of the **Standard Terms**.

5.2 Termination of this Agreement by WRT

WRT may elect to terminate this **Agreement** as provided in Section 6.2 of the **Standard Terms**.

5.3. Client's Rights

The **Client** may withhold payment or terminate this **Agreement** in respect of a **Non-Compliant System** as provided in Section 4.3, Section 7.3, and Section 8.3 of the **Standard Terms**.

ARTICLE 6 MCL COMPLIANCE

6.1 Testing for MCL Compliance

In order to determine whether the level of **Radium** and **Gross Alpha** in water returned to the **Client's Water System** after passing through the **WRT System** complies with the **MCL**, the **Client** will perform, at the **Client's** sole cost, **Compliance Tests** of such water as and when required by any and all governmental authorities (but not less than once per calendar quarter) or at such additional times as the **Client** may choose.

6.2 Non-Compliant System

If the results of any **Compliance Test** for water exiting the **WRT System** show a **Radium** level above the **MCL**, the provisions of Section 7.3 of the **Standard Terms** shall apply to determine whether the **WRT System** becomes a **Non-Compliant System**.

6.3 Changes From Agreed Water Profile and Agreed Radium Concentration

If the results of any **Compliance Test** for water exiting the **WRT System** show a **Radium** level above the **MCL** and the subsequent **Sampling and Testing** of the **Water Source** indicates that the water entering the **WRT System** is not consistent with the **Agreed Water Profile** or the **Agreed Radium Concentration** for the **Water Source**, then the provisions of Section 7.4 of the **Standard Terms** shall apply.

ARTICLE 7 PAYMENTS

7.1 Obligation to Pay

- (a) Except as specifically otherwise provided in this **Agreement**, the **Client** is obligated to pay all charges called for in this **Agreement** and will be paid in full, on time, and without deduction, abatement or setoff of any kind.
- (b) All payments to be made by the **Client** to **WRT** under this **Agreement** will be paid with good funds by check or wire transfer.
- (c) The **Client's** payments under this **Agreement**, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code. The **Client** may modify any amount due to **WRT** presented by invoice to the **Client** if necessary, to conform the amount to the terms of this **Agreement**.

**ARTICLE 8
APPROVALS AND PERMITS**

8.1 Client Approvals and Permits

- (a) The **Client**, at its cost and expense, will be responsible for, and will obtain and maintain, throughout the **Term** all **Client Approvals and Permits** as described and provided in Section 10.1 of the **Standard Terms**.
- (b) For purposes of this **Agreement**, the **Radiation Protection Agency** shall be named as an intended third-party beneficiary of any **Financial Assurance** arrangement required for activities under this **Agreement**. The **Radiation Protection Agency** shall be granted rights to enforce the provisions of such **Financial Assurance** arrangement for deactivation or other related activities. A copy of the **Financial Assurance** arrangement shall be provided to **Radiation Protection Agency**.

8.2 WRT Approvals and Permits

- (a) **WRT**, at its cost and expense, will be responsible for, and will obtain and maintain, or will cause to be obtained and maintained, throughout the **Term** all permits, licenses and other approvals required from all applicable governmental agencies:
- (i) for the production of **WRT Media**; and
 - (ii) for the delivery of **WRT Media** to the **Site** for the **Water Source**.
 - (iii) for the transportation of **Spent Media** to a **Licensed Facility**; and
 - (iv) for the disposal and/or treatment of **Spent Media** in a **Licensed Facility**.
- (b) Without limiting or relieving the **Client's** primary obligations to obtain and maintain permits for the installation use and removal of **WRT Systems**, **WRT** will also obtain and maintain, or cause to be obtained and maintained throughout the **Term** any radioactive materials licenses required for the **WRT Systems** and for the services **WRT** provides pursuant to this **Agreement**, provided always that all the costs thereof (prorated if the licenses are applicable to more than one client) shall be paid by the **Client**.
- (c) **WRT** will not be responsible for obtaining or maintaining any required **Financial Assurance** arrangements.
- (d) The **Client**, as reasonably requested by **WRT** at any time and from time to time, will cooperate with **WRT**, and will assist **WRT** in obtaining any of the **WRT Approvals and Permits**.

**ARTICLE 9
STANDARD TERMS**

The **Standard Terms**, which are an integral part of this **Agreement**, set forth the Rules of Construction of the **Agreement**, contain certain defined terms (those appearing in **bold face type**), provide further terms with respect to provisions contained in these **Basic Provisions**; and address additional issues including: Liability Claims and Insurance, Site Access and Availability; Representations and Warranties (including with respect to the parties' capacity and authority); and general terms and conditions. The GOVERNMENTAL CONTRACT RIDER FOR THE CITY OF BRADY, TEXAS (**Brady Rider**), which is executed contemporaneously with this **Agreement**, is a part of this **Agreement** and in the event of any conflict between the terms of the **Brady Rider** and the other terms of the **Agreement**, those of the **Brady Rider** shall take precedence.

IN WITNESS WHEREOF the **Client** and **WRT** have executed this Agreement.

CITY OF BRADY

WATER REMEDIATION TECHNOLOGY LLC

BY: _____

BY: _____

ITS: _____

ITS: _____

DATE: _____

DATE: _____

EXHIBIT A

PART 1 - WATER SOURCE INFORMATION

1.1	WATER SOURCE	Wells 2,3,4,5,6,7,8
1.2	ADDRESS	580 Fife Street, Brady, Texas 76825
1.3	OR LEGAL DESCRIPTION	
1.4	DESIGN FLOW RANGE (Section 1.2 of the Standard Terms)	400 Gallons per Minute to 2300 Gallons per Minute
1.6	BASE VOLUME IN GALLONS PER CALENDAR YEAR (Article 4.1 of Basic Provisions)	365,250,000 Gallons per Year
1.7	AGREED RADIUM CONCENTRATION (Section 1.2 of Standard Terms)	18.0 picocuries per liter
1.8	AGREED GROSS ALPHA CONCENTRATION, (Section 6.3, below)	22.0 picocuries per liter

PART 2 – RADIATION PROTECTION AGENCY

2.1 The **Radiation Protection Agency** for purposes of this Agreement is the Texas Department of State Health Services, Radiation Control Program.

PART 3 – FINANCIAL TERMS

3.1 **BASE TREATMENT CHARGE:** \$292,220.00 per annum (invoiced monthly).
(Section 4.2 **Basic Provisions**):

The **Client** will begin paying the **Treatment Charge** on the 1st day of the month after the payment obligation begins in conformance with Section 5.1 of the **Standard Terms**.

3.2 **BASE VOLUME:** 365,250,000 ¹gallons per calendar year.
(Article 4.1 of **Basic Provisions**)

3.3 **BASE VOLUME CHARGE:** \$0.80 per 1,000 gallons in excess of the **Base Volume** for each calendar year.
(Article 4.3 of **Basic Provisions**)

3.4 Rates for Additional Services Performed by WRT Personnel

The initial hourly rates for personnel of WRT performing additional services pursuant to Article 4.5 shall be as follows:

Principal	\$ 250.00 / hour
Department Head	\$ 165.00 / hour
Process Specialist	\$ 160.00 / hour
Project Manager	\$ 105.00 / hour
Senior Engineer	\$ 135.00 / hour
Design/CAD Engineer	\$ 90.00 / hour
Lead Service Technician	\$ 105.00 / hour
Service Technician	\$ 70.00 / hour
Radiation Safety Officer	\$ 170.00 / hour
Radiation Specialist	\$ 90.00 / hour
Administrative/Clerical	\$ 70.00 / hour
Other Support Staff	\$ 70.00 / hour

All staff personnel have been classified in the above staff categories based on discipline skills, education and experience level. Time spent in either inter-city or local travel will be billed in accordance with the foregoing schedule, except that no more than eight hours of travel time will be charged in any single day.

Overtime and weekend hours will be charged at the above rates plus an additional 50%.

Holidays will be charged at the above rates plus an additional 75%.

All travel costs including vehicle mileage, hotel, meals and all travel related expenses are computed on the basis of actual cost plus 15%.

Charges for Other Direct Costs and facilities furnished by WRT are computed on the basis of actual cost plus 15%. This override covers the costs associated with cost of money, the risks associated with our responsibility for delivery on behalf of subcontractors, administrative costs, etc. Examples of such items which are directly attributable to the project include: shipping charges; printing; special fees; permits; special insurance and licenses; subcontracts; reproduction; equipment rental; and miscellaneous materials. Travel and travel-related expenses are also computed on the basis of actual cost plus 15%.

These rates will be adjusted annually.

PART 4 – INFLATION TERMS

4.1 **BASE INDEX DATE:** January 1, 2022.
(Section 1.2 of **Standard Terms**)

4.2 **INFLATION INCREASE DATE:** January 1, 2023.
(Section 1.2 of **Standard Terms**)

PART 5 – NOTICES

5.1 ADDRESS FOR NOTICE TO CLIENT (Article 13.1 of **Standard Terms**)

TO:, City of Brady
201 East Main Street
Brady, Texas 76825

WITH A COPY TO: _____

Attention:

Attention:

Email: _____

Email: _____

5.1 ADDRESS FOR NOTICE TO WRT (Article 13.1 of **Standard Terms**)

TO:, Water Remediation Technology LLC
901 West 116 Avenue, Suite 400
Westminster, CO 80234

Attention: Ron Dollar

Email: rdollar@wrtnet.com

PART 6 – ADDITIONAL PROVISIONS

6.1 There is no Exhibit E to this **Agreement**.

6.2 All references in the **Standard Terms** to the “**WRT Radium Removal Agreement**” are amended by their replacement with “**WRT Radium Reduction and Removal Agreement**.”

6.3 The **Client’s Water System** is a public water system.

6.4 Sampling:

(a) Each January and July **Client** shall collect samples from each well for calculation of the **Actual Radium Concentration** and report the results to **WRT**.

(b) Samples for calculation of the **Actual Radium Concentration** and for **Sampling and Testing** shall be taken at the first available discharge point for each well prior to any blending or treatment; and

(c) Samples for all **Compliance Tests** shall be collected at a point immediately after the flows from all of the **WRT** treatment trains are combined.

6.5 Within five days from the first day of each month the **Client** shall report the total water production from each of the wells for the preceding month.

6.6 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **Action Level Concentration**, with the following definition:

“**Action Level Concentration**” means a concentration of **Radium** of 4.8 picocuries per liter or more, and/or a concentration of **Gross Alpha** of 14.5 picocuries per liter in water leaving a **WRT System**

6.7 Section 1.2 of the **Standard Terms** is amended by the addition of the following definition:

"Agreed Gross Alpha Concentration" means the agreed concentration of **Gross Alpha** in water from the **Water Source** set forth in Exhibit A.

6.8 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **Actual Radium Concentration**, with the following definition:

"Actual Radium Concentration" means the concentration of **Radium**, stated in picocuries per liter, calculated as a weighted average of the measured **Radium** concentrations from each well in the samples taken pursuant to Section 6.4 of this Exhibit A, above. The weighted average is calculated as follows: The total gallons produced during the year for each well will be multiplied by that well's average of the 2 raw water radium samples taken from that well during the year. The sum of these values from each well will be divided by the total gallons produced from all wells during the year to compute the **Actual Radium Concentration** value.

6.9 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **Compliance Test**, with the following definition:

"Compliance Test" means a water test conducted in accordance with **EPA** and applicable state standards by a laboratory, and using analytical methods and procedures, approved by the **Client** and **WRT**, both acting reasonably, to determine whether the level of **Radium** or of **Gross Alpha** in water returned to the **Client's Water System** after passing through a **WRT System** complies with the **MCL**.

6.10 Section 1.2 of the **Standard Terms** is amended by the addition of the following definition:

"Decreased Radium Factor" means the **Actual Radium Concentration** divided by the **Agreed Radium Concentration**.

6.11 Section 1.2 of the **Standard Terms** is amended by the addition of the following definition:

"Gross Alpha" means the concentration of alpha particles water.

6.12 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **Increased Radium Factor**, with the following definition:

"Increased Radium Factor" means the **Actual Radium Concentration** divided by the **Agreed Radium Concentration**, minus one.

6.13 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **MCL**, with the following definition:

"MCL" means Maximum Contaminant Level for **Radium**, being 5 picocuries per liter (rounded to the nearest whole picocurie) as established as of the date of this Agreement by the EPA and applicable state agencies, and the Maximum Contaminant Level for **Gross Alpha** of 15 picocuries per liter (rounded to the nearest whole picocurie) as established as of the date of this Agreement by the EPA and applicable state agencies.

6.14 Section 1.2 of the **Standard Terms** is amended by the replacement of the definition of **Non-Compliant System**, with the following definition:

"Non-Compliant System" means a **Water Source** and the **WRT System** for that **Water Source** at which the average **Radium** level and/or **Gross Alpha** level shown by the results of the **Compliance Tests** for the **Water Source** for the average of the four most recently completed calendar quarters exceeds the **MCL**.

6.15 **Adjustment of Base Treatment Charge and Base Volume Charge**

(a) Annually, the **Volume Charge** shall be adjusted in accordance with this Section.

(b) In the event that the **Actual Radium Concentration** is higher than the **Agreed Radium Concentration**, the following adjustments to the **Volume Charge** shall be made:

- (i) The **Volume Charge** shall be set at an amount derived by multiplying the **Volume Charge** by the **Increased Radium Factor**.
- (d) In the event the level of **Radium** decreases below the **Agreed Radium Concentration**, then the following adjustment to the **Volume Charge** shall be made:
 - (i) The **Volume Charge** shall be set at an amount derived by multiplying the **Volume Charge** by the **Decreased Radium Factor**, provided however, that the **Volume Charge** shall never be less than the minimum set forth in Section 3.3 of this Exhibit A to the **Agreement**.
- (e) The changes to the **Volume Charge** will be prospective, and will take effect in the month following **WRT's** receipt of the **Client's** measurement of the **Actual Radium Concentration**.
- (e) This Section supersedes the provisions of Section 5.4 of the **Standard Terms**.

6.16 Section 4.1 of the **Standard Terms** is amended by the replacement of the existing language with the following:

Based upon the review of the **Client's** past water quality data and any available pilot plant data, the **Client** and **WRT** have established an **Agreed Water Profile** for the **Water Source**. **WRT** will design the **WRT System** to reduce **Radium** and **Gross Alpha** from the water from the **Water Source** to a level that complies with the **MCL** based on the **Agreed Water Profile** and on the **Agreed Radium Concentration** for the **Water Source**.

6.17 Section 4.3(a) and (b) of the **Standard Terms** are amended by the replacement of the existing language with the following:

- (a) **WRT** agrees that, subject to the exceptions listed in Section 4.3(a)(i - iii), below, the **WRT System** will reduce **Radium** and **Gross Alpha** from the water from the **Water Source** to a level that complies with the **MCL**. **WRT's** performance agreement in this Section is only effective so long as:
 - (i) the water entering the **WRT System** is consistent with the **Design Flow Range**, the **Agreed Water Profile**, the **Agreed Radium Concentration**, and the **Agreed Gross Alpha Concentration** for the **Water Source**;
 - (ii) the **Client** performs all its obligations under this **Agreement**; and
 - (iii) there is no **Event of Force Majeure**.
- (b) If, despite **WRT's** performance agreement in Section 4.3(a) the **WRT System** becomes a **Non-Compliant System**, then beginning at the time the **WRT System** becomes a **Non-Compliant System**, no charges will be payable by the **Client** with respect to that **WRT System** (including the **Treatment Charge**, **Volume Charges**, or **Governmental Adjustments**) until the **WRT System** removes **Radium** and/or **Gross Alpha** to a level in compliance with the **MCL** while the water from the **Water Source** is consistent with the **Design Flow Range** and **Agreed Water Profile**

6.18 Section 4.6 of the **Standard Terms** is amended by the replacement of the existing language with the following:

For promotion purposes, with the **Client's** prior approval, **WRT** may disclose this **Agreement**, the operating and test results of the **WRT System**, and all plans, and other depictions of any pilot plant, of the **Structure**, and of the **WRT System**. Subject to the reasonable approval of the **Client**, **WRT** may invite interested persons to visit the **Site** and review the operation of the **WRT System** and test results.

6.19 Section 4.8(e) of the **Standard Terms** is amended by the replacement of the existing language with the following:

The arbitration will take place within the City of Brady, McCulloch County, Texas.

6.20 Section 5.1(a) of the **Standard Terms** is amended by the replacement of the existing language with the following:

- (a) The **Client's** obligation to begin paying the **Treatment Charge** starts immediately after the **WRT System** has demonstrated it is performing properly. Proper performance will be established by the **Client** conducting a **Compliance Test** not more than 3 days after the date the **WRT System** begins operation. The results of the **Compliance Test** shall be reported to **WRT** no more than 30 days after the **WRT System** begins operation. If such results are not provided to **WRT** within 30 days after the **WRT System**

begins operation, or if the result show that the **WRT System** is producing water in compliance with the **MCL**, then the **Client's** obligation to begin paying the **Treatment Charge** will have started on the date the **WRT System** began operation.

6.21 Section 6.1(a) of the Standard Terms is amended by the replacement of the existing language with the following:

The Client must give **WRT** and any third parties who have requested notice of termination, not less than 30 days prior written notice of termination specifying the proposed effective date of termination.

6.22 Sections 7.3(a) through 7.3(d) of the **Standard Terms** are amended by replacing the existing language with the following:

7.3 Non-Compliant System

(a) If either: (i) **Sampling and Testing** do not identify any changes in the **Design Flow Range**, the **Agreed Water Profile** or the **Agreed Radium Concentration**; or (ii) the **Compliance Test** taken after completion of all steps required in Section 7.2, above, results in a **Radium** and/or **Gross Alpha** level above the **MCL**; then, if not performed since the detection of the **Action Level Concentration**, **WRT** will replace all **Spent Media** from the **WRT System**, and conduct a new test for **Radium** and/or **Gross Alpha**.

(b) If the test shows a **Radium** and/or **Gross Alpha** level above the **MCL**, then **WRT** may, at its cost and expense, in cooperation with the **Client**, implement the recommendations in its report or reports and undertake any other adjustments or modifications to the **WRT System** that **WRT** believes are required so that the level of **Radium** and/or **Gross Alpha** complies with the **MCL** after water passes through the **WRT System**. **WRT** will provide regular written reports of its actions to the **Client**.

(c) After it completes the work performed pursuant to Section 7.3 (b), above, **WRT** will conduct a new test for **Radium** and/or **Gross Alpha**. If the results of that test shows a **Radium** and/or **Gross Alpha** level that exceeds the **MCL**, neither of the parties will be obligated to incur additional capital costs or expenses in connection with the **WRT System**.

(d) Unless caused by a change from the **Agreed Water Profile**, the **Agreed Radium Concentration**, and/or the **Agreed Gross Alpha Concentration** while the **WRT System** is a **Non-Compliant System**, the **Client** will be relieved of any obligation to pay:

- (i) the **Treatment Charge** for the **WRT System**; and
- (ii) any **Volume Charges**, **Water Profile Change Charge (Radium)**, **Water Profile Change Charge (Other)**, or **Governmental Adjustments** associated with the **WRT System**.

6.23 Section 7.4(a) of the **Standard Terms** is amended by the replacement of the existing language with the following:

7.4 Changes From Agreed Water Profile, Agreed Radium Concentration and Agreed Gross Alpha Concentration.

If the report **WRT** prepares after **Sampling and Testing** shows that the water from the **Water Source** is inconsistent with the **Agreed Water Profile** and/or the **Agreed Radium Concentration** for the **Water Source**, and if in **WRT's** opinion the change from the **Agreed Water Profile**, the **Agreed Radium Concentration** and/or the **Agreed Gross Alpha Concentration** has resulted in, or contributed to, the failure to comply with the **MCL**, then the following provisions will apply:

(a) The report **WRT** prepares after **Sampling and Testing** will suggest potential remedies to relieve the effects of the changes from the **Agreed Water Profile** and/or the **Agreed Radium Concentration**. Following receipt of the report, the Client will elect one of the following options:

- (i) perform, at its own cost, the recommendations in the report;
- (ii) authorize **WRT** in writing to perform the recommendations in the report;
- (iii) terminate this **Agreement** pursuant to Section 6.1, above; or
- (iv) take no action.

EXHIBIT B

WATER SOURCE INFORMATION

PART 1 – WATER SOURCE

- 1.1 The **Water Source** is: Wells 2,3,4,5,6,7,8
(Section 1.2 of Standard Terms)
- 1.2 The **Site**, the **Structure**, the **WRT System** and the **Access and Loading Areas** will be shown in the Drawings.
(Section 1.2 of Standard Terms)

PART 2 – AGREED WATER PROFILE

- 2.1 **Agreed Water Profile:** Shown in attached **Reports**.
(Section 1.2 of Standard Terms)

To the extent that any substances are shown in measurable concentrations in the **Reports**, the concentrations of such substance, as shown in a Report for a **Water Source** will form part of the **Agreed Water Profile** for the **Water Source**.

To the extent that any substances are not shown in the **Reports** for the **Water Source**, then the **Agreed Water Profile** for the **Water Source** will include all such substances at zero concentrations.

Water Quality Data

Brady, TX – Well Nos. 2,3,4,5,6,7, & 8		
Item	Units	Results
Alkalinity as CaCO ₃	mg/L	141
Barium	µg/L	0.166
Iron (Total)	mg/L	0.3
Manganese	mg/L	0.001
pH		7.8
Sulfate	mg/L	62 - 92
TDS	mg/L	1,320
Water Temperature	°F	72 - 80

EXHIBIT C

DETERMINATION OF DEACTIVATION PAYMENT

1. DEACTIVATION PAYMENT

The **Deactivation Payment** is based on the number of years remaining until the expiration of the **Term** and shall be as follows for the **Water Source**:

2.

<u>End of year</u>	<u>Wells 2, 3, 4, 5, 6, 7 and 8</u>	<u>End of year</u>	<u>Wells 2, 3, 4, 5, 6, 7 and 8</u>
1	\$ 296,829	6	\$ 118,732
2	\$ 263,848	7	\$ 79,154
3	\$ 230,867	8	\$ 46,173
4	\$ 197,886	9	\$ 11,873
5	\$ 164,905		

If the time remaining is not an exact number of years then the **Deactivation Payment** will be pro rated on a monthly basis between the **Deactivation Payments** for the higher and lower years based on the number of months and years remaining before the expiration of the **Term**.

The **Deactivation Payment** amounts set forth above will be adjusted annually for inflation as follows:

- (a) For the period up to December 31 of the year preceding the **Inflation Increase Date**, the **Deactivation Payment** will remain unchanged.
- (b) During the calendar year commencing on the **Inflation Increase Date**, and during each respective calendar year thereafter, the **Deactivation Payment** will be increased by the product of the **Deactivation Payment** and **Applicable Index Level** divided by the **Base Index Level**.

E.g. **Deactivation Payment** amount: x $\frac{\text{Applicable Index Level}}{\text{Base Index Level}}$

EXHIBIT D

PARTIES' INSTALLATION RESPONSIBILITIES

PART 1 WRT'S SYSTEM INSTALLATION RESPONSIBILITIES

- 1.1 Provide customer with scope of work and equipment delivery schedule.
- 1.2 Provide system engineering drawings and submittal information to customer.
- 1.3 Supply and deliver equipment as detailed on approved submittal drawings.
- 1.4 Provide appropriate flow measurement equipment to properly monitor flow through the **WRT System**.
- 1.5 Coordinate equipment and material delivery to the Site.
- 1.6 Prepare and deliver the **Operation and Maintenance Manual**.
- 1.7 Coordinate installation with customer and contractor.
- 1.8 Provide, install and disinfect **WRT Media** as needed.
- 1.9 Place WRT System into operation.
- 1.10 Provide a minimum of one 8 hour day for customer's personnel for system operation and general maintenance.
- 1.11 Provide radiation awareness training for **Client's** personnel.
- 1.12 Post treatment area with required radiation notice signage.
- 1.13 Provide containers, as necessary, for any radioactive articles, trash, or material that may be generated on site.
- 1.14 Assist with any local or state permitting.
- 1.15 Deliver final system acceptance sign-off checklist.

PART 2 CLIENT'S SYSTEM INSTALLATION RESPONSIBILITIES

- 2.1 Provide a suitable site for installation of **WRT System**.
- 2.2 Prepare engineering plans for foundation, piping, mechanical, electrical, architectural and containment requirements of installation.
- 2.3 Provide WRT with installation plan and construction specifications for review and approval.
- 2.4 Provide all local and state installation and operating licenses and/or permits.
- 2.5 Provide ground water at specified flow and pressure to systems, and accept treated water from the **WRT System**.
- 2.6 Provide a means of disposal of rinse water used in the WRT Media installation process.
- 2.7 Construct appropriate building and facilities to house WRT supplied equipment.
- 2.8 Installation of all WRT equipment, control panel, instruments, interconnecting wiring, and vessel/pipe support anchors as shown on WRT drawings.
- 2.9 Pressure test and disinfect empty (no media) system.
- 2.10 Make Client's personnel available for **WRT** training.
- 2.11 Sign-off on system acceptance checklist.
- 2.12 Submit samples for disinfection approval.
- 2.13 Provide adequate working and access area for WRT mobile service equipment at site for media installation and exchanges. Working area required will include area for media handling, tractor/trailer (10' x 50'), support equipment and forklift access to all equipment. Landscaping and hardtop surfaces need to be taken into consideration during planning.

WRT RADIUM REMOVAL SYSTEM AGREEMENT

STANDARD TERMS

SECTION 1 RULES OF CONSTRUCTION AND DEFINITIONS

1.1 Rules of Construction

- (a) The captions in this **Agreement** including those in the **Basic Provisions**, these **Standard Terms** and the Exhibits are included for convenience of reference only, and will not affect in any manner the construction or interpretation of this **Agreement**.
- (b) Words of the masculine gender mean and include correlative words of the feminine and neuter genders, and words importing the singular number mean and include the plural number, and vice versa.
- (c) This **Agreement** includes the **Basic Provisions**, these **Standard Terms** and the Exhibits, all of which together constitute this one **Agreement**.
- (d) Unless contrary intent is shown:
- (i) references to Articles mean Articles of the **Basic Provisions**; and
 - (ii) references to Sections mean Sections of these **Standard Terms**.

1.2 Certain Defined Terms

As used in this **Agreement**, the following terms have the following meanings, which are applicable to both the singular and plural forms of the terms defined:

"Access and Loading Areas" means all areas over which **WRT** has access or loading rights as referred to in Section 11.3, below, and as shown in the **Drawings**.

"Action Level Concentration" means a concentration of **Radium** of 4.8 picocuries per liter or more in water leaving a **WRT System**.

"Actual Radium Concentration" means the average concentration of **Radium**, measured in picocuries per liter, as contained in all tests of water from the **Water Source** undertaken during a calendar year:

"Agreed Radium Concentration" means the agreed concentration of **Radium** in water from the **Water Source** set forth in Exhibit A.

"Agreed Water Profile" means the agreed water profile for the water from the **Water Source** as described in Exhibit B.

"Agreement" means this WRT System Agreement between the **Client** and **WRT**, consisting of the **Basic Provisions** (including EXHIBITS A, B, C, D AND E) and these **Standard Terms** (including EXHIBIT F).

"Applicable Index Level" means the level of the **Inflation Index** for the month of January of the calendar year immediately preceding the calendar year for which the calculation is to be made.

"Applicable Taxes" means:

- (a) any fees or taxes of any kind including, but not limited to, any federal, state, county, municipal, local, or other excise, sales or withholding taxes, fees, levies or assessments and any value added taxes, rates or assessments or any similar or replacement taxes, rates, fees, levies or assessments calculated in connection with or based on any of the payments required to be paid by the **Client** under this **Agreement**;
- (b) any federal, state, county, municipal, local or other taxes, fees, levies, or assessments in connection with the **Property**, the **Structures**, the **Sites**, or the **WRT System**; and
- (c) any federal, or state, county, municipal or local taxes, fees, levies or assessments based on, computed in reference to, or otherwise related to the operation of the **WRT System**, the

removal of **Radium** or any other materials from the **Client's** water, or the possession, creation, concentration, enhancement, collection, storage or shipment of radioactive material, including, but not limited to, all fees and payments payable pursuant to all federal, state, and other applicable governmental regulations and provisions;

but not

- (i) federal or state, county, municipal or local income taxes assessed on the income of **WRT**.

"Arbitration Act" means the Uniform Arbitration Act of the State of Colorado.

"Attribute Change" means a change of more than 15% in any water quality parameter (excluding **Radium**) from the **Water Source**.

"Base Index Date" means the date set out in Exhibit A.

"Base Index Level" means the level of the **Inflation Index** as at the **Base Index Date**.

"Base Treatment Charge" means the initial annual **Treatment Charge** as set out in Article 4.2 of the **Basic Provisions** and in Exhibit A.

"Base Volume" means the agreed total volume of gallons per calendar year as described in Article 4.1, and set out in Exhibit A, of the **Basic Provisions**; provided that during the first and last calendar years of operation of the **WRT System**, the **Base Volume** for the **WRT System** will be adjusted, pro rata based on the number of days of operation for the **WRT System** in such calendar year.

"Base Volume Charge" means the initial **Volume Charge** as provided in Article 4.3 of the **Basic Provisions** and in Exhibit A.

"Basic Provisions" means the portion of this **Agreement** titled **Basic Provisions** and containing information specific to the **Client**, the **Client's Water System**, the **Water Source**, and the financial terms of the parties' agreement.

"Changed Base Period" has the meaning assigned to that term in Exhibit F.

"Client" means the party to this **Agreement** identified in the initial paragraph of this **Agreement** and includes its successors and permitted assigns.

"Client's Water System" means the water system owned or operated by the **Client** and includes all components thereof, and all water in the system or which passes through the system.

"Client's Work" means the **Client's** responsibility to provide a **Structure** and a **Site**, constructed in accordance with the requirements of the **Drawings**.

"Commencement Date" means the date upon which this **Agreement** is executed by all parties.

"Compliance Test" means a water test conducted in accordance with **EPA** and applicable state standards by a laboratory, and using analytical methods and procedures, all approved by the **Client** and **WRT**, both acting reasonably, to determine whether the level of **Radium** in water returned to the **Client's Water System** after passing through a **WRT System** complies with the **MCL**.

"Confidential Information" means information of a secret, proprietary or confidential nature which the **Client** may acquire about the **WRT Technology**, the content or operations of the **WRT Systems**, or the content of the **WRT Media**.

"CPI" has the meaning assigned to that term in Exhibit F.

“Deactivation” means the removal of all **WRT Media** and **Spent Media** from the **WRT System** and from the **Site**.

“Deactivation Payment” is the agreed upon amount intended to reimburse **WRT** for certain unrecovered initial costs, for loss of utility of **WRT Media**, and for the costs of deactivation, which the **Client** must pay to **WRT** upon the **Client’s** termination of this **Agreement** before the end of the **Term** as provided in Section 6.1, below, and is calculated with reference to Exhibit C to the **Basic Provisions**.

“Design Flow Range” means the agreed range between the minimum and maximum hydraulic flow rates for the **Water Source** as set out in Exhibit A,

“Drawings” means the submittal drawings approved by the **Client** and **WRT** showing the **Site**, the **Structure**, the **WRT System**, and the **Access and Loading Areas**.

“EPA” means Environmental Protection Agency of the United States of America.

“Event of Force Majeure” means the event of any act of God, act of terrorism, war, riot, fire, explosion, accident, flood, sabotage, lack of adequate fuel, power, raw materials, labor, containers or transportation facilities, compliance with governmental requests, laws, regulations, orders or actions, breakage or failure of machinery or operators, national defense requirements, strike, lockout, other labor dispute, injunction or any other event beyond the reasonable control of the parties (provided always that the parties will not be required to settle any labor dispute), but excluding all financial matters, which prevents the parties from complying with any of their respective obligations under this **Agreement**.

“Existing Laws” means applicable federal, state or local statutes, laws, rules or regulations in existence as at October 1, 2002.

“Financial Assurance” means any bond, letter of credit, surety, deposit, guarantee, standby trust, or other financial assurance arrangement required, at any time, by any federal, state or other governmental agencies as security for any governmental clean up of **WRT Media** or **Spent Media** or for **Deactivation** of a **WRT System**.

“Governmental Adjustments” means the amount of additional costs incurred by **WRT** as a result of changes to **Existing Laws** as provided in Section 5.6, below.

“Hazardous Materials” means materials which, by constituents or concentration, are designated as such by applicable law.

“Increased Radium Factor” means the **Actual Radium Concentration** divided by the **Agreed Radium Concentration**, minus one, and is used to determine the **Water Profile Change Charge (Radium)**, pursuant to Section 5.4, below.

“Inflation Increase Date” means the date upon and after which **Inflation Index** based increases will apply, as specified in Exhibit A.

“Inflation Index” has the meaning assigned to that term in Exhibit F.

“Licensed Facility” means a facility licensed or permitted by all applicable laws to accept and dispose of and/or treat the **Spent Media**.

“MCL” means Maximum Contaminant Level for **Radium**, being 5 picocuries per liter (rounded to the nearest whole picocurie) as established as of the date of this **Agreement** by the **EPA** and applicable state agencies.

“NCS Event” means the time during which a **WRT System** is a **Non-Compliant System**.

“New Materials” means one or more materials, compounds, elements, isotopes or other substances which were not disclosed on the **Agreed Water Profile** for a **Water Source**.

“Non-Compliant System” means a **Water Source** and the **WRT System** for that **Water Source**, at which the average **Radium**

level shown by the results of the **Compliance Tests** for the **Water Source** for the four most recently completed calendar quarters exceeds the **MCL**.

“Operation and Maintenance Manual” means an operation and maintenance manual for the **WRT System**, updated from time to time by **WRT**, acting reasonably.

“Other Materials Increase” means the presence of any material, compound, element, isotope, or other substance, other than **Radium**, in a concentration which is greater than 115% of the concentration of such material, compound, element, isotope, or other substance as shown on the **Agreed Water Profile** for a **Water Source**.

“Property” means the property on which a **Site** is located as described in Exhibit A.

“Radiation Protection Agency” means the state or federal agency responsible for regulating the **Radium** removed from the **Client’s Water System** by the **WRT System**.

“Radium” means, and is limited to, the soluble radium isotopes radium-226 and radium-228.

“Replacement Inflation Index” has the meaning assigned to that term in Exhibit F.

“Reports” means the reports of the water profile for the **Water Source** identified in Exhibit B.

“Revised Index Numbers” has the meaning assigned to that term in Exhibit F.

“Sampling and Testing” means flow and water quality testing performed by **WRT** in the event a **Compliance Test** contains an **Action Level Concentration**.

“Site” means, for any **Water Source**, the portion of the **Structure** for such **Water Source** where the **WRT System** will be located as shown in the **Drawings**.

“Spent Media” means **WRT Media** loaded with any **Radium**.

“Standard Terms” means these standard terms which are read with the **Basic Provisions** and the Exhibits, and together with the **Basic Provisions** and the Exhibits, constitute the **Agreement**.

“Structure” means the building or other structure to house, contain, or support the **WRT System** and as shown in the **Drawings**.

“System Equipment Charge” means the sales price paid by the Client for the **WRT System** sold to it pursuant to this **Agreement**.

“Term” means the period identified in Article 1.1 of the **Basic Provisions** beginning with the commencement of operation of the **WRT System**.

“Treatment Charge” means the annual charge to be paid to **WRT** throughout the **Term** as described in Article 4.2 of the **Basic Provisions**.

“Utilities and Services” means all services and utilities as required from time to time for the effective operation of the **WRT System** and to permit the parties to comply with their respective rights and obligations as provided in this **Agreement**.

“Volume Charge” means the additional charge to be paid by the **Client** to **WRT** for each 1000 gallons in excess of the **Base Volume**.

“Water Profile Change Charge (Other)” means a charge to reimburse **WRT** for any diminution in the useful life of the **WRT Media** for the **WRT System**, or for an increase in operating costs, or for an increase in the disposal costs of **Spent Media**, occasioned by an **Other Materials Increase**; and/or **New Materials**; and/or an **Attribute Change**, as described in Section 5.5, below.

“Water Profile Change Charge (Radium)” means, with respect to any calendar year, an amount equal to the sum of:

- (i) **Increased Radium Factor** multiplied by the **Treatment Charge** payable by the **Client** for that calendar year; plus

(ii) **Increased Radium Factor** multiplied by the **Volume Charge** (if any) payable by the **Client** for that calendar year, all as described in Section 5.4, below,

“**Water Source**” means the source of water to be treated by the **WRT System** and described in Exhibit A.

“**WRT**” means Water Remediation Technology LLC a limited liability company under the laws of Colorado, and its successors and permitted assigns.

“**WRT Approvals and Permits**” means collectively, all permits, licenses and other approvals required to be obtained and maintained by **WRT** pursuant to Article 8.2 of the **Basic Provisions**.

“**WRT Cost**” means 125% of the cost to **WRT** for providing work or services not encompassed in the charges described in Articles 4.2, 4.3 and 4.4 of the **Basic Provisions**, and for which **WRT** is entitled to be reimbursed pursuant to this **Agreement**; provided

that if the **Client** has a good faith disagreement with the amount of the **WRT Cost**, the matter shall be determined pursuant to Section 4.8, below.

“**WRT Media**” means the proprietary media substance used in the **WRT Technology**.

“**WRT System**” means, for any **Water Source**, a water treatment system and the associated piping, valve, and other ancillary equipment more fully described in the **Drawings**, which will contain **WRT Media**, and through which water from the **Water Source** will pass.

“**WRT Technology**” means all the trade secret, proprietary and patent pending technology in respect of the **WRT System** and the **WRT Media** and the operation thereof pursuant to this **Agreement**.

SECTION 2 TERM

2.1 Extension or Renewal

This **Agreement** may be extended or renewed only in writing and signed by the **Client** and **WRT**.

2.2 Holding Over

If, at the end of the **Term**, the parties acquiesce in the continuance of this **Agreement** without otherwise extending or renewing it, then the **Agreement** will continue on a month to

month basis, with all treatment charges prorated on a monthly basis.

2.3 Termination

The **Client** will have the right to terminate this **Agreement** in whole or in part as provided in Article 5 of the **Basic Provisions** and in Section 6, below.

SECTION 3 CONFIDENTIALITY

3.1 Confidentiality

(a) The **Client** shall not, for the **Term** of this **Agreement** and for a period of five years afterwards:

- (i) except as set out in Section 3.1(c) below, disclose any **Confidential Information** unless otherwise agreed in writing by **WRT**;
- (ii) use or otherwise appropriate for its own use, directly or indirectly, any of the **WRT Technology**;
- (iii) access the **WRT Media** except with the prior written approval of **WRT**;
- (iv) sample, test or analyze the **WRT Media** unless such sampling, testing or analyzing is:
 - (A) otherwise agreed in writing by **WRT**; or
 - (B) reasonably necessary for the **Client** to determine compliance by **WRT** with the provisions of this **Agreement**, or with other applicable law, statute or regulation; and
 - (C) performed so that only **WRT** personnel will actually access the **WRT Media**.

(b) all access, sampling, testing and analysis shall be undertaken with the clear understanding, confirmed in writing by all relevant third parties, that the contents of the **WRT Media** constitute **Confidential Information**, and shall not be disclosed by the recipient or used or otherwise appropriated by the recipient.

(c) The provisions of paragraph 3.1(a)(i) are subject to the obligations of disclosure by the **Client** pursuant to the provisions of applicable freedom of information laws or as a result of a court order; the **Client** agrees to give **WRT** notice of any request or order for disclosure which the **Client** receives and to permit **WRT**, at **WRT's** expense, to oppose any such application or order.

(d) If the **Client**, at **WRT's** specific request, opposes an application or order for disclosure of information, and any judgment, award of attorneys' fees, or other sanction is levied against the **Client** as a result of the **Client** opposing such an application or order, then **WRT** will reimburse the **Client** for all amounts awarded.

SECTION 4 WRT SYSTEMS

4.1 Agreed Water Profile

Based upon the review of the **Client's** past water quality data and any available pilot plant data, the **Client** and **WRT** have established an **Agreed Water Profile** for the **Water Source**. **WRT** will design the **WRT System** to remove **Radium** from the water from the **Water Source** to a level that complies with the

MCL based on the **Agreed Water Profile** and on the **Agreed Radium Concentration** for the **Water Source**.

4.2 Design Flow Range

(a) Based on the historic production of the **Water Source**, the **Client** and **WRT** have agreed upon the **Design Flow Range** for the **Water Source**.

(b) The **Client** does not warrant to **WRT** that throughout the **Term** the **Water Source** will, when in operation, operate within the applicable **Design Flow Range** but the **Client** agrees that the effective performance of the **WRT Systems** is dependent on the **Water Source** operating within the **Design Flow Range**.

(c) If the **Water Source** ceases to operate within the **Design Flow Range**, then the **Client** and **WRT** will discuss the potential impact, if any, on the performance of the **WRT System**. If the failure of the **Water Source** to operate within the **Design Flow Range** adversely affects the performance or economics of the **WRT System**, then: the **Client** will remain obligated to make all payments under this **Agreement**; **WRT**, after consultation with the **Client**, may make additions or alterations to the **WRT System** to achieve operational equivalency to the performance of the **WRT System** if the **Design Flow Range** were being met; and the **Client** will reimburse **WRT** the **WRT Cost** incurred in making the additions or alterations to the **WRT System**. If the **Client** disagrees with the proposed alterations or additions or the amount of the **WRT Cost**, the dispute will be resolved pursuant to Section 4.8, below.

4.3 Performance – Payment Preconditions

(a) **WRT** agrees that, subject to the exceptions listed in Section 4.3(a)(i - iii), below, the **WRT System** will remove **Radium** from the water from the **Water Source** to a level that complies with the **MCL**. **WRT's** performance agreement in this Section is only effective so long as:

- (i) the water entering the **WRT System** is consistent with the **Design Flow Range**, the **Agreed Water Profile**, and the **Agreed Radium Concentration** for the **Water Source**;
- (ii) the **Client** performs all its obligations under this **Agreement**; and
- (iii) there is no **Event of Force Majeure**.

(b) If, despite **WRT's** performance agreement in Section 4.3(a) the **WRT System** becomes a **Non-Compliant System**, then beginning at the time the **WRT System** becomes a **Non-Compliant System**, no charges will be payable by the **Client** with respect to that **WRT System** (including the **Treatment Charge**, **Volume Charges**, or **Governmental Adjustments**) until the **WRT System** removes **Radium** to a level in compliance with the **MCL** while the water from the **Water Source** is consistent with the **Design Flow Range**, the **Agreed Water Profile** and the **Agreed Radium Concentration**.

(c) If the **Client** fails to perform any of its obligations under this **Agreement** then, to the extent that such failure affects the performance of the **WRT System**, the **Client** will remain obligated to pay all charges and other amounts payable by the **Client** to **WRT** under this **Agreement** with respect to the **WRT System**.

4.4 No Additives or Harmful Physical Conditions

(a) The **Client** will not introduce, cause or permit any chemical, compound, contaminant, element, sand, grit, oil, material, sediment or other substance to be introduced at any time into any part of the **Client's Water System** in a location which is upstream of the **WRT System** without the prior written consent of **WRT**. Without limiting the other provisions of this **Agreement**, the **Client** shall be fully responsible for, and shall pay the **WRT Cost** resulting from the **Client's** non-compliance with this provision.

(b) **WRT** is not responsible for the existence of, or for the remediation of, any harmful physical conditions inherent in the **Client's Water System** that could damage or interfere in the operation of the **WRT System**. Such conditions include, but are not limited to, water hammer and entrained air or gas. The **Client** shall be fully responsible for, and shall pay the **WRT Cost** resulting from the **Client's** non-compliance with this provision, including any repairs necessitated by the existence of any such harmful physical condition. At the written request of the **Client**,

WRT will assist in the remediation of such harmful conditions, and the **Client** will reimburse all **WRT Cost** associated with such remediation.

4.5 Removal and Disposal Obligations of WRT

In addition to the other conditions requiring removal and disposal of **Spent Media** under the terms of this **Agreement**, **WRT** will remove and dispose of **Spent Media** from the **WRT System** before the concentration of radium-226 in the **Spent Media** reaches 8,000 picocuries per gram.

4.6 Disclosure by WRT

The **Client** agrees that for promotion purposes **WRT** may disclose this **Agreement**, the operating and test results of the **WRT System**, and all plans, and other depictions of any pilot plant, of the **Structure**, and of the **WRT System**. Subject to the reasonable approval of the **Client**, **WRT** may invite interested persons to visit the **Site** and review the operation of the **WRT System** and test results.

4.7 Deactivation

After this **Agreement** has expired or is terminated and **WRT** has been paid all amounts due, **WRT** will safely remove all **WRT Media** and **Spent Media** from the **Site**. **WRT** will dispose of all **Spent Media** in the manner provided for in Article 3.3 of the **Basic Provisions** and **WRT** shall undertake any further required **Deactivation** of the **WRT System** and the **Site**. The **Client** shall, at its own cost, assist and fully co-operate with **WRT** by disconnecting the **WRT System** from the **Client's Water System** and by providing any other assistance **WRT** reasonably requests. **Deactivation** does not include removal of equipment belonging to the **Client**, such as the **WRT System**.

4.8 Dispute Resolution

The parties agree that all disputes arising under, or related to, this **Agreement** shall be resolved by arbitration. In the event of such a dispute, then:

- (a) Within 7 days after written notice from one party to the other, or as otherwise agreed, the parties will participate in good faith negotiations to attempt to resolve and settle the matter.
- (b) In the event the matter remains unresolved within 30 days (or as otherwise agreed) after the first written notice, either party may refer the matter to arbitration.
- (c) Arbitration will be by a single arbitrator pursuant to the **Arbitration Act**. The single arbitrator will be selected by agreement of the parties or, failing agreement, as provided in the **Arbitration Act**. The parties agree that the District Court of Adams County, Colorado shall have jurisdiction over them for the purposes of applying the provisions of the **Act**. Other than for purposes of the selection of an arbitrator, procedural rules of any arbitration shall be governed by the Commercial Dispute Resolution Procedures of the American Arbitration Association, effective as of the date of the commencement of the arbitration.
- (d) To the extent practicable the single arbitrator selected by the parties will be a qualified professional with experience in the matters in dispute.
- (e) The arbitration will take place within the greater metropolitan area of Denver, Colorado.
- (f) Each party will bear its own attorney fees. All other costs of the arbitration may be awarded by the arbitrator in his or her discretion.
- (g) The arbitrator hearing a dispute may only determine the matter referred to arbitration and the decision of the arbitrator will be final and binding on the parties.
- (h) The **Client** and **WRT** specifically agree that the arbitrator will only have the authority to deal with matters which are specifically referred to arbitration but the arbitrator will not have the authority: to modify any of the contractual terms of this **Agreement**, including any modification of **WRT's** obligations to provide

services, or the **Client's** obligation to pay the charges due under this **Agreement**.

(i) Any dispute not specifically referred to arbitration shall not be made part of any arbitration proceeding without the express written consent of the parties.

(j) To the greatest extent possible the parties shall keep strictly confidential and shall not disclose any of:

- (i) the fact that a negotiation or an arbitration is taking place;
- (ii) the matters in issue;
- (iii) any proceedings at the arbitration; or
- (iv) the results of the negotiation or arbitration.

4.9 Labor

The parties agree that they will not be bound by any of the other parties' union or labor contracts or commitments and if a party becomes bound by any another party's union or labor contracts or commitments, then the party whose union or labor contract is to be applied, upon demand by the other party, will reimburse the other party the amount of any and all costs and expenses incurred by the other party by reason of the other party becoming bound by any such contract. Any dispute arising from or related to this Section 4.9 shall be resolved pursuant to Section 4.8, above.

4.10 Ownership of WRT System

(a) The parties agree that:

- (i) the **WRT System** will be sold by **WRT** to the **Client**;
- (ii) title to the **WRT System** for the **Water Source** will remain vested in the **Client**; however;

(A) **WRT** shall exercise control over the **WRT System**, the **WRT Media** and all **Spent Media** in a **WRT System** at all times during the **Term** of this **Agreement** and until **Deactivation** has been completed;

(B) neither the **Client** nor anyone for or on behalf of the **Client** shall come into contact with any **Spent Media** nor with any components of the **WRT System** which could contain radioactive materials; and

(C) repairs to any **WRT System** will be undertaken as provided in Section 11.5, below.

(b) The **Client** will ensure that the **WRT System** is made available at all times throughout the **Term** of this Agreement to permit the **Client** and **WRT** to perform their obligations under this **Agreement**.

(c) The **Client** represents and warrants that throughout the **Term** no person other than the **Client** has or will have any ownership interest in or to the **WRT System**, or the **Structure** or the land upon which the **Structure** is located which could give that person any claim or interest in respect of the **WRT System** or which could interfere with the use or operation of the **WRT System** as provided in this **Agreement**.

SECTION 5 CHARGES

5.1 Treatment Charge

(a) The **Client's** obligation to begin paying the **Treatment Charge** starts at the earliest of: the date the **WRT System** begins operation; 30 days after the system is disinfected; or 120 days after the equipment is delivered.

(b) The **Client** will pay the prorated portion of the **Treatment Charge** for that part of the month during which the payment obligation begins, immediately after the payment obligation begins. Thereafter, the **Client** will pay the **Treatment Charge** plus all **Applicable Taxes** to **WRT** in equal monthly payments, in advance, on the first day of each calendar month during the **Term**.

5.2 Volume Charge

(a) **WRT** will invoice the **Client** annually for all **Volume Charges** payable and the **Client** will pay the **Volume Charges** within 30 days of receipt of the invoice from **WRT**.

(b) Pursuant to Part 1.4 of Exhibit D to the **Basic Provisions**, **WRT** will provide appropriate flow measurement equipment which the parties agree will be used to measure the number of gallons treated by the **WRT System** for purposes of assessing Volume Charge. **WRT** will calibrate this equipment on a periodic basis.

5.3 Inflation Adjustments – Treatment Charge and Volume Charge

(a) The **Base Treatment Charge** will be in effect until the **Inflation Increase Date**.

During each calendar year beginning on the **Inflation Increase Date**, the **Treatment Charge** will be equal to the greater of:

- A. The **Base Treatment Charge**; or
- B. The **Base Treatment Charge** x
Applicable Index Level
Base Index Level.

(b) The **Base Volume Charge** will be in effect until the **Inflation Increase Date**.

(c) During each calendar year beginning on the **Inflation Increase Date**, the **Volume Charge** will be equal to the greater of:

- (i) the **Base Volume Charge**; or
- (ii) the **Base Volume Charge** x
Applicable Index Level
Base Index Level

(d) **WRT** will use all reasonable efforts to provide written notice to the **Client** on or before February 15 of each year of the amount of and basis for changes to the **Treatment Charge** and the **Volume Charge** for that calendar year, resulting from changes to the **Inflation Index**. Any shortfall in **Treatment Charges** or **Volume Charges** arising from payments made before the inflation adjustment will be paid by the **Client** within 30 days of receipt of the notice thereof.

5.4 Agreed Radium Concentration – Water Profile Change Charge (Radium)

If the **Actual Radium Concentration** exceeds the **Agreed Radium Concentration** the **Client** will pay **WRT** a **Water Profile Change Charge (Radium)**:

(a) The **Water Profile Change Charge (Radium)** will be equal to the **Increased Radium Factor** multiplied by the **Treatment Charge**, and will be due for each calendar year for which there is an **Increased Radium Factor**.

(b) **WRT** will calculate the amount of the **Water Profile Change Charge (Radium)** for each applicable calendar year as soon as is reasonably possible following the end of the calendar year. **WRT** will then send an invoice to the **Client** along with the following information:

- (i) the level of the **Actual Radium Concentration**, and how it was determined;
- (ii) the calculation of the **Increased Radium Factor**; and
- (iii) the calculation of the **Water Profile Change Charge (Radium)**.

(c) The **Client** will pay the **Water Profile Change Charge (Radium)** within 30 days of receipt of the invoice from **WRT**.

(d) Any dispute over **WRT's** entitlement to or calculation of a **Water Profile Change Charge (Radium)**, will be resolved pursuant to Section 4.8, above.

5.5 Changes in Actual Water Profile Other Than Radium

- (a) If at any time during the **Term** there is an **Other Materials Increase**, and/or there are **New Materials**, and/or there is an **Attribute Change** resulting in a diminution in the useful life of the **WRT Media** for the **WRT System**, or in an increase in operating costs, or in an increase in the disposal costs of **Spent Media**, then the **Client** will pay **WRT** a **Water Profile Change Charge (Other)**.
- (b) Prior to making a claim for **Water Profile Change Charge (Other)** **WRT** shall provide all relevant data to the **Client** which may, at its option, conduct its own retesting, and **WRT** shall discuss the impact of the changes and the size of any applicable **Water Profile Change Charge (Other)** with the **Client**.
- (c) **WRT** will calculate the amount of the **Water Profile Change Charge (Other)** and shall provide the **Client** with the basis for the charge including:
- (i) details of the **Other Materials Increase**, the **New Materials** and/or the **Attribute Change**, as the case may be, for the **Water Source**;
 - (ii) the impact on the useful life of the **WRT Media** and/or the operation or disposal cost increase for the **WRT System**; and
 - (iii) the calculation of the **Water Profile Change Charge (Other)** for the **WRT System**.
- (d) Any dispute over **WRT's** entitlement to or calculation of a **Water Profile Change Charge (Other)** will be resolved pursuant to Section 4.8, above.

- (e) **WRT** will provide an invoice to the **Client** for the amount of the **Water Profile Change Charge (Other)** which the **Client** will pay within 30 days of receipt.

5.6 Governmental Adjustments

- (a) In the event that the **Existing Laws** should change and as a direct result of such change any costs to **WRT** should increase by an amount greater than inflation increases in accordance with the **Inflation Index**, then the **Client** will pay "**Governmental Adjustments**."
- (b) **WRT** will provide written notice to the **Client** when **WRT** becomes aware of any change to **Existing Laws** which may result in the application of **Government Adjustments**, and will give notice to the **Client** of any **Governmental Adjustments**, together with particulars of the calculation thereof, as soon as reasonably possible after the details of the **Governmental Adjustments** become known to **WRT**.
- (c) **Governmental Adjustments** will be paid directly by the **Client** to **WRT** within 30 days after the **Client** receives an invoice from **WRT**, or if the parties agree, an agreed amount may be added to the **Treatment Charge** and the **Volume Charge** otherwise payable in the future.
- (d) Any dispute over **WRT's** entitlement to or calculation of **Governmental Adjustments** will be resolved pursuant to Section 4.8, above.

SECTION 6 TERMINATION

6.1 Termination of this Agreement by Client

The **Client**, when not in default under this **Agreement**, may at its option, terminate this **Agreement**, provided the **Client** complies with the following provisions:

- (a) The **Client** must give **WRT** and any third parties who have requested notice of termination, not less than 90 days prior written notice of termination specifying the proposed effective date of termination.
- (b) The **Client** must pay:
- (i) all amounts payable to **WRT** pursuant to this **Agreement** up to the date of termination; and
 - (ii) as applicable, the agreed upon **Deactivation Payment** specified in Exhibit C.
- (c) The **Deactivation Payment** must be paid before the effective date of the termination of this **Agreement** and within 30 days of the **Client's** receipt of **WRT's** invoice.
- (d) Concurrently with the **Client's** payment of the **Deactivation Payment** or, any other amounts payable under Section 6.1(b), above, **WRT** will perform the **Deactivation** obligations required in Section 4.7, above.
- (e) Until this **Agreement** has been terminated, the **Client** shall continue to pay all amounts due under this **Agreement**.
- (f) If the **Client** does not fully comply with all of the foregoing provisions of this Section 6.1, this **Agreement** shall continue in full force and effect, the notice of termination of the **Agreement** shall cease to be operative, and the **Client's** payment obligations will continue.
- (g) **WRT** agrees that, at the **Client's** request, the **Deactivation Payment** may be placed in escrow until **WRT** has completed its **Deactivation** obligations called for in Section 6.1(d), above. Before the amounts are placed in escrow, the **Client** and **WRT**, each acting reasonably, must agree on an escrow agent and the terms of the escrow instructions, and any disagreement will be resolved pursuant to Section 4.8, above.
- (h) When the **Deactivation Payment**, has been paid and **Deactivation** is complete, this **Agreement** will be terminated.

6.2 Termination of this Agreement by WRT

- (a) **WRT** may elect to terminate this **Agreement** and the **Client** shall pay the **Deactivation Payment** as described below, in the event that:
- (i) the **Client** becomes bankrupt or insolvent;
 - (ii) the **Client** fails to pay **WRT** any amount when due under this **Agreement** within 90 days after **WRT** gives the **Client** written notice of such a failure; or
 - (iii) the **Client** fails to perform or comply with any other material obligation and fails to remedy such failure within 90 days after written notice of its failure (or, if a longer period is reasonably required to remedy such failure, the time required to remedy such failure so long as the **Client** promptly commences and diligently pursues the remedy, and keeps **WRT** informed, in writing, on a monthly basis, of its progress in doing so).
- (b) If **WRT** terminates this **Agreement** pursuant to this Section 6.2 then the following provisions shall apply:
- (i) The **Client** will:
 - (A) pay all amounts due under this **Agreement** up to the date of termination;
 - (B) pay **WRT** the **Deactivation Payment** under Section 6.2(b)(ii);
 - (C) shall reimburse **WRT**, within 30 days of receipt by the **Client** of an invoice from **WRT**, the aggregate amount of all costs and expenses directly or indirectly incurred by **WRT** as a result of the termination of this **Agreement**, including, but not limited to, reasonable attorney fees and disbursements including those in connection with the enforcement of this **Agreement**.
 - (ii) Because of the difficulty or impossibility of determining the amount of actual damages that would be suffered by **WRT** as a result of the termination of this **Agreement**, the **Client** will pay to **WRT** the **Deactivation Payment**; the **Deactivation Payment** being agreed to be a fair and reasonable amount to be paid to compensate **WRT** for certain unrecovered initial costs incurred by **WRT**, loss of utility of **WRT Media**, and the costs of **Deactivation**.
 - (iii) The **Deactivation Payment** must be paid within 30 days of the **Client's** receipt of **WRT's** invoice.

- (iv) When the **Deactivation Payment** and other amounts payable under Section 6.2(b)(i)(C), above are paid (or earlier at **WRT's** sole option), **WRT** will perform the **Deactivation** obligations required in Section 4.7, above.
- (v) Until all amounts payable to **WRT** have been paid, the **Client** shall continue to be bound by this **Agreement** and to pay all amounts owing by the **Client** to **WRT** under this **Agreement**; and once those payments are made, this **Agreement** shall be at an end.

SECTION 7 MCL COMPLIANCE

7.1 Testing for MCL Compliance

- (a) All samples for **Compliance Tests** shall be collected at the discharge sampling port on the **WRT System** as shown on the system drawings prepared by **WRT**.
- (b) All **Compliance Tests** will be conducted at a laboratory acceptable to both the **Client** and **WRT**.
- (c) The **Client** will provide **WRT** with a complete and accurate copy of all **Compliance Test** results within three days of **Client's** receipt of such results.
- (d) If any **Compliance Test** shows that the water from the **WRT System** contains an **Action Level Concentration**, **WRT** shall, within 60 days of being notified of the **Compliance Test** result, either:
- (i) Perform **Sampling and Testing** and prepare a report to the **Client** setting forth its analysis and recommendations; or
 - (ii) replace **Spent Media** from the **WRT System**.
- (e) Samples for determination of the **Actual Radium Concentration** and for **Sampling and Testing** shall be taken at a point immediately before any of the water enters the **WRT System**.

7.2 Changes from Design Flow Range

- (a) The report **WRT** prepares after **Sampling and Testing** may identify any changes in the **Design Flow Range**.
- (b) In the event there are changes in the **Design Flow Range** which affect the ability of the **WRT System** to produce water that meets the **MCL**, then the report may suggest potential remedies to relieve the effects of those changes. In the event of such recommendations, the **Client** will:
- (i) make adjustments to the **Water Source** until it supplies water at the **Design Flow Range**;
 - (ii) perform, at its own cost, the recommendations in the report; or
 - (iii) authorize **WRT** in writing to perform the recommendations and reimburse **WRT** for the **WRT Cost** associated with its work.
- (c) After completion of any work called for in response to changes in the **Design Flow Range** the **Client** will perform an additional **Compliance Test** and:
- (i) if the result meets the **MCL**, then no further action will be required; but
 - (ii) if the result exceeds the **MCL**, then the process described in Section 7.3, below, shall be initiated.

7.3 Non-Compliant System

- (a) If either: (i) **Sampling and Testing** do not identify any changes in the **Design Flow Range**, the **Agreed Water Profile** or the **Agreed Radium Concentration**; or (ii) the **Compliance Test** taken after completion of all steps required in Section 7.2, above, results in a **Radium** level above the **MCL**; then, if not performed since the detection of the **Action Level Concentration**, **WRT** will replace all **Spent Media** from the **WRT System**, and conduct a new test for **Radium**.
- (b) If the test shows a **Radium** level above the **MCL**, then **WRT** may, at its cost and expense, in cooperation with the **Client**

- (c) If the **Client**, disputes that the preconditions set forth in Section 6.2(a) (i), (ii) or (iii) have been met, the **Client** may have the dispute resolved pursuant to Section 4.8, above, within 60 days of its receipt of a notice given under Section 6.2(a). The **Client's** failure to initiate arbitration within 90 days of receipt of a notice given under Section 6.2(a), will constitute acquiescence in the basis for the notice.

implement the recommendations in its report or reports and undertake any other adjustments or modifications to the **WRT System** that **WRT** believes are required so that the level of **Radium** complies with the **MCL** after water passes through the **WRT System**. **WRT** will provide regular written reports of its actions to the **Client**.

- (c) After it completes the work performed pursuant to Section 7.3 (b), above, **WRT** will conduct a new test for **Radium**. If the results of that test shows a **Radium** level that exceeds the **MCL**, neither of the parties will be obligated to incur additional capital costs or expenses in connection with the **WRT System**.
- (d) Unless caused by a change from the **Agreed Water Profile** and/or the **Agreed Radium Concentration**, while the **WRT System** is a **Non-Compliant System**, the **Client** will be relieved of any obligation to pay:
- (i) the **Treatment Charge** for the **WRT System**; and
 - (ii) any **Volume Charges**, **Water Profile Change Charge (Radium)**, **Water Profile Change Charge (Other)**, or **Governmental Adjustments** associated with the **WRT System**.
- (e) If the **Water Source** and the **WRT System** becomes a **Non-Compliant System** as defined in Section 1.2, and the water from the **WRT System** continues to exceed the **MCL** for an additional period of two consecutive calendar months, then:
- (i) the **Client** may notify **WRT** in writing that the **Client** will disconnect the **Non-Compliant System** from the **Water Source** and from the **Client's Water System** if the water remains above the **MCL** 60 days from the date of the notice; or
 - (ii) **WRT** may request in writing that the **Client** disconnect the **Non-Compliant System** from the **Water Source** and from the **Client's Water System**.
- (f) If the water produced by the **WRT System** remains above the **MCL** 60 days after the **Client's** notice, or if **WRT** elects to have the **WRT System** disconnected, then:
- (i) the **Treatment Charge** will be permanently discontinued; and
 - (ii) the **Client** will disconnect the **WRT System** and **WRT** will perform its **Deactivation** responsibilities pursuant to Section 4.7, above.

7.4 Changes From Agreed Water Profile and Agreed Radium Concentration

If the report **WRT** prepares after **Sampling and Testing** shows that the water from the **Water Source** is inconsistent with the **Agreed Water Profile** and/or the **Agreed Radium Concentration** for the **Water Source**, and if in **WRT's** opinion the change from the **Agreed Water Profile** and/or the **Agreed Radium Concentration** has resulted in, or contributed to, the failure to comply with the **MCL**, then the following provisions will apply:

- (a) The report **WRT** prepares after **Sampling and Testing** will suggest potential remedies to relieve the effects of the changes from the **Agreed Water Profile** and/or the **Agreed Radium Concentration**. Following receipt of the report, the **Client** will elect one of the following options:
- (i) perform, at its own cost, the recommendations in the report;

- (ii) authorize **WRT** in writing to perform the recommendations in the report;
 - (iii) terminate this **Agreement** pursuant to Section 6.1, above; or
 - (iv) take no action.
- (b) The **Client** will continue to pay the **Treatment Charge**, any **Volume Charges**, any **Excess Disposal Cost Charges**, any **Governmental Adjustments**, any applicable **Water Profile Change Charge (Radium)**, and any **Water Profile Change Charge (Other)** associated with the **WRT System**, unless and until the **Agreement** is terminated pursuant to Section 6.1, above.
- (c) The **Client** acknowledges that **WRT** gives no assurance or guarantee of performance for any recommendation in the report **WRT** prepares after **Sampling and Testing** except as specifically set out in the report.
- (d) If either the **Client** or **WRT** performs the recommendations from the report **WRT** prepares after **Sampling and Testing** and water passed through the **WRT System** complies with the **MCL**,

then the **Client** will pay any applicable new **Water Profile Change Charge (Radium)**, and/or **Water Profile Change Charge (Other)**.

- (e) If either the **Client** or **WRT** performs the recommendations from the report **WRT** prepares after **Sampling and Testing** but water passed through the **WRT System** does not comply with the **MCL**, then the **Client** may, in accordance with Section 6.1, above, elect to terminate this **Agreement** as to the **WRT System**.
- (f) The **Client** will pay **WRT**, within 30 days after receipt of an invoice, the **WRT Cost** incurred due to **WRT's** performance of the **Sampling and Testing** and/or **WRT's** performance of any of the recommendations in the report prepared after **Sampling and Testing**.
- (g) If the **Client** disagrees with **WRT's** opinion that the change from the **Agreed Water Profile** has resulted in, or contributed to, the failure to comply with the **MCL**, the dispute may be resolved pursuant to Section 4.8, above.

SECTION 8 PAYMENTS

8.1 Late Charge and Interest

- (a) The **Client** will pay all amounts due at the times and dates specified in this **Agreement**.
- (b) The **Client** will pay **WRT** interest, at the rate of one-percent (1%) per month or the maximum legal rate of interest, whichever is less, on all amounts not paid when due.

8.2 Taxes

- (a) No payments to be made by the **Client** pursuant to this **Agreement** shall be reduced by any amount for the payment of any kind of taxes.
- (b) Except for income and similar taxes assessed against **WRT** for payments made to it pursuant to this **Agreement**, all taxes (including but not limited to sales, use and excise taxes) related to the services provided, and payments made, pursuant to this **Agreement** will be paid by the **Client**.

8.3 WRT Failure to Dispose of Spent Media

- (a) If the **Client** believes that **WRT** has failed to remove and dispose of **Spent Media** in accordance with the terms of this **Agreement**, the **Client** shall notify **WRT** in writing of the basis for its belief;
- (b) Within 30 days receipt of the **Client's** notice under Section 8.3(a) **WRT** will either:

- (i) will commence the removal and transportation of **Spent Media** for disposal and/or treatment; or
- (ii) dispute the notice, in writing, setting forth the basis for the dispute.

(c) If **WRT** disputes the **Client's** notice then the dispute regarding **WRT's** removal and disposal of **Spent Media** will be resolved pursuant to Section 4.8, above.

(d) If **WRT** does not dispute the **Client's** notice, or the arbitrator determines that **WRT** has failed to remove and dispose of **Spent Media** as required by this **Agreement**; then the **Client** may withhold the **Treatment Charge** for the **WRT System**. When **WRT** has complied with its obligation to remove and dispose of the **Spent Media**, the **Client** will pay all withheld payments to **WRT**, without interest. This provision overrides any conflicting provisions of Article 7.1 of the **Basic Provisions**.

8.4 Client's Obligation to Pay

The **Client's** obligation to make payments under this **Agreement** shall continue in full force and effect and shall be unconditional (except as otherwise provided in Sections 4.3, 7.3, 8.3 and 9.1(a) even if there is any change to **Existing Laws** and even if any further, additional, or increased requirements or restrictions are imposed on the **Client** during the **Term**, in connection with the use or operation of the **Client's Water System**, with water quality, or with the **WRT System**.

SECTION 9 LIABILITY, CLAIMS, INSURANCE

9.1 Parties' Liability for Breach of Contract

- (a) In the event **WRT** is in breach of its obligations under this **Agreement**, the **Client's** remedy for such breach (if not otherwise provided for in this **Agreement**) is elimination of the **Client's** obligation to make ongoing payments under this **Agreement**.
- (b) In addition to **WRT's** right to terminate this **Agreement** and recover the **Deactivation Payment** pursuant to Section 6.2, above, in the event the **Client** is in breach of its obligations under this **Agreement**, **WRT's** recovery is limited to the amount of the **Deactivation Payment** **WRT** would receive if it terminated the **Agreement** pursuant to Section 6.2, above, at the time of the breach.
- (c) Any and all disputes between the parties arising from or relating in any way to this **Agreement**, including, but not limited to, disputes concerning: the parties' performance of their

obligations under the **Agreement**, any alleged breach of a party's obligations under this **Agreement**, any alleged torts committed by one of the parties, or the parties' indemnification obligations under this **Agreement**, will be resolved pursuant to Section 4.8.

(d) If not otherwise further limited by the terms of this **Agreement**, the parties agree to limit their respective claims for any and all claims against each other to actual damages and waive any claims for incidental or consequential damages.

9.2 Third-Party Claims

(a) In the event that a third-party claimant makes a claim against the **Client** alleging in any way that the presence of **Radium** in water from the **Client's Water System** has caused injury or other harm to the claimant, the **Client** will immediately notify **WRT** in writing and the **Client** will defend the claim without making any

type of claim against **WRT**, except as provided in Section 9.5, below.

(b) In the event that a third-party claimant makes a claim against **WRT** alleging in any way that the presence of **Radium** contained in water from the **Client's Water System** has caused injury or other harm to the claimant, then **WRT** will immediately notify the **Client** in writing and the following provisions shall apply:

(i) if there has been an **NCS Event** in connection with the water to which the claim relates, then **WRT** will defend the claim without making any type of claim against the **Client**, except as provided in Section 9.5, below;

(ii) If there has not been an **NCS Event** in connection with the water to which the claim relates, then the **Client** will defend the claim for and on behalf of **WRT** without making any type of claim against **WRT**, except as provided in Section 9.5, below.

(c) In the event that a third-party claimant makes a claim against both the **Client** and **WRT** alleging in any way that the presence of **Radium** contained in water from the **Client's Water System** has caused injury or other harm to the claimant, then the following provisions shall apply:

(i) if an **NCS Event** has occurred in connection with the water to which the claim relates, then the parties will jointly defend the claim, and share the costs of the a defense in accordance with their estimate of the **WRT Portion** and the **Client's Portion** (as defined in Section 9.3(a)) as may be agreed or, if the parties cannot agree, as determined pursuant to Section 4.8, with the understanding that the parties may seek indemnification for such costs pursuant to Section 9.5, below,

(ii) if an **NCS Event** has not occurred in connection with the water to which the claim relates, then the **Client** shall defend the claim on its own behalf and for and on behalf of **WRT** without making any type of claim against **WRT** except as provided in Section 9.5, below.

9.3 WRT Liability for Third-Party Claims

(a) **WRT** shall only be liable for that portion of any damages payable to a third-party claimant or costs incurred in connection with a third-party claim to the extent of the "**WRT Portion**" thereof. The **WRT Portion** is: (i) the total number of gallons of water which passed through the **WRT System** during an **NCS Event** occurring at that **WRT System**, and only when that **WRT System** was connected to the applicable **Water Source**; the **WRT System** was in operation; the water being produced by the **Water Source** was consistent with the **Agreed Water Profile**, and the **Client** gave notice of the results of all **Compliance Tests** in conformance with Section 7.1(a), above; divided by (ii) the total number of gallons produced by that **Water Source**. The **Client** shall be responsible for the rest of the damages and costs (the "**Client's Portion**").

(b) If the **Client** receives information, from government agencies, from the **Client's** own contractors and consultants, or from **WRT**, that the **WRT System** is, or is expected to become, a **Non-Compliant System**, as defined in this **Agreement**, and the **Client** decides to provide non-compliant water which has passed through the **WRT System** to its customers, then **WRT** shall not assume or be required to assume any liability for third-party claims connected to the **WRT System** or for related defense costs.

9.4 Client's Liability for Third-party Claims

Except only for the **WRT Portion** of such claims for which **WRT** is responsible as provided in Sections 9.2 through 9.5, the **Client** shall be liable for all third-party claims made in connection with the **Client's Water System** and the **Client** will indemnify and save **WRT** harmless from such claims.

9.5 Indemnification

(a) Upon the final adjudication or settlement of a third-party claim as described in Sections 9.2 through 9.5, above, the party who defended the claim may seek indemnification from the other party for the costs of defense (including attorneys fees, litigation costs,

necessary consultant costs, expert witness fees and the like) and for the costs of indemnity whether incurred by settlement, judgment or arbitration.

(b) Indemnification pursuant to this Section shall be subject to the following:

(i) the party seeking indemnification shall present a request for indemnification to the other party not more than 60 days after the final resolution of the third-party claim for which indemnification is sought;

(ii) the request shall include the amount being sought for indemnification and a short statement of the basis for why the party being asked is responsible for indemnifying the requesting party;

(iii) for the purposes of this section, final resolution of a third-party claim shall be the later of the effectiveness of a final settlement of the third-party claim, or the expiration of the time for an appeal of a final judgment concluding a third-party claim;

(iv) claims for indemnification shall be resolved pursuant to Section 4.8 of this **Agreement**; and

(v) It shall not be a defense to a claim for indemnification that any statutory or equitable limitation period has expired, so long as notices required in Section 9.2, above and the request required in Section 9.5(b)(i) have been given in a timely manner.

(c) The **Client** will indemnify **WRT** for all defense and indemnity costs associated with all parts of a third-party claim except to the extent of the **WRT Portion** of the costs related to the claim.

(d) **WRT** will indemnify the **Client** for the **WRT Portion** of all defense and indemnity costs related to a third-party claim.

(e) Any dispute about the amount paid in connection with a third-party claim that is attributable to the **WRT Portion** of the costs shall be determined in the dispute resolution proceeding called for in Section 9.5(b), above, notwithstanding any finding or conclusion reached in the adjudication or other resolution of the third-party claim.

(f) In the event that resolution of a third-party claim involves indemnity payments and related defense costs attributable in part to the **Client** and in part to **WRT**, then such indemnity payments shall be shared proportionately with **WRT** paying the **WRT Portion** of such damages or costs and the **Client** paying the **Client's Portion** of such damages or costs.

(g) If a third-party claim is resolved without payment to the third-party claimant, the party or parties defending the claim may request indemnification pursuant to this section and the arbitrator will determine the amount of the defense costs attributable to **WRT's** liability as set forth in Section 9.3, above. The arbitrator shall, in the absence of special circumstances, allocate the defense costs to the **Client** and to **WRT** proportionately having regard to the **Client's Portion** and the **WRT Portion**.

(h) In the event one party is required to indemnify another, the amount the indemnifying party will have to pay the party being indemnified will be limited by the amount of the indemnifying party's insurance coverage required to be maintained pursuant to Sections 9.6 and 9.7, below.

9.6 Client Insurance

(a) The **Client** will obtain and maintain at all times during the **Term** fire and extended coverage insurance for the **Structure** and **WRT System**.

(b) The **Client** will obtain and maintain at all times during the **Term** general liability insurance in the amount of not less than \$1,000,000.

(c) The **Client** will obtain and maintain at all times during the **Term** workers compensation insurance coverage as required by all applicable State laws.

(d) The **Client** will use reasonable efforts to cause the insurance to be carried by the **Client** to:

(i) cover damage to the **Structure** and the **Site**, in each case to their full replacement values;

(ii) provide that the policy may not be cancelled without not less than 15 days prior written notice to **WRT** or such shorter or longer period as **WRT** may in writing approve; and

(iii) contain a waiver of subrogation in favor of **WRT**;

- (e) The **Client** will provide **WRT** with certificates of insurance evidencing the coverages described above.
- (f) Should the **Client** fail to obtain and maintain the insurance coverage as set out in Section 9.6(a) and (b) of these **Standard Terms**, **WRT** may obtain such insurance for and on behalf of the **Client** and in such event the **Client** shall reimburse **WRT** for all costs incurred by **WRT** to obtain such insurance.

9.7 WRT Insurance

- (a) **WRT** will obtain and maintain at all times during the **Term** general liability insurance in the amount of not less than \$1,000,000.
- (b) **WRT** will obtain and maintain at all times during the **Term** workers compensation insurance coverage as required by all applicable State laws.

- (c) **WRT** will use reasonable efforts to cause the insurance to be carried by **WRT** to:

- (i) provide that the policy may not be cancelled without not less than 15 days prior written notice to the **Client** or such shorter or longer period as the **Client** may approve in writing; and
- (ii) contain a waiver of subrogation in favor of the **Client**;
- (d) **WRT** will provide the **Client** with certificates of insurance evidencing the coverages described above.
- (e) Should **WRT** fail to obtain and maintain the insurance coverage as set out in Sections 9.7(a) and (b) of these **Standard Terms**, **Client** may obtain such insurance for or on behalf of **WRT** and in such event **WRT** shall reimburse the **Client** for all costs incurred by the **Client** to obtain such insurance.

SECTION 10 APPROVALS AND PERMITS

10.1 Approvals and Permits

- (a) The **Client**, at its cost and expense, will be responsible for, and will obtain all approvals and permits required to build or use the **Structure** and required to install the **WRT System**, including: all zoning changes, land use permits, building permits and other similar approvals;
- (b) Subject to Article 8.2(b) of the **Basic Provisions**, the **Client**, at its cost and expense, will be responsible for, and will obtain from all applicable governmental agencies: all permits, licenses and other approvals required:
 - (i) to use the **Structure** and the **Site**;
 - (ii) to store **WRT Media** and **Spent Media** at the **Site**;
 - (iii) to use and operate the **WRT System**;
 - (iv) to install **WRT Media** in, and remove **Spent Media** from, the **WRT System**;
 - (v) to connect the **WRT System** to the **Client's Water System**;
 - (vi) to operate the **Client's Water System**; and
 - (vii) to discharge water from the **WRT System**.

10.2 Financial Assurance

The **Client** will be solely responsible for and shall provide, at its cost and expense, any bond, letter of credit, surety, or other **Financial Assurance** arrangement which may, from time to time,

be required by any United States, state or other applicable governmental agencies, in connection with the licensing, use, operation and ultimate removal and disposal of the **WRT System** and **WRT Media** and **Spent Media**, and in connection with the **Deactivation** of the **Site**. The **Client's** obligation to provide any bond, letter of credit, surety or other **Financial Assurance** arrangement shall not in any way qualify, limit or reduce **WRT's** obligations under this **Agreement**.

10.3 Assistance and Cooperation

- (a) **WRT** will take all reasonable steps to assist the **Client** to minimize the **Client's** cost to meet any **Financial Assurance** requirements.
- (b) As reasonably requested by the **Client**, **WRT** will cooperate with the **Client** and assist the **Client** in obtaining any of the approvals and permits called for in this Section. Before providing the requested cooperation and assistance, **WRT** will advise the **Client** of any **WRT Cost** associated with the cooperation and assistance. If the **Client** approves of the projected **WRT Cost**, **WRT** will provide the requested cooperation and send an invoice to the **Client**. If the **Client** does not approve the projected **WRT Cost**, then **WRT** will not provide the requested cooperation and assistance.

SECTION 11 LICENSE AND ACCESS

11.1 License and Use of Sites and WRT Systems

- (a) The **Client** grants **WRT** a license for access to the **WRT System**, **Site**, **Structure** and **Property**, and for the use of the respective **Access and Loading Areas**, as reasonably required and without interference, for any purpose in connection with **WRT** performance of its obligations under this **Agreement**. The license will continue in effect throughout the **Term** and for the amount of time after the **Term** expires necessary for **WRT** to remove all **Spent Media** and to perform all **Deactivation** required under this **Agreement**.
- (b) The license granted in this section allows vehicles, personnel and equipment to pass over the **Property** as required; to use all roads and driveways for access to all **Sites** and **Structures**; and to use all applicable loading areas.

11.2 Client's Work

- (a) The **Client** will complete the **Client's Work** at the sole cost of the **Client**.

- (b) The **Client** will use all reasonable efforts to complete the **Client's Work** in a timely manner.
- (c) When the **Client's Work** has been completed to a stage which permits the installation of the **WRT System** at the **Site**, the **Client** will notify **WRT** of that fact in writing.

11.3 Access and Loading Areas

- (a) The **Client** will provide **Access and Loading Areas** for the **Site** in the locations as shown in the **Drawings**.
- (b) All areas of vehicular access shall be accessible by trucks with 40 foot trailers and capable of supporting a combined loaded weight of 80,000 pounds.
- (c) The **Client** will use all reasonable efforts, at the **Client's** cost, to keep the **Access and Loading Areas** in a safe and finished condition, free of ice, snow or obstruction and available for use by **WRT**.
- (d) Upon reasonable notice from **WRT**, the **Client** shall use all reasonable efforts to provide and make available exclusive use of

the **Access and Loading Areas**, and the relevant portions of the **Structure** or **Property** for **WRT**.

(e) If the **Client** provides **Access and Loading Areas** of an inadequate size, surface, configuration, aspect or slope, **WRT** will not be liable for damage to **Client's** property as a consequence of the inadequacy of the **Access and Loading Areas** provided.

11.4 Utilities and Services

(a) The **Client**, at its cost, shall install (as part of **Client's Work**) for the **Site**, and shall maintain until all **Deactivation** at the **Site** has been completed, all **Utilities and Services**.

(b) If the **Utilities and Services** are interrupted, the **Client** shall reinstate or cause the same to be reinstated with as little disruption to **WRT** or the operation of the **WRT System** as is reasonably possible in the circumstances.

(c) The **Client** shall give **WRT** at least 10 business days prior written notice of any planned or proposed interruption of the **Utilities and Services** by the **Client** or of which the **Client** becomes aware. The **Client** will keep **WRT** updated, on a regular basis, of the status of the interruption and the timetable for reinstatement.

11.5 Alterations and Repairs – Sites, Access and Loading Areas, and WRT Systems

(a) Until the **WRT System** has been removed and all **Deactivation** has been completed:

(i) The **Client**, at its cost, shall make any alterations to the **Site** or to the **Access or Loading Areas** as are reasonably required by **WRT** to enable **WRT** to more efficiently or effectively perform its obligations under this **Agreement**.

(ii) **WRT**, at its cost, may make alterations to the **Structure** as it may reasonably require to enable **WRT** to more efficiently or effectively perform its obligations under this **Agreement**. Before **WRT** makes alterations to the **Structure**, the **Client** must consent in writing, and its consent may not be unreasonably withheld, delayed, or conditioned.

(b) Until all **Deactivation** has been completed, the **Client** will maintain in good condition and repair the **Site**, **Structure**, all **Utilities and Services** and all **Access and Loading Areas**.

(c) Except as called for in Section 11.5(d), below, **WRT** will not be required to repair the **Site**, the **Structure**, any **Utilities and Services**, or any of the **Access and Loading Areas**.

(d) **WRT**, at its sole cost and expense, shall repair the **Site**, the **Structure**, any **Utilities and Services**, or any of the **Access and Loading Areas** to the extent such repairs are required due to the fault of **WRT**.

(e) Any damage to the **WRT System** caused by the **Client** shall be repaired under **WRT's** direction and the **Client** shall pay **WRT** the **WRT Cost** for the repairs. If **WRT** cause damage to the **WRT System** it will pay the repair cost.

(f) Any damage to the **WRT's** property resulting from, or in connection with, loss or damage to the **Structure**, or caused by the **Client's** failure to maintain and repair the **Site**, **Structure**, **Utilities and Services**, or **Access and Loading Areas**, shall be remedied or repaired under **WRT's** direction and the **Client** will pay **WRT** the **WRT Cost** for the remedy or repairs.

(g) If the **Site**, **Structure**, or **Utilities and Services** are damaged or destroyed, in whole or in part, the **Client** will, at its cost, repair the same with due diligence to the standard required by this **Agreement**, whether or not the damage is insured.

(h) The parties will perform all of their respective repair and maintenance obligations in such a manner as is reasonably practicable to minimize any adverse impact on each other.

(i) The **Client** will reimburse **WRT** for any costs or expenses incurred by **WRT** as a result of failure of the **Client** to comply with the provisions of this Section 11.5. Similarly, **WRT** will reimburse the **Client** for any costs or expenses incurred by the **Client** as a result of failure of **WRT** to comply with the provisions of this

Section 11.5. Any disputes over the amount of reimbursement will be resolved pursuant to Section 4.8, above.

(j) Until all **Deactivation** has been completed, the **Client** will take all necessary steps to ensure that: the **WRT System**, the **Structure** and the **Site** will comply with all applicable municipal, county, state and federal laws, ordinances, statutes, rules, regulations, and codes, including but not limited to, the Americans with Disabilities Act of 1990, as amended, and all environmental laws.

11.6 License Termination

(a) Because the license to use the **Site** is required for the use and operation of the **WRT System** pursuant to this **Agreement**, except as specifically provided in Section 11.8, below, the **Client** shall have no right to terminate or end **WRT's** license to use the **Sites** before all **Deactivation** has been completed.

(b) If this **Agreement** is terminated and if all payments have been made as provided in Section 6 of these **Standard Terms**, then the parties agree that this license shall cease one day after all **Deactivation** has been completed.

11.7 Client To Limit Access

(a) The **Client** will limit access to the **Site** to that required for the **Client** to perform its obligations under this **Agreement**; and it is agreed that **WRT** may establish reasonable terms relating to access to the **WRT System**, either by including the terms in the **Operation and Maintenance Manual**, or by a separate written notice to the **Client**, with which it will comply.

(b) The **Client** agrees that neither it, nor any person on its behalf, shall access the **WRT System** except for the limited purposes of observation and performing tests strictly in accordance with this **Agreement**, the **Operation and Maintenance Manual**, or as otherwise agreed to in writing by **WRT**.

11.8 Mechanics' Lien

(a) Except for filings permitted to be made by or on behalf of **WRT** as provided in this **Agreement**, **WRT** will not permit any mechanics' or materialmen's lien on the **Site** or the **Property** for any labor or material furnished to **WRT** in connection with work performed for which it is responsible.

(b) If, for any reason, such a lien has been filed against the **Site** or the **Property**, **WRT** may contest the validity, nature or amount of any such lien but will, within thirty (30) business days of the final determination of such issues, pay any adverse judgment rendered together with all proper costs and charges and shall have the lien released at its own expense.

(c) If **WRT** desires to contest any such lien, then prior to commencing such contest, **WRT** will, at the **Client's** request, furnish the **Client** with security acceptable to the **Client**, acting reasonably, to secure the payment of such obligation.

(d) **WRT** will reimburse the **Client** for costs and expenses, including reasonable attorneys' fees, reasonably incurred by the **Client**, to obtain the release of any such lien for which **WRT** is responsible and which it has not removed in accordance with the provisions of this Section 11.8.

11.9 Hazardous Materials

(a) **WRT** will be responsible for and shall remove, and as required by applicable law shall remediate, any **Hazardous Materials** deposited by **WRT** at, in or around the **Site**, the **Property** or the **Access and Loading Areas**.

(b) The **Client** will be responsible for and shall remove, and as required by applicable law shall remediate, all **Hazardous Materials** other than **Hazardous Materials** for which **WRT** is responsible to remove and remediate pursuant to Section 11.9(a), above.

SECTION 12 REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of the Client

The **Client** represents and warrants to **WRT** that:

- (a) The **Client** is an existing legal entity duly established, formed or incorporated under applicable law.
- (b) The **Client** has all necessary capacity, powers and authority to enter into this **Agreement** and to perform all of the **Client's** obligations under this **Agreement**.
- (c) The execution and delivery by the **Client** of this **Agreement**, and the performance by the **Client** of its obligations under this **Agreement** have been duly authorized by all necessary action on the part of the **Client**, including, but not limited to, the enactment of all necessary resolutions and ordinances by all required majorities or super majorities, the publication and posting of all required notices, and the compliance with all other provisions of all enactments and all other applicable laws so as to fully authorize and implement the intent of the parties as expressed in this **Agreement**.
- (d) The **Client** has executed and delivered this **Agreement**.
- (e) This **Agreement** constitutes a legal, valid and binding obligation of the **Client**, enforceable against the **Client** in accordance with its terms.
- (f) The **Client** will throughout the **Term**, obtain and maintain all necessary approvals from all applicable authorities having

jurisdiction to enable the **Client** to comply with all of its obligations under this **Agreement** including, but not limited to, all payment obligations.

12.2 Representations and Warranties of WRT

WRT represents and warrants to the **Client** that:

- (a) **WRT** is a limited liability company duly formed and existing under the laws of the State of Colorado.
- (b) **WRT** has all necessary power and authority to execute and deliver, and to perform **WRT's** obligations under, this **Agreement**.
- (c) The execution and delivery by **WRT** of this **Agreement**, and the performance by **WRT** of its obligations under this **Agreement** have been duly authorized by all necessary action on the part of **WRT**.
- (d) **WRT** has executed and delivered this **Agreement**.
- (e) This **Agreement** constitutes a legal, valid and binding obligation of **WRT**, enforceable against **WRT** in accordance with its terms.
- (f) **WRT** will throughout the **Term**, obtain and maintain all necessary approvals from all applicable authorities having jurisdiction to enable **WRT** to comply with all of its obligations under this **Agreement**.

SECTION 13 GENERAL

13.1 Notices

Any notice, consent or other communication permitted or required to be given to any party under this **Agreement** must be in writing and delivered or sent by telephone facsimile transmission, personal delivery, certified or registered mail with return receipt requested, or express courier or delivery service, addressed to such party as follows:

- (a) If to the **Client**, to the address or addresses as set out in Exhibit A.
- (b) If to **WRT**, at:
Water Remediation Technology LLC
901 West 116th Avenue, Suite 400
Westminster, Colorado 80234
Attention: President
Email: info@wrt.net

With a copy to:
Water Remediation Technology LLC
c/o Carver Schwarz McNab Kamper & Forbes, LLC
1888 Sherman Street, Suite 400
Denver, Colorado 80203
Attention: Stewart McNab
Email: smcnab@csmkf.com

Any party to this **Agreement** may change its address or telephone facsimile number for notice or provide for a copy of the notice to be sent by providing written notice of such change to the other party to this **Agreement** in accordance with this Section. All such notices, consents and other communications will be deemed given (a) when sent and receipted for (or upon the date of attempted delivery when delivery is refused), if sent by personal delivery, certified or registered mail with return receipt requested, or express courier or delivery service, or (b) when received, if sent by telephone facsimile transmission (confirmation of such receipt via confirmed telephone facsimile transmission being deemed receipt).

13.2 Force Majeure

The performance by the parties of their respective obligations under this **Agreement** will be suspended in an **Event of Force Majeure**.

13.3 Recording

- (a) **WRT** may record or cause to be recorded against title to the **Property** and in all applicable registries and government offices, all or any of the following:
 - (i) a notice or other filing concerning this **Agreement**; and
 - (ii) any and all assignments, security interests, pledges, charges or other documents, filings or other recordings related to any of the foregoing requested by **WRT**, or its banks, financial institutions and other lenders.
- (b) If at any time **WRT**, or its banks, financial institutions and other lenders, wish to obtain any further assurance related to this **Agreement**, the **Client** shall provide such assistance and shall execute and deliver such documents as **WRT**, or its banks, financial institutions and other lenders may reasonably request.
- (c) **WRT's** rights under this **Agreement** will not be subject to any liens, charges, or encumbrances created by the **Client** which could adversely affect those rights.
- (d) Without limiting the provisions of Section 13.3(c), to the extent that any person holds an interest superior to the **Client's** interest in the **Property, Structure, Site or Access and Loading Areas**, the **Client** will obtain from that person a non-disturbance agreement, in form satisfactory **WRT**, acting reasonably, in which the person agrees not to disturb **WRT's** rights under this **Agreement**.

13.4 Assignment

- (a) **WRT's** rights and obligations under this **Agreement** may only be assigned or delegated by **WRT** with the **Client's** prior written consent, which may not be unreasonably withheld, delayed, or conditioned. If the **Client** does not respond to a written request for approval within 30 days of such a request being made, the **Client** will be deemed to have agreed to the proposed assignment.

(b) The **Client's** rights and obligations under this **Agreement** may not be assigned by the **Client** without **WRT's** prior written consent.

13.5 Non-Waiver

The failure by either party to this **Agreement** to request or require the strict performance by the other party of any obligation or condition of this **Agreement** shall not be construed as a waiver or modification of the terms or conditions of this **Agreement** with respect to any subsequent non-performance, and any such failure shall not affect the right thereafter to enforce the same. Waiver by either party hereto of non-performance of any term, provision, covenant, obligation or condition of this **Agreement** shall not be considered a waiver of any subsequent non-performance, nor as waiver of the term, provision, covenant, obligation or condition itself.

13.6 Entire Agreement

This **Agreement** contains the entire understanding and agreement between the **Client** and **WRT**, and supersedes all prior understandings, agreements and negotiations, both written and oral, between the **Client** and **WRT** with respect to the subject matter of this **Agreement**. This **Agreement** includes and is comprised of the **Basic Provisions**, these **Standard Terms** and the Exhibits.

13.7 Severability

If any term, condition or other provision of this **Agreement** is prohibited, invalid or unenforceable in any jurisdiction, then such term, condition or other provision will be ineffective, as to such jurisdiction, to the extent of such prohibition, invalidity or unenforceability without affecting the validity or enforceability of such term, condition or other provision in any other jurisdiction and without invalidating or rendering unenforceable the remaining terms, conditions and other provisions of this **Agreement**.

13.8 Governing Law – Remedies

This **Agreement** will be governed by, and construed in accordance with, the laws of the State of Colorado, without reference to choice-of-laws or conflict-of-laws principles or rules that would direct the general application of the laws of another jurisdiction.

13.9 Amendments

No amendment may be made to any of the terms, conditions or other provisions of this **Agreement** unless the amendment is in writing and signed by the **Client** and **WRT**.

END OF STANDARD TERMS

EXHIBIT F

DESCRIPTION OF THE INFLATION INDEX

1. Description of **Inflation Index**
 - (a) The "**Inflation Index**" will be based on the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index ("**CPI**") incorporating the following elements:
 - All Urban Consumers ("**CPI-U**"),
 - Transportation Category ("**CPI-Tr**")
 - Not Seasonally Adjusted,
 - U.S. City Average,
 - All Items,
 - Base Period: 1982 – 84 = 100
 - (b) The **Inflation Index** will be calculated as the sum of 70% of the CPI-U and 30% of the CPI-TR (**Inflation Index** = 0.70xCPI-U + 0.30xCPI-Tr).
2. Changes in Base Period

If at any time during the **Term** the Base Period for the **Inflation Index** shall be changed then:

 - (a) if it is possible to do so, **WRT** shall continue to make the calculations required under this **Agreement** based on the Base Period as described in Section 1 above and in such event there will be no changes made to any other provisions of this **Agreement**;
 - (b) if **WRT** is not able to make the calculations required under this **Agreement** based on the Base Period as set out in Section 1 above then **WRT** shall determine, having regard to the **Changed Base Period** (the "**Changed Base Period**"), such revised index numbers (**Revised Index Numbers**) which are required to adequately account for the **Changed Base Period**, and which shall include a revised **Base Index Level**.
 - (c) **WRT** will provide written notice of the **Revised Index Numbers** to the **Client** together with the basis for the calculation thereof;
 - (d) the calculation and determination by **WRT** of the **Revised Index Numbers** shall be final and determinative absent a manifest error resulting in a calculation which is in error by more than 1% of the figure being calculated or if the Client disputes the determination pursuant to Section 4.8, above;
 - (e) the **Revised Index Numbers** will be applicable to all inflation adjustment calculations under this **Agreement** effective as and from January 1 of the calendar year next following the date of the change of the Base Period.
3. Discontinuance of Index
 - (a) If at any time during the **Term** the U.S. Department of Labor, Bureau of Labor Statistics should cease to produce the **CPI**, then **WRT**, acting reasonably, will select an alternate index to be used as the **Inflation Index** (the "**Replacement Inflation Index**").
 - (b) The **Replacement Inflation Index** will have the following characteristics:
 - (i) it will, if possible, be an index published by any Bureau or Department of the United States of America Government;
 - (ii) it will, if possible, be an index which is calculated and published on a monthly basis;
 - (iii) it will, if possible, be an index which has application throughout the whole of the United States of America and which measures prices in a manner similar to the **CPI**.
 - (c) **WRT** will:
 - (i) select the **Replacement Inflation Index** and the selection shall be final;
 - (ii) calculate **Revised Index Numbers** based on the **Replacement Inflation Index**; and
 - (iii) provide written notice thereof to the **Client** together with the basis for the calculation of the **Revised Index Numbers**.
 - (d) The calculation and determination by **WRT** of the **Revised Index Numbers** shall be final and determinative absent a manifest error resulting in a calculation which is in error by more than 10% of the figure being calculated or if the Client disputes the determination pursuant to Section 4.8, above;
 - (e) The **Replacement Inflation Index** and the **Revised Index Numbers** will be applicable to all inflation adjustment calculations under this **Agreement** effective as and from January 1 of the calendar year next following the selection by **WRT** of the **Replacement Inflation Index**

GOVERNMENTAL CONTRACT RIDER FOR THE CITY OF BRADY, TEXAS

This Governmental Contract Rider for the City of Brady, Texas (the “Rider”), entered into by and between the City of Brady, a home rule municipal corporation located in McCulloch County, Texas (hereinafter referred to as “City”), acting by and through its City Manager or their designee, and **Water Remediation Technology LLC (WRT)** of Westminster, Colorado, (hereinafter referred to as “Vendor”) acting by and through their authorized agent. (Individually referred to herein as “Party” and collectively as “Parties”)

1) Application. This Rider is part of the following contract (the “Contract”) between City and Vendor described as follows:

Title of Contract: *WRT RADIUM REDUCTION AND REMOVAL SYSTEM AGREEMENT*

In the event of any conflict between the terms of this Rider and the other terms of the Contract, those of this Rider shall take precedence.

2) Payment Provisions. The City’s payments under the Contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code. City may modify any amount due to Vendor presented by invoice to the City if necessary, to conform the amount to the terms of the Contract.

3) Multiyear Contracts. If the City’s city council does not appropriate funds to make any payment for a fiscal year after the City’s fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then to the extent that the Contract is held to be a debt under Section 5 of Article XI of the Texas Constitution it automatically terminates at the beginning of the first day of the fiscal year in which no funds were appropriated. (Section 5, Article XI, Texas Constitution). Such termination will not relieve the City of its obligation to make any Deactivation Payment called for in the Contract.

4) Abandonment or Default. A Vendor who abandons or defaults the work on the contract and causes the City to purchase the services elsewhere may be charged for any increased cost of goods, materials and/or services related thereto and shall be considered disqualified in any re-advertisement of the service and may not be considered in future bids for the same type of work for a period of three years for the same scope of work, goods or services.

5) Termination.

a) The Contract may be terminated:

i) By the mutual agreement and consent of both City and Vendor;

ii) By either Party, upon the failure of the other party to fulfill its obligations as set forth in the Contract or a Scope of Work issued under the Contract;

iii) By the City, immediately upon notice in writing to the Vendor, as consequence of

the failure of Vendor to perform the services contemplated by Vendor in a timely or satisfactory manner; or

iv) By the City, at will and without cause upon not less than thirty (30) days written notice to the Vendor.

b) If the City terminates the Contract pursuant to this Section 5(a)(ii) or (iii), above, Vendor shall not be entitled to any fees or reimbursable expenses other than the fees and reimbursable expenses then due and payable as of the time of termination (including Deactivation Payments) and only then for those services that have been timely and adequately performed by the Vendor considering the actual costs incurred by the Vendor in performing work to date of termination, the value of the work that is nonetheless usable to the City, the cost to the City of employing another vendor to complete the work required and the time required to do so, and other factors that affect the value to the City of the work performed at time of termination. In the event of termination that is not the fault of the Vendor, the Vendor shall be compensated for all basic, special, and additional services performed prior to termination, together with any reimbursable expenses then due, including Deactivation Payments called for under the Contract.

c) If the Contract is terminated pursuant to Section 5(a)(i) or (av), above, the City shall make all Deactivation Payments called for under the Contract.

6) Annual Vendor Performance Review. The City may review the Vendor's performance at the end of each twelve-month contract period and may cancel all or part of the Contract, pursuant to section 5 herein, or continue the Contract through the next period.

7) Compliance with other laws and certification of eligibility to contract. The execution of the Contract with the City shall be considered an executed certification that the Vendor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, (as amended during the contracting period) and any orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the resulting Contract, including without limitation, immigration laws, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When requested by the City in writing, the Vendor shall furnish the City with satisfactory proof of its compliance within 20 days or the Contract is void.

8) Compliance with all Codes, Permitting and Licensing Requirements. The successful Vendor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to the services, equipment and materials used and their application. Any terms or provisions of the Contract waiving any rules, regulations, or requirements of these authorities are void and unenforceable. The Vendor shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill its contractual obligations.

9) Indemnification and Independent Vendor Status of Vendor.

(a) Subject to the limitation stated below, Vendor shall indemnify, defend and hold

harmless City and its officials, employees, and agents (collectively referred to as “City Indemnitees”) and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney’s fees) or liabilities (collectively referred to as “Liabilities”) by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with: (i) the performance of Services contemplated by this Agreement which is directly or indirectly caused, in whole or in part, by any act, omission, default or negligence of Vendor or its employees, agents or sub-suppliers (collectively referred to as “Vendor”), only to the extent that it is not caused in whole or part (whether joint, concurrent or contributing) by any act, omission, default or negligence of the City Indemnitees, or any of them; or (ii) the failure of Vendor to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, local, federal or state, in connection with the performance of this Agreement. Vendor expressly agrees to indemnify defend and hold harmless the City Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of Vendor, or any of its sub-Vendors, as provided above, for which Vendor’s liability to such employee or former employee would otherwise be limited to payments under state Workers’ Compensation or similar laws. Vendor further agrees to indemnify, defend and hold harmless the City Indemnitees from and against (i) any and all Liabilities imposed on account of the violation of any law, ordinance, order, rule, regulation, condition, or requirement, related directly to Vendor’s negligent performance under this Agreement, compliance with which is left by this Agreement to Vendor, and (ii) any and all claims and/or suits for labor and materials furnished by Vendor or utilized in the performance of this Agreement or otherwise.

Vendor’s obligations to indemnify, defend and hold harmless the City Indemnitees shall survive the termination of this Agreement. Vendor understands and agrees that any and all liabilities regarding the use of any sub-supplier for Services related to this Agreement shall be borne solely by Vendor throughout the duration of this Agreement and that this provision shall survive the termination of this Agreement.

Limitation on Vendor Indemnification: The foregoing indemnification language notwithstanding, the Vendor’s obligation to indemnify, defend and hold the City Indemnitees harmless shall not extend to liabilities for any claims arising from or related in any way to the presence of radioactive materials in water in the City’s potable water supply or extend to any harm allegedly caused by the presence of radioactive materials in the City’s potable water supply, except as specifically provided in Section 9 of the WRT Standard Terms attached to WRT Radium Removal System Agreement.

(b) Only if or to the extent permitted by law applicable in the State of Texas, City shall indemnify, defend and hold harmless Vendor and its employees, agents and sub-vendors (collectively referred to as “Vendor Indemnitees”) and each of them from and against all loss, costs, damages, claims, expenses (including attorney’s fees) or liabilities (collectively referred to as “Liabilities”) by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with: (i) the performance of the City’s obligations under this Agreement which is directly or indirectly caused, in whole or in part, by any act, omission, default or negligence of the City or its officials, employees, agents or contractors (collectively referred to as “City”), only to the extent that it is not caused in whole or part (whether

joint, concurrent or contributing) by any act, omission, default or negligence of the Vendor Indemnitees, or any of them; or (ii) the failure of City to comply with any of the paragraphs herein or the failure of City to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, local, federal or state, in connection with the performance of its obligations under this Agreement. Only if or to the extent permitted by law applicable in the State of Texas, City expressly agrees to indemnify defend and hold harmless the Vendor Indemnitees, or any of them, from and against all liabilities which may be asserted by an employee or former employee of City, or any of its agents or contractors, as provided above, for which City's liability to such employee or former employee would otherwise be limited to payments under state Workers' Compensation or similar laws. City further agrees to indemnify, defend and hold harmless the Vendor Indemnitees from and against (i) any and all Liabilities imposed on account of the violation of any law, ordinance, order, rule, regulation, condition, or requirement, related directly to City's negligent performance of its obligations under this Agreement, compliance with which is left by this Agreement to City, and (ii) any and all claims and/or suits for labor and materials furnished by City or utilized in the performance of its obligations under this Agreement.

Only if or to the extent permitted by law applicable in the State of Texas, City's obligations to indemnify, defend and hold harmless the Vendor Indemnitees shall survive the termination of this Agreement. City understands and agrees that any and all liabilities regarding the use of any contractors for performance of its obligations related to this Agreement shall be borne solely by City throughout the duration of this Agreement and that this provision shall survive the termination of this Agreement

(c) The Vendor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all Vendor's employees, representatives or subcontractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

10) Liens. Vendor agrees to and shall indemnify and save harmless the City against all liens and encumbrances for all labor, goods and services which may be provided under the Contract. At the City's request the Vendor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

11) Confidentiality. Any provision in the Contract that attempts to prevent the City's disclosure of information that is subject to public disclosure under federal or Texas law or regulation, or court or administrative decision or ruling, is invalid. (Chapter 552, Texas Government Code).

12) Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue

Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

13) Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

14) Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

15) Governing Law and Venue. Texas law governs the Contract and any arbitration regarding the Contract must take place in McCulloch County, Texas.

16) Dispute Resolution. Any dispute resolution clause which imposes on the City a condition precedent to filing suit or other requirement to resolve disputes under the Contract not otherwise required under Texas law are void.

17) Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Vendor a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Vendor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to the proper completion of the TEC Form 1295.

18) Any provision of the Contract is void and unenforceable if it authorizes Vendor to amend the Contract at its sole discretion or otherwise without a negotiated and signed amendment to the Contract.

EXECUTED:

CITY:

By: _____
Name: _____
Title: _____
Date: _____

Vendor:

By: _____
Name: _____
Title: _____
Date: _____

City Council
City of Brady, Texas
Agenda Action Form

AGENDA DATE:	3-1-2022	AGENDA ITEM	7. B.
AGENDA SUBJECT:	Discussion, consideration and possible action regarding Resolution 2022-004 adopting a City Standard Operating Procedure (SOP) Policy for Electronic Transfer of Funds		
PREPARED BY:	Lisa McElrath	Date Submitted:	2-24-2022
EXHIBITS:	Resolution #2022-004 SOP – Policy for Electronic Funds Transfer		
BUDGETARY IMPACT:	Required Expenditure:		\$0
	Amount Budgeted:		\$0
	Appropriation Required:		\$0
CITY MANAGER APPROVAL:			

SUMMARY:
<p>Staff has prepared a written procedure guide that promotes safety and reduces exposure to fraudulent actions from outside or internal sources with processing payments to vendors.</p> <p>This SOP will be presented to TML, the City's liability insurance carrier, to show evidence of the City's efforts to take proactive steps to help protect itself from cyber-crime should a claim ever be filed for a fraudulent act against the city due to an e-crime action.</p>

RECOMMENDED ACTION:
Move to approve Resolution #2022-004 establishing a Standard Operating Procedure Policy for electronic funds transfers.

RESOLUTION NO. 2022-004

**A RESOLUTION OF THE CITY OF BRADY, TEXAS
TO ADOPT THE CITY OF BRADY'S
STANDARD OPERATING PROCEDURE ELECTRONIC FUNDS TRANSFER**

WHEREAS, the City Staff wishes to establish a Standard Operating Procedure (SOP) Policy to promote safety from fraudulent actions with processing payments to vendors; and

WHEREAS, the City wishes to proceed with adopting the SOP – Electronic Funds Transfer Policy; and

WHEREAS, the City Charter requires City Council to set policy by resolution.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Brady, Texas:

The City of Brady's SOP – Electronic Funds Transfer Policy is hereby approved and adopted.

PASSED AND APPROVED this the 1st day of March 2022.

Anthony Groves, Mayor

Attest: _____
Tina Keys, City Secretary

CITY OF BRADY ADMINISTRATIVE PROCEDURES		
SUBJECT: Standard Operating Procedure (SOP) – Electronic Funds Transfer (ETF)	EFFECTIVE DATE: 3-1-22	REVISED DATE:
APPROVED: by Resolution 2022-004		

Purpose

The purpose of this policy is to establish a protocol for city employees who are involved with payments to employees and vendors by means of check or electronic fund transfers.

- Ensure verification of information impacting payment to the correct person/company
- Promote consistency and continuity in safety against fraudulent actions.

An electronic funds transfer (EFT) is the electronic transfer of money over an online network. Electronic funds transfers can be in the form of an online payment, wire, or ACH transaction.

Guidelines

- All employees responsible for the electronic transfer of funds will be required to complete annual training that includes but is not limited to the detection of social engineering, phishing, business email compromise, and other scams.
- All changes to an employee's payroll information must be done in person with HR only. No exceptions.
- Before establishing a new vendor/supplier in the AP system, the Finance Clerk must verify the vendor's/supplier's account information by a direct call to the vendor/supplier.
- Any vendor/supplier-initiated request to change any of its account details (including account numbers, routing numbers, telephone numbers, contact information, etc.) must be verified by Finance personnel with a person independent of the requestor AND by a method other than the original means of the request. This verification must occur PRIOR to any change being implemented.
- Once verification has been made for any vendor/supplier-initiated request to change account details, the clerk should send notice to the Finance Director to be approved PRIOR to any change being implemented. Documentation will be kept in the Vendor file.
- Funds transfer instructions from an INTERNAL source, must be processed by Finance only and instructions must be confirmed via a method other than the means of the original instructions.

- Before processing any funds transfer instructions, approval must be obtained from a next-level supervisor:
- Wire payments to vendors:
Instructions must be verified by direct communication with the vendor
Vendor identity must be verified by official means and communication with company staff other than the person giving the wire instructions.
Approvals from the Finance Director, City Manager, and 2 Council Members is required.
- Online payments to vendors:
All online payments must be approved by the Finance Director
Payment instructions must be verified and then approved by the Finance Director
Any changes to the original instructions must be approved by the Finance Director
- ACH payments to employees:
HR must verify the payroll file for accuracy before the finance assistant delivers the file to the bank by secure email.

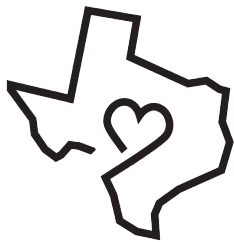
City Council

City of Brady, Texas

Agenda Action Form

AGENDA DATE:	03/01/2022	AGENDA ITEM	7.C.
AGENDA SUBJECT:	Discussion, consideration and possible action to approve Hotel Occupancy Tax (HOT) Funding Application from the Heart of Texas Country Music Association for the annual Heart of Texas Country Music Festival.		
PREPARED BY:	E. Corbell	Date Submitted:	2/25/2022
EXHIBITS:	HOT Funding Application		
BUDGETARY IMPACT:	Required Expenditure:	\$0.00	
	Budget Amount Available:	\$0.00	
	Appropriation Required:	\$0.00	
CITY MANAGER APPROVAL:			
SUMMARY:			
<p>Ordinance 1262 passed on 12/4/2018 established the Tourism Advisory Board and set the guidelines for the Board. Ordinance 1263 passed on February 5, 2019 added HOT Tax Grant applications and recordkeeping as duties of the Tourism Advisory Board including making recommendations to Council for HOT Tax Grant applications. The City did advertise in the Brady Standard Herald asking for volunteers for the Tourism Advisory Board but no applications were received. With the absence of the Tourism Advisory Board, Staff is requesting Council approve HOT Tax Grant applications.</p> <p>The Chamber of Commerce has budgeted \$22,000 for tourism grants for this fiscal year, as approved by the City Council. The Chamber is bringing to council one grant application for the Heart of Texas Country Music Festival in the amount of \$10,000.</p>			

RECOMMENDED ACTION:
Consider and approve an amount to award to the Heart of Texas Country Music Association for the annual Heart of Texas Country Music Festival.



BRADY
THE TRUE HEART OF
TEXAS

Hotel Occupancy Tax (HOT) Funding Application

Today's Date: _____

In order to ensure funding consideration, applications must be returned 3 months prior to event. Please note that if your event dates change, you must submit a new application for re-approval. Events that do not occur as specified in the application are not eligible for HOT reimbursement.

Organization Information

Event Name:	
Event Date:	Year Event Began:
Event Location:	
Sponsoring Organization Name:	Website & or Facebook page:
Tax I.D. Number:	

Please check one

Is your organization tax exempted? ☐ Yes ☐ No

Is your organization: ☐ Non Profit ☐ For Profit ☐ Private

Contact Information

Name of Contact:		
Mailing Address (must match address on W-9):		City, State, Zip:
Daytime Phone#:	Alternate Phone#:	E-mail Address:

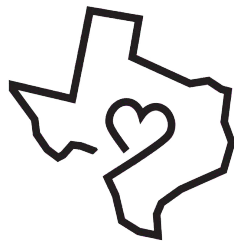
Please check one

Contact Preference: ☐ Email ☐ Mail ☐ Fax

Event Funding Request

HOT Funds Requested: \$ _____

Describe in detail, exactly how funds will be used. Please be Specific. (*Refer to Guidelines for authorized expenditures*) _____



BRADY
THE TRUE HEART OF
TEXAS

Who are you targeting in your advertising and promotion efforts to attend?

What percent of total costs will be covered by this HOT?

Please list other organizations, government entities, grants, and funding sources that have offered financial support for the event noted above.

Estimated Total Attendance at Event listed Above: This Year _____ Last Year _____

Last 3 Dates & Years of Event

1. _____
2. _____
3. _____

Last 3 Cities of Event

1. _____
2. _____
3. _____

Hotels Used

1. _____
2. _____
3. _____

You must reserve a room block for this event at a Brady hotel. List how many rooms you anticipate you will use nightly? _____

How will your hotel bookings be measured? _____

***Your attendees will be required to complete hotel locator cards provided if funding is approved.**

How did you/your organization hear about Brady? _____

Are you considering any other locations/cities for your event? If so, which others? _____

In order to receive hotel occupancy tax, you must contact Brady hotels for room blocks. If overflow hotel rooms are necessary, after Brady hotels are booked, arrangements can be made with the Brady Chamber of Commerce to contact hotels in outlying areas. It is imperative that you make every attempt to encourage your attendees to stay in Brady properties. Your total room night usage in Brady could determine future funding.

Signature of Event Representative: _____

Date: _____

Please Submit to: Brady Chamber of Commerce
101 E. 1st
Brady, TX 76825
Phone: 325-597-3491 Fax: 325-792-9181
erin@bradytx.com



BRADY/McCULLOCH
★★ COUNTY ★★
CHAMBER of COMMERCE